

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Criminal caseload expenditures.** To the degree that the bill's prohibitions affect local criminal justice expenditures, it might be to increase the annual costs that a county incurs in prosecuting, adjudicating, defending (if the offenders are indigent), and sanctioning offenders. If the criminal justice expenditures of these local governments do in fact increase, one would think that any such rise should be no more than minimal annually given the likelihood that the number of cases that could be affected by the bill's prohibition in any given jurisdiction appears to be relatively small.
- **Local court cost revenues.** As a result of the bill's prohibitions, additional court cost and fine revenues may be generated for counties. As it appears that the number of affected cases will be relatively small in any given local jurisdiction, the amount of court cost and fine revenues that actually may be collected annually by the counties is unlikely to exceed minimal.

Detailed Fiscal Analysis

The bill expands the definition of "sexual battery" to specifically prohibit a peace officer to engage in sexual conduct with a minor who is not the peace officer's spouse. A violation of this prohibition has the same penalty as other violations of sexual battery: a felony of the third degree or, if the minor is less than 13, a felony of the second degree with a mandatory prison term.

Table 1			
Sexual battery (Sec. 2907.03): Penalties under existing law			
Offense	Degree	Prison/Jail Term	Fine
If the other person is less than 13 years of age	F2	2, 3, 4, 5, 6, 7, or 8 years prison, mandatory	Not more than \$15,000
All other cases of sexual battery	F3	1, 2, 3, 4, or 5 years prison	Not more than \$10,000

Criminal caseloads

Under current law, if a peace officer were to engage in sexual conduct with a minor, a charge of "unlawful sexual conduct with minor" may only be filed if the offender knew at the time of the offense that the other person was 13 years of age or older but less than 16 years of age, or was reckless in that regard (R.C. 2907.04). This statute cannot be applied to instances where the victim is between the ages of 16 and 18 (typically considered the age of consent). Table 2 below illustrates the current penalty structure of the offense of "unlawful sexual conduct with minor."

Table 2			
Unlawful sexual conduct with minor (Sec. 2907.04): Penalties under existing law			
Offense	Degree	Prison/Jail Term	Fine
If the offender previously has been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code	F2	2, 3, 4, 5, 6, 7, or 8 years prison	Not more than \$15,000
If the offender is ten or more years older than the other person	F3	1, 2, 3, 4, or 5 years prison	Not more than \$10,000
If the offender is less than four years older than the other person	M1	Up to 6 months jail	Not more than \$1,000
All other cases of unlawful sexual conduct with a minor (when the offender knows the person is 13 years of age or older but less than 16 years of age)	F4	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months prison	Not more than \$5,000

The proposed bill will not only enhance the penalties associated with this type of behavior, specifically by making such an offense "sexual battery" if committed by a peace officer, but also will essentially remove the age gap in instances where the offender is a peace officer. For purposes of "sexual battery," a minor is defined as a person under 18 years of age.

The impact of the bill's prohibitions on local criminal justice systems will likely be twofold. First, offenders who would have been prosecuted and sanctioned under current law could face a more serious penalty. Second, individuals who might not have been punished under current law could be arrested, prosecuted, convicted, and sanctioned (i.e., sexual conduct between a peace officer and a person between the ages of 16 and 18). Thus, the bill's prohibitions would in all likelihood: (1) affect existing criminal cases (to the extent that there are any) and (2) may create a few new additional cases.

It is uncertain how many cases could be affected after the bill's effective date (cases that are currently charged under R.C. 2907.04, unlawful sexual conduct with minor) or the number of cases that could be created because existing statutes do not currently criminalize such behavior (sexual conduct between a peace officer and a person between the ages of 16 and 18). However, based on the supposition that peace officers are generally law abiding, and are generally held to their own profession's ethical standards, it seems logical to assume that the number of criminal cases that could be affected or created by the bill's prohibitions will be relatively small for any given local criminal justice system.

State and local expenditures

To the degree that the bill's prohibitions affect local criminal justice expenditures, it may be possible that the annual costs that a county incurs in prosecuting, adjudicating, defending (if the offender is indigent), and sanctioning offenders may increase. If the criminal justice expenditures of these local governments do in fact increase, one would think that any such rise should be no more than negligible annually given the likelihood that the number of cases that could be affected by the bill's prohibitions in any given jurisdiction appears to be relatively small.

As a result of the bill, it is also possible that additional offenders will be sentenced to prison or sentenced to prison for longer stays than would have been the case under current law, the fiscal effect of which would be to increase the Department of Rehabilitation and Correction's GRF-funded annual incarceration and post-release control costs. The number of affected offenders, however, appears to be small enough that any increase in the Department's annual expenditures would be minimal at most.

State and local revenues

To the degree that the bill's prohibitions affect local criminal justice expenditures, correspondingly additional court cost and fine revenues may be generated for the state and counties. As it appears that the number of affected cases will be relatively small in any given local jurisdiction, the amount of court cost and fine revenues that actually may be collected annually by counties is unlikely to exceed minimal. For the state, the amount of additional locally collected state court cost revenues that might be collected and deposited annually to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402) is likely to be no more than negligible.

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