

- **DRC administrative burdens.** The Department of Rehabilitation and Correction (DRC) believes that many of the bill's statutory changes will simplify and clarify its current administrative procedures and practices, and, generally speaking, will not noticeably affect its ongoing costs of doing business, with the possible exception of the auditing of community-based correctional facilities (CBCFs) that appears likely to increase annual DRC expenditures.
- **Incarceration costs.** As a result of the bill, it is also possible that additional offenders will be sentenced to prison or sentenced to prison for longer stays than would have been the case under current law, the fiscal effect of which would be to increase DRC's annual GRF-funded incarceration and post-release control costs. The number of affected offenders, however, appears to be small enough that any increase in the Department's annual expenditures would be minimal at most.
- **CBCF audits.** Presumably, the Auditor of State will charge the appropriate state agency or local government for the performance of mandated biennial financial audits and permissive performance audits of CBCFs. A performance audit is much more extensive than a financial audit in that it examines how well a CBCF meets its programmatic goals. A performance audit can typically take months to perform and potentially cost in the tens of thousands of dollars to complete. As of this writing, it is unclear as to whether the annual costs incurred by the Auditor of State in performing these audits will exceed minimal on an ongoing basis, meaning in excess of \$100,000 annually. It appears that any costs incurred by the Auditor of State in performing these audits are typically charged to one of two funds: (1) Fund 109 (Public Audit Expense-Intrastate) in the case of audits performed for a state agency, and (2) Fund 422 (Public Audit Expense-Local Government) in the case of audits performed for a political subdivision. Auditing service payments from state agencies and local governments are deposited in Fund 109 and Fund 422, respectively.
- **Court cost revenues.** As a result of violations of the bill's prohibitions, additional court cost revenues may be generated for the state. As it appears that the number of affected cases will be relatively small, the amount of additional locally collected state court cost revenues that might be collected and deposited annually to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402) is likely to be no more than negligible.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2003	FY 2004	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential gain, not likely to exceed minimal	Potential gain, not likely to exceed minimal	Potential gain, not likely to exceed minimal annually
Expenditures	Potential increase, possibly exceeding minimal in certain counties	Potential increase, possibly exceeding minimal in certain counties	Potential increase, possibly exceeding minimal annually in certain counties

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

- **DRC administrative changes.** Many of the bill’s statutory changes simplify and clarify the Department of Rehabilitation and Correction’s current administrative procedures and practices, and, generally speaking, will not noticeably affect the ongoing costs of doing business for local criminal justice systems.
- **CBCF audits.** In the matter of paying for the costs associated with the performance of biennial financial audits of CBCFs, of which there are currently 18 located around the state, it appears DRC’s intent is that it would ultimately pay for any financial audit costs. As of this writing, it is unclear as to what entity would have to pay for the cost of conducting a performance audit, but appears likely to fall on either DRC or the local judicial corrections board, perhaps even if such an audit is undertaken under the Auditor of State’s own initiative. While the costs associated with a financial audit may not be significant, a performance audit is much more extensive in that it examines how well a CBCF meets its programmatic goals. A performance audit can typically take months to perform and potentially cost in the tens of thousands of dollars to complete.
- **Criminal caseload expenditures.** To the degree that the bill’s prohibitions affect local criminal justice expenditures, it might be to increase the annual costs that a county or municipality incurs in prosecuting, adjudicating, defending (if the violators are indigent), and sanctioning offenders. If the criminal justice expenditures of these local governments do in fact increase, any such rise should be no more than minimal annually given the likelihood that the number of cases that could be affected by the bill’s prohibitions in any given jurisdiction appears to be relatively small.
- **Local revenues.** As a result of violations of the bill’s prohibitions, additional court cost and fine revenues may be generated for counties and municipalities. As it appears that the number of affected cases will be relatively small in any given local jurisdiction, the amount of court cost and fine revenues that actually may be collected annually by counties and municipalities is unlikely to exceed minimal.

Detailed Fiscal Analysis

DRC operations

The bill amends existing law largely related to the Department of Rehabilitation and Correction (DRC) in the matters of: (1) the treatment of prisoners, (2) the operations of the Adult Parole Authority, and (3) the confidentiality of certain reports and information. The Department believes that these statutory changes will simplify and clarify its current administrative procedures and practices, and, generally speaking, will not noticeably affect its ongoing costs of doing business, nor those of county and municipal criminal justice systems. That said, the auditing provisions of the bill in relation to community-based correctional facilities (CBCFs) carries the potential to create some noticeable additional annual operating expenses for DRC, and relatedly the Auditor of State, and possibly some counties.

CBCF audits

Under the bill, the Auditor of State will be required to: (1) conduct financial audits of CBCFs at least once every two years using DRC-supplied quarterly financial reports, and (2) conduct a performance audit of a CBCF at the request of DRC or the local judicial corrections board, or may undertake such a performance audit on its own initiative. A performance audit is much more extensive than a financial audit in that it examines how well a CBCF meets its programmatic goals. A performance audit can typically take months to perform and potentially cost in the tens of thousands of dollars to complete. Currently, there are 18 CBCFs located around the state.

Presumably, the Auditor of State will charge the appropriate state agency or local government for the performance of these mandated biennial financial audits and permissive performance audits. As of this writing, it is unclear as to whether the annual costs incurred by the Auditor of State in performing these audits will exceed minimal on an ongoing basis, meaning in excess of \$100,000 annually. It appears that any costs incurred by the Auditor of State in performing these audits are typically charged to one of two funds: (1) Fund 109 (Public Audit Expense-Intrastate) in the case of audits performed for a state agency, and (2) Fund 422 (Public Audit Expense-Local Government) in the case of audits performed for a political subdivision. Auditing service payments from state agencies and local governments are deposited in Fund 109 and Fund 422, respectively.

