



Ohio Legislative Service Commission

Matthew L. Stiffler

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 58 of the 128th G.A. **Date:** May 26, 2010

Status: As Reported by House Criminal Justice **Sponsor:** Sen. Hughes

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Bodily substances, biological evidence training

State Fiscal Highlights

STATE FUND	FY 2011 – FUTURE YEARS
General Revenue Fund (GRF)	
Revenues	- 0 -
Expenditures	Potential minimal annual incarceration cost increase
Funds of the Office of the Attorney General*	
Revenues	- 0 -
Expenditures	Annual increase, potentially more than minimal, to administer and conduct required training
Indigent Defense Support Fund (Fund 5DY0)	
Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	- 0 -
Victims of Crime/Reparations Fund (Fund 4020)	
Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2011 is July 1, 2010 – June 30, 2011.

* It is uncertain what funding source(s) the Attorney General would use to pay for the costs of required training.

- **GRF-funded incarceration expenditures.** The potential effect on the Department of Rehabilitation and Correction's GRF-funded incarceration costs is likely to be no more than minimal annually.
- **Attorney General.** The annual costs for the Office of the Attorney General to administer and conduct required preservation of biological evidence training may exceed minimal.
- **Court cost revenues.** The amount of locally collected state court costs forwarded for deposit in the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020) is likely to be negligible annually.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

Counties and Municipalities (criminal justice systems)

Revenues

Potential minimal annual gain in court costs and fines

Expenditures

Potential minimal annual criminal justice system cost increase

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 expenditures.** The potential number of additional criminal cases created for certain county and municipal criminal justice systems to process is likely to be relatively small, with any resulting increase in expenditures likely to be minimal at most annually.
- **Local revenues.** The amount of court costs and fines collected and deposited to the appropriate county or municipal treasury is likely to be minimal at most annually.

Detailed Fiscal Analysis

Bodily substances

The bill creates the offense of "unlawful collection of a bodily substance," a violation of which is generally a misdemeanor of the first degree and a felony of the fifth degree on a second or subsequent violation.

Sentences and fines generally

Table 1 below outlines the sentences and fines associated with the bill's new offense. These sentences and fines reflect current law for certain misdemeanors and felonies generally, and are unchanged by the bill.

Offense Level	Maximum Potential Fine	Potential Term of Incarceration
5th degree felony	\$2,500	6-12 months definite prison term
1st degree misdemeanor	\$1,000	Not more than 6-month jail term

State incarceration expenditures

LSC fiscal staff has not collected any information suggesting that any more than a few additional offenders could be sentenced to a prison term annually as a result of violating the bill's prohibition, which means that the potential increase in the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs would be no more than minimal. It is possible that, if an offender is convicted of a second or subsequent violation of the bill's prohibition, the court may sentence that person to a prison term. Such an outcome, in theory, increases from what those annual costs might otherwise have been, as the offender must be housed in a secured environment and provided certain services.

State court cost revenues

It seems unlikely that the amount of additional locally collected state court cost revenue that will be forwarded annually for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and Victims of Crime/Reparations Fund (Fund 4020) would be likely to exceed negligible. This is because the number of new criminal cases and related convictions resulting from violations of the bill's prohibition is expected to be relatively small.

"State court costs" are statutorily specified amounts collected by local courts and forwarded for deposit in the state treasury. For a nonmoving traffic violation, the court is generally required to impose state court costs totaling \$29 for a misdemeanor and \$60 for a felony. The \$29 misdemeanor amount is divided as follows: \$20 to the Indigent Defense Support Fund (Fund 5DY0) and \$9 to the Victims of Crime/Reparations Fund

(Fund 4020). The \$60 felony amount is divided as follows: \$30 to Fund 5DYO and \$30 to Fund 4020. Courts are generally required to order an offender convicted of a criminal offense to pay a mix of state and local court costs and fines. A court is permitted to waive their collection if the offender is determined to be indigent, which many are.

Local criminal justice system expenditures

As a result of creating a new prohibition, additional misdemeanor and felony cases may be generated for county and municipal criminal justice systems to resolve involving persons whose conduct under current law might not have led to their being arrested, charged, and prosecuted. If this were to happen, then, in theory, local criminal justice system expenditures related to investigating, prosecuting, adjudicating, defending (if the offender is indigent), and sanctioning offenders would increase in any affected county or municipality. If the number of offenders violating the bill's prohibition is relatively small in any given jurisdiction, the resulting increase in county or municipal criminal justice system expenditures would likely be minimal at most annually.

County and municipal revenues

Subsequent to a conviction, the court generally imposes court costs and a fine to be paid by the offender, and if collected, deposits in the county or municipal treasury as appropriate. If the number of offenders convicted of violating the bill's prohibition is relatively small in any given jurisdiction, the potential amount of court cost and fine revenues that might be generated for that local jurisdiction is likely to be no more than minimal annually.

Attorney General's evidence training program

The bill requires the Office of the Attorney General to administer and conduct preservation of biological evidence training. Based on LSC fiscal staff's research regarding similar training programs with staff of the Department of Public Safety and the Office of the Attorney General, it appears that the annual cost for the Attorney General to administer and conduct the required training will be more than minimal.