



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [H.B. 640 of the 130th G.A.](#)

Date: November 19, 2014

Status: As Introduced

Sponsor: Reps. Sprague and Smith

Local Impact Statement Procedure Required: No

Contents: Controlled substance schedules

State Fiscal Highlights

- **Attorney General.** It is expected that the Attorney General's Office can absorb the bill's duties and responsibilities into existing agency operations with little if any ongoing discernible effect on their annual operating expenses.
- **State Board of Pharmacy.** Its role in the rule-making process may minimally increase the amount that the Board expends annually on staff and personal services contracts.
- **Incarceration expenditures.** There may be a minimal annual increase in the incarceration costs of the departments of Rehabilitation and Correction and Youth Services

Local Fiscal Highlights

- The annual enforcement and sanctioning costs for local criminal and juvenile justice systems generally will be minimal.

Detailed Fiscal Analysis

The bill specifies the circumstances in which the Ohio Attorney General, in consultation with the State Board of Pharmacy, is required to use an emergency rule-making procedure to add an unscheduled substance to schedule I of Ohio's controlled substance schedules. In effect, the bill will give state and local criminal justice systems clear emergency authority to investigate and subsequently prosecute certain persons for drug-related conduct prior to actions by the General Assembly or the State Board of Pharmacy. The resulting annual enforcement and sanctioning costs for the state and local criminal and juvenile justice systems generally will be minimal.

Attorney General

The bill authorizes the Attorney General to impose an immediate temporary ban on any unscheduled substance believed to have no accepted medical use and poses an imminent threat to public safety. The bill also requires the Attorney General's website to contain an updated list of substances that are added to or removed from schedule I by the Attorney General. It is expected that the Attorney General's Office can absorb these duties and responsibilities into existing agency operations without increasing its annual operating expenses.

State Board of Pharmacy

The bill requires the Attorney General to consult with the State Board of Pharmacy when adding a substance to or removing a substance from schedule I. The Board is also required to make certain written determinations. The costs for the Board to perform this work will be minimal at most, and are likely to be in terms of increased personal services expenditures to pay staff and/or contractors.

State incarceration expenditures

It is likely that a few additional adult and juvenile offenders will be arrested, prosecuted, and sentenced to a term of incarceration in a state correctional facility for violations of schedule I.

Relative to the size of the state's prison population (approximately 51,000) and the number of offenders sentenced to prison annually (around 20,000), the number of offenders that could be sentenced to prison is likely to be relatively small and the associated incarceration costs minimal. The marginal cost for the Department of Rehabilitation and Correction to incarcerate a few additional offenders is estimated at \$3,600 per year per offender.

The Department of Youth Services' (DYS) average daily population is around 500. The marginal cost to add a juvenile to that population is about \$27.60 per day, or around \$10,000 per year. This suggests that adding a relatively small number of juveniles to that population in any given year will result in no more than a minimal increase in DYSS' annual institutional care and custody costs.

State revenues

The state might gain a negligible amount of revenue annually in the form of locally collected court costs that are collected and deposited in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The court cost for the state and apportioned between two funds is \$60 for a felony and \$29 for a misdemeanor.

Local criminal and juvenile justice systems

The bill expedites the process for placing substances on schedule I. This means that certain arrests and prosecutions for possession, use, or trafficking of such a controlled substance will occur sooner than under the current law and practice for amending the controlled substances schedules.

Criminal justice practitioners have indicated that many of the cases involving violations of schedule I under the bill are likely to be tied to persons whose conduct already violates other existing drug and controlled substances prohibitions. In these situations any violations will simply be added to the list of other charges that a person faces. This suggests that the number of criminal or juvenile cases where a violation of the bill is the sole charge is likely to be relatively small in any given local jurisdiction. The resulting costs for a local criminal or juvenile justice system to process such cases, including sanctioning offenders, will be minimal per year.