In terms of costs to DRC, the requirement that it provide the Auditor of State with quarterly financial reports should not generate any additional departmental expenses since it already collects and compiles such data under current accounting practices. In the matter of paying for the costs associated with the performance of financial audits, it appears DRC's intent is that it would ultimately pay for any financial audit costs. As of this writing, it is unclear as to what entity would have to pay for the cost of conducting a performance audit, but appears likely to fall on either DRC or the local judicial corrections board, perhaps even if such an audit is undertaken under the Auditor of State's own initiative.

Criminal offenses

The bill also:

- (1) Expands the offense of sexual battery to additionally prohibit certain persons from engaging in sexual conduct with another while in a detention facility. Under existing law, violating the sexual battery prohibition is a felony of the third degree, which carries a maximum individual fine of \$10,000 and a possible definite prison term of 1 to 5 years.
- (2) Creates the offense of illegal conveyance of a communications device onto the grounds of a detention facility. Under the bill, violating the new prohibition against conveying a communications device onto the grounds of a detention facility would be a misdemeanor of the first degree, which carries a maximum individual fine of \$1,000 and a possible jail stay of no more than 6 months. If the offender has been previously convicted of, or pleaded guilty to, a violation of the bill's illegal conveyance prohibition, the offense rises to a felony of the fifth degree, which carries a maximum individual fine of \$2,500 and a possible definite prison term of 6 to 12 months.

Criminal caseloads

The impact of the bill's prohibitions on local criminal justice systems will likely be twofold. First, offenders who would have been prosecuted and sanctioned under current law could face a more serious penalty. Second, individuals who might not have been punished under current law could be arrested, prosecuted, convicted, and sanctioned. Thus, the bill's prohibitions would in all likelihood: (1) affect existing criminal cases, and (2) create new criminal cases.

That said, it appears that the number of criminal cases that could be affected or created by the bill's prohibitions will be relatively small for any given local criminal justice system. For example, based on conversations with DRC about the conduct prohibited under the bill, very few instances rise to the level of the expanded sexual battery offense, and, during shakedowns of its prison system, very few cell phones have actually been discovered.

State and local expenditures

To the degree that the bill's prohibitions affect local criminal justice expenditures, it might be to increase the annual costs that a county or municipality incurs in prosecuting, adjudicating, defending (if the violators are indigent), and sanctioning offenders. If the criminal justice expenditures of these local governments do in fact increase, any such rise should be no more than minimal annually given the likelihood that the number of cases that could be affected by the bill's prohibitions in any given jurisdiction appears to be relatively small.

As a result of the bill, it is also possible that additional offenders will be sentenced to prison or sentenced to prison for longer stays than would have been the case under current law, the fiscal effect of which would be to increase DRC's GRF-funded annual incarceration and post-release control costs. The number of affected offenders, however, appears to be small enough that any increase in the Department's annual expenditures would be minimal at most.

State and local revenues

As a result of violations of the bill's prohibitions, additional court cost and fine revenues may be generated for the state, counties, and municipalities. As it appears that the number of affected cases will be relatively small in any given local jurisdiction, the amount of court cost and fine revenues that actually may be collected annually by counties and municipalities is unlikely to exceed minimal. For the state, the amount of additional locally collected state court cost revenues that might be collected and deposited annually to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402) is likely to be no more than negligible.

Firearm training

Adult Parole Authority

Existing law requires an Adult Parole Authority (APA) employee with permission to carry a firearm in the discharge of their official duties successfully complete an Ohio Peace Officer Training Commission-approved basic firearm training program that is administered by DRC. The bill removes from the provision the requirement that the program be administered by DRC.

Currently APA employees must receive basic firearm training from DRC's Corrections Training Academy. Under the bill, if the APA hired an employee who had already successfully completed an Ohio Peace Officer Training Commission-approved basic firearm training program, then that employee would not be required to participate in DRC's basic firearm training program.

Based on a conversation with the APA, it appears that, by removing the requirement, the bill could save DRC time and moneys that might otherwise have to be expended to deliver basic firearm training to certain employees. The amount of any such savings annually, however, is likely to be relatively small given the likelihood that very few APA employees would in effect be exempted from DRC-administered basic firearm training.

Court probation officers

Existing law requires municipal court and common pleas court probation officers with permission to carry a firearm in the discharge of their official duties successfully complete an Ohio Peace Officer Training Commission-approved basic firearm training program within six months of receiving permission to carry a firearm. Under the bill, a municipal court or common pleas court probation officer must first successfully complete an Ohio Peace Officer Training Commission-approved basic firearm training program before being granted permission to carry a firearm.

It appears that the practical fiscal effect of amending the existing firearm training provision will be similar to the aforementioned provision related to firearm training for APA employees. Under the bill, a person hired as a probation officer that had already successfully completed an Ohio Peace Officer Training Commission-approved basic firearm training program would not be required to successfully complete such a training program again if the certificate of successful completion were still valid.

Thus, municipal court and common pleas court probation departments could save time and moneys that might otherwise have to be expended to ensure that certain employees successfully complete a basic firearm training program. The amount of any such savings annually, however, is likely to be relatively small given the likelihood that very few municipal court and common pleas court probation officers would in effect be exempted from Ohio Peace Officer Training Commission-approved basic firearm training.

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