



Ohio Legislative Service Commission

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: [H.B. 508 of the 130th G.A.](#)

Date: September 29, 2014

Status: As Introduced

Sponsor: Rep. Butler

Local Impact Statement Procedure Required: No

Contents: Expands the offense of murder to include death of another through sale of controlled substance

State Fiscal Highlights

- The bill is likely to result in a small number of offenders being sentenced to prison for a significantly longer term than might have otherwise been the case under current law and sentencing practices. The annual marginal cost for the Department of Rehabilitation and Correction (DRC) for each additional offender is about \$3,400. DRC would not begin to incur these additional incarceration costs until about eight years or so following the bill's effective date.

Local Fiscal Highlights

- The bill is unlikely to generate any noticeable increase in the annual operating expenses of county criminal justice systems, as it is unlikely to create many, if any, new felony cases to process and adjudicate.

Detailed Fiscal Analysis

The bill expands the offense of murder to include causing the death of another as a proximate result of the offender selling the victim a controlled substance in violation of the drug trafficking statute. The penalty for the offense is life imprisonment with parole eligibility: (1) after 20 or 25 years if the victim is an adult and (2) after 30 years if the victim is a minor. The bill also provides for additional mandatory and discretionary sentences of one to ten years if certain prior convictions or other specified conditions are present.

Under current law, when a person dies from a drug overdose and the seller of those drugs can be identified and proximately linked to that death, the state may prosecute for the offense of involuntary manslaughter, which under these circumstances would likely be a felony of the first degree.¹ The table below compares 2012 time served data from the Department of Rehabilitation and Correction (DRC) for the offense of involuntary manslaughter with the additional years likely to be served under the bill's murder through sale of a controlled substance provision. As the table shows the average time served for the 73 offenders released from prison in 2012 was 8.6 years. If such an offender had been convicted of murder through sale of a controlled substance, that offender could have served an additional 11.4 years to 21.4 years or more before becoming eligible for parole.

Time Served Comparison: Involuntary Manslaughter vs. Murder Through Sale of Controlled Substance				
Involuntary Manslaughter		Additional Minimum Years Under the Bill (Life with Parole Eligibility)		
CY 2012 Releases	Average Time Served	After 20 Years	After 25 Years	After 30 Years
73	8.6 years	+11.4 Years	+16.4 Years	+21.4 Years

Intake data from DRC further indicates that on average over the previous four years, approximately 128 offenders have been sent to prison for involuntary manslaughter each year. It is not clear how many of these prison admissions involved drug trafficking contributing to a fatality. Anecdotal information however suggests that the number that could have been charged and convicted of the bill's murder through sale of a controlled substance would have been a relatively small percentage of those prison admissions.

The bill is likely to result in some offenders being sentenced to prison for a longer term than otherwise might have been the case under current law and sentencing practices. Assuming all other conditions remain the same, this will result in a relatively small increase in the size of the daily institutional population managed by DRC. These

¹ A felony of the first degree carries a definite prison term of 3 to 11 years plus an additional 1 to 10 for certain circumstances.

offenders, however, will remain in prison for significantly longer periods, as noted in the table above.

If the bill results in only one additional murder conviction, in lieu of an involuntary manslaughter conviction, the increase in years served would be as little as 11.4 years and as much as 21.4 years or more. At a current annual marginal cost figure of about \$3,400, the estimated cost for the additional time served by this offender ranges from \$38,760 (11.4 years X \$3,400) to \$72,760 (21.4 years X \$3,400). If the bill resulted in ten such convictions, the range would be \$387,600 to \$727,600 in additional incarceration costs. It is also important to note that DRC would not begin to incur these additional incarceration costs until about eight years or so following the bill's effective date. It is at this point that such an offender would remain in prison under the enhanced murder penalty rather than being released for involuntary manslaughter.

The bill is unlikely to generate any noticeable increase in the annual operating expenses of county criminal justice systems, as it is unlikely to create many, if any, new felony cases to process and adjudicate. Cases involving the death of a person as a proximate result of drug trafficking are likely charged as involuntary manslaughter under current law. The bill provides a more serious sanction in such a situation, but does not necessarily make it easier to prove the fact pattern involving the connection between the drug sale and the subsequent death.