



# OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 30 of the 132nd G.A.

**Status:** As Introduced

**Sponsor:** Rep. Koehler

**Local Impact Statement Procedure Required:** No

**Subject:** Mandatory additional prison term for felony offense of violence where victim under age six suffered permanent disabling harm

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### State and Local Fiscal Highlights

- The bill will increase the GRF incarceration costs for the Department of Rehabilitation and Correction ranging up to between \$1.0 million and \$2.8 million annually, as certain offenders sent to prison for a felony offense of violence will likely serve an additional three to eight years for permanently disabling the victim.
- The bill will have no direct fiscal effect on any of the state's political subdivisions.

### Detailed Fiscal Analysis

The bill requires courts to impose an additional prison term of three to eight years if an offender is convicted of, or pleads guilty to: (1) any of more than 30 applicable felony offenses of violence, and (2) a specification that the victim, who must be under six years of age at the time of the offense, suffered permanent disabling harm as a result of the offense. The result will be an increase in the Department of Rehabilitation and Correction's (DRC) GRF incarceration expenditures in the range of up to between \$1.0 million and \$2.8 million annually.

The most recently compiled data on offenders sent to prison in calendar year 2014 indicates that up to about 288 offenders, or 1.4%, out of a total intake population of 20,120, were convicted of a violent offense in which the victim required in-patient hospitalization. It is likely that the majority of these victims recovered from their injuries with no permanent disability. For this analysis we are making the assumption, based on the required age of the victim, that possibly as many as 5% of these victims sustained permanent disabling harm. This means that, out of the above 288 offenders, as many as 14 would have qualified for the bill's additional prison term.

If all of these offenders received the minimum of three additional years, the bill adds 42 more bed years (14 x 3 years), which at the current annual incarceration cost of \$24,763 creates approximately \$1.0 million in additional expenditures per year. If, on the other hand, these offenders received the maximum of eight additional years, the bill adds 112 more bed years (14 x 8 years), which creates \$2.8 million in additional expenditures per year.

In effect, by extending prison stays beyond what the amount of time served would otherwise have been under current law, the bill triggers a "stacking effect," which refers to the increase in the prison population that occurs as certain offenders currently serving time stay in prison longer while the number of new offenders entering the prison system does not decrease. Typically this "stacking" process will stabilize when the number of offenders who begin serving their additional time is about the same as the number leaving prison after serving their additional time. Making a determination of the point in which the "stacking" process stabilizes is especially difficult in this bill because: (1) the number of qualifying offenses of violence, (2) the wide variation in the length of the original sentence for the underlying offense, and (3) the difficulty of teasing out "permanent disabling harm" from available victim injury data. Since most of these offenders are in prison for violent felonies to begin with, the fiscal effect created by the bill will not begin to occur for a number of years following its effective date.

Additionally, there is also a possibility that the presence of the specification created in the bill will be used in the bargaining process to induce the accused to accept plea agreements that reduce potential years served in exchange for a guilty plea. To the extent this occurs, the total number of additional beds stemming from the bill would be reduced.