



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 58 of the 128th G.A. **Date:** May 26, 2009

Status: As Passed by the Senate **Sponsor:** Sen. Hughes

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Bodily substances

State Fiscal Highlights

STATE FUND

FY 2010 – FUTURE YEARS

General Revenue Fund (GRF)

Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	Potential minimal annual incarceration cost increase

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 2010 is July 1, 2009 – June 30, 2010.

- **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. In this context, "minimal" means an estimated cost of less than \$100,000 per year for the state.
- **Court cost revenues.** The amount of locally collected state court costs forwarded for deposit in the GRF and the Victims of Crime/Reparations Fund (Fund 4020) is likely to be negligible. For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 for either state fund per year.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2009 – 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 is likely to be relatively small. Assuming this were true, any resulting increase in county and municipal criminal justice system expenditures would likely be minimal at most annually. For the purposes of this fiscal analysis, a "minimal" expenditure increase means an estimated cost of no more than \$5,000 for any affected county or municipality per year.
- **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. For the purposes of this fiscal analysis, a "minimal" revenue gain means an estimated increase of no more than \$5,000 for any affected county or municipality per year.

Detailed Fiscal Analysis

Operation of the bill

For the purposes of this fiscal analysis, the bill most notably:

- 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.
- Corrects erroneous cross-references in provisions enacted in Am. Sub. H.B. 280 of the 127th General Assembly.
- Permits emergency medical technicians-intermediate and emergency medical technicians-paramedic to withdraw blood for the purpose of the watercraft or vehicle OVI law or the commercial motor vehicle law.

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.

Table 1.
Sentences and Fines for Certain Misdemeanors and Felonies Generally

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 fiscal effects

Incarceration expenditures

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 the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs from what those annual costs might otherwise have been, as the offender must be housed in a secured environment and provided certain services.

LSC fiscal staff has not collected any information suggesting that any more than a few offenders could be sentenced to a prison term annually. Assuming that were true, the potential increase in DRC's annual incarceration costs would be no more than minimal. In this context, "minimal" means an estimated cost of less than \$100,000 per year for the state.

The annual cost associated with housing and providing services to an offender in prison may be calculated using two separate annual inmate cost estimates: (1) total cost per inmate bed (fixed plus marginal), and (2) marginal cost per inmate bed. The Department has reported that, as of May 2009, its total annual cost per inmate bed was \$24,667. Marginal cost can be used when a relatively small number of offenders are likely to be added to DRC's total annual inmate population. Marginal costs include things such as food, clothing, medical care, and so on. LSC fiscal staff estimates that DRC's annual marginal cost is currently around \$3,700 per inmate.

Court cost revenues

As a result of a violation of the bill's prohibition, it is possible that some persons whose conduct may not have been criminal under current state law will be arrested and successfully prosecuted. This creates the opportunity for the state to gain locally collected court cost revenues that are forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 4020). State court costs for a misdemeanor conviction total \$24, with \$9 of that amount being credited to the Victims of Crime/Reparations Fund and the remainder, or \$15, being credited to the GRF. Similarly, the state court costs for a felony conviction total \$45, with \$30 of that amount being credited to the Victims of Crime/Reparations Fund and the remainder, or \$15, being credited to the GRF.

If, as assumed herein, the number of offenders convicted of violating the bill's prohibition is relatively small, then the amount of locally collected state court costs that might be forwarded annually statewide is likely to be no more than negligible. For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 for either state fund per year. It is also important to note that collecting court costs from certain offenders can be problematic, especially in light of the fact that many are unwilling or unable to pay.

Local fiscal effects

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, as assumed herein, 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. For the purposes of this fiscal analysis, a "minimal" expenditure increase means an estimated cost of no more than \$5,000 for any affected county or municipality per year.

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, as assumed herein, 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. For the purposes of this fiscal analysis, a "minimal" revenue gain means an estimated increase of no more than \$5,000 for any affected county or municipality per year. As noted above, the collection of court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unwilling or unable to pay.

Technical corrections and clarifications added to the bill

The bill makes various technical corrections and clarifications to existing law that will have no direct fiscal effect on the state or any of its political subdivisions as follows:

- Corrects erroneous cross-references in provisions enacted in Am. Sub. H.B. 280 of the 127th General Assembly regarding increased penalties for domestic violence committed against a pregnant woman.
- Explicitly permits emergency medical technicians-intermediate and emergency medical technicians-paramedic to withdraw blood for the purposes of the watercraft or vehicle OVI law or the commercial motor vehicle law to clarify that they are in fact permitted to collect blood and to avoid any future legal challenges.