Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 219** DATE: **April 8, 2008**

STATUS: **As Reported by House Criminal Justice** SPONSOR: **Sen. Schuring**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Period of limitation for criminal prosecution of a person who is not a public servant**

State Fiscal Highlights

STATE FUND	FY 2008*	FY 2009	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	Potential negligible gain in locally collected court costs	Potential negligible gain in locally collected court costs
Expenditures	- 0 -	Potential, likely to be no more than minimal, increase in incarceration costs	Potential, likely to be no more than minimal, increase in incarceration costs
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	- 0 -	Potential negligible gain in locally collected court costs	Potential negligible gain in locally collected court costs
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.
* This analysis assumes that any of the bill's state fiscal effects would occur no sooner than FY 2009.

- ***Incarceration costs.*** Research to date suggests that at most a few additional successful prosecutions may result annually statewide, which, if true, means that an extremely small number of offenders could be sentenced to prison per year. The resulting fiscal effect on the Department of Rehabilitation and Correction's annual incarceration costs would be minimal at most. A minimal state cost herein means an estimated expense of less than $100,000 per year for the state.

- ***Court cost revenues.*** If, as expected, the bill generates a few additional successful prosecutions, then the potential gain in state court cost revenues would be negligible. A negligible gain in state revenues means an estimated increase of less than $1,000 for either the GRF or Fund 402 per year.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential, likely to be no more than minimal, gain in court costs and fines	Potential, likely to be no more than minimal, gain in court costs and fines	Potential, likely to be no more than minimal, gain in court costs and fines
Expenditures	Potential criminal justice system cost increase, likely to be minimal at most	Potential criminal justice system cost increase, likely to be minimal at most	Potential criminal justice system cost increase, likely to be minimal at most

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

- ***Local criminal justice system effects.*** If, as expected, the bill's period of limitation provision generates at most a few additional successful prosecutions annually statewide of persons involved in the misconduct of a public servant in office, then the ongoing fiscal effect on any given county or municipal criminal justice system is likely to be no more than minimal. This means that, although additional costs may be incurred to adjudicate, prosecute, and sanction such offenders, if measurable, such costs are estimated at no more than $5,000 per year for any county or municipality. It also means that the amount of additional court cost and fine revenues that any county or municipality might collect annually would be minimal (a gain estimated at no more than $5,000 per year).

Detailed Fiscal Analysis

Overview

Limitation of actions – misconduct in office

Under current law, prosecution for an offense involving misconduct in office by a public servant must be commenced at any time while that public servant remains a public servant, or within two years thereafter. However, prosecution against a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant must be commenced within two years after the misconduct occurs. In the matter of misconduct in office of a public servant then, under current law, the period of limitation for the criminal prosecution of the former person (a public servant) runs longer than for the latter person (not a public servant). This means that there is less time in which the criminal prosecution of a person who is not a public servant must be commenced.

The bill provides a special rule for determining when a prosecution must be commenced against a person who is not a public servant but who allegedly commits an offense that is directly related to the misconduct in office of a public servant. Specifically, under the bill, if the general period of limitations for the criminal offense has expired, prosecution of the person who is not a public servant must be commenced at any time during which the public servant remains a public servant, or within two years thereafter. Thus, the special rule would parallel the existing rule for criminal prosecution of a public servant, and in effect, expand the window of time in which criminal prosecution of a person who is not a public servant must be commenced.

Criminal prosecution effects

In researching the bill's fiscal implications, LSC fiscal staff conversed with individuals familiar with the investigation and prosecution of cases of alleged misconduct in office by a public servant. Herein, of particular interest, was the frequency in which such cases involved a person who is not a public servant and whose prosecution was hindered by the expiration of the period of limitation specified for the criminal prosecution for an offense by a person who is not a public servant. As of this writing, it appears that, over the last ten years or so, very few prosecutions of a person who is not a public servant have been hindered by expiration of the specified period of limitation. This would suggest that, subsequent to its enactment, the bill could result in a few more successful criminal prosecutions annually statewide than might otherwise have been the case under current law.

Local expenditures and revenues

If, as noted, the bill's period of limitation provision generates at most a few additional successful prosecutions annually statewide of persons involved in the misconduct of a public servant in office, then the ongoing fiscal effect on any given county or municipal criminal justice system is likely to be no more than minimal. This means that, although additional costs may be incurred to adjudicate, prosecute, and sanction such offenders, if measurable, such costs are estimated at no more than $5,000 per year for any county or municipality. It also means that the

amount of additional court cost and fine revenues that any county or municipality might collect annually would be minimal (a gain estimated at no more than $5,000 per year).

State revenues and expenditures

The possibility of successful future prosecutions carries two notable potential fiscal implications for the state: (1) additional offenders may be sentenced to prison, and (2) additional court costs may be collected and forwarded to the state treasury.

As noted, LSC fiscal staff's research to date, suggests that at most a few additional successful prosecutions may result annually statewide, which, if true, means that an extremely small number of offenders could be sentenced to prison per year. The resulting fiscal effect on the Department of Rehabilitation and Correction's annual incarceration costs would be minimal at most. A minimal state cost herein means an estimated expense of less than $100,000 per year for the state.

Offenders convicted of, or pleading guilty to, a misdemeanor or felony are generally required to pay state court costs totaling $24 and $45, respectively. If collected, those moneys are forwarded to the state treasury and apportioned between the General Revenue Fund (GRF) and the Victims of Crime/Reparations Fund (Fund 402). If, as expected, the bill generates a few additional successful prosecutions, then the potential gain in revenues for either state fund would be negligible. A negligible gain in state revenues means an estimated increase of less than $1,000 per state fund per year.

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