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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 19
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Bird and Williams

Local Impact Statement Procedure Required: No

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Highlights

- The bill's changes to the mental state from knowingly to recklessly for certain activities related to underage drinking may increase the annual costs that county and municipal criminal and juvenile justice systems incur to process cases, specifically the costs associated with prosecution and indigent defense or incarceration. Any increase is likely to be minimal annually.

Detailed Analysis

The bill amends the law prohibiting an owner or occupant of any public or private place from allowing an underage person to possess or consume alcohol in that place (R.C. 4301.69(B)). The bill specifically reduces the mental state, from knowingly to recklessly, that applies to this type of prohibited conduct.

Under current law, and unaffected by the bill, a violation is a misdemeanor of the first degree (punishable by a jail term up to 180 days, a fine up to \$1,000, or both). The prohibition does not apply to a parent, legal guardian, or adult spouse who is present and who gives intoxicating liquor or beer to an underage person.

For a prosecutor to prove that a person has violated this prohibition, the prosecutor must prove all of the elements of the crime, including the person's mental state at the time of committing the offense. Generally speaking, it is easier for a prosecutor to prove that a person acted recklessly than to prove that a person acted knowingly.

Based on a review of data contained in the Ohio Incident Based Reporting System (OIBRS), relative to other criminal incidents, this type of behavior is not reported to law enforcement very

often.¹ When these incidents are reported and investigated, they appear to include other potential offenses, for example “contributing to the delinquency of a child” (a misdemeanor of the first degree) or “obstructing official business” (a misdemeanor of the second degree or a felony of the fifth degree). These incidents also appear to be multiple-offender events; for instance, a house party where all persons in attendance are investigated and possibly charged. As such, the bill is not likely to generate many new additional cases from a single incident (i.e., a party), but officers and prosecutors may feel more comfortable adding a charge under the amended version of R.C. 4301.69(B). Additionally, the charges may be more successfully prosecuted. As far as cost and revenue impacts for a county or municipal criminal justice system to process such cases, specifically the costs associated with prosecution and indigent defense or incarceration if sentenced to a jail term, the overall fiscal effect would be minimal at most.

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¹ OIBRS is a voluntary reporting program in which Ohio law enforcement agencies can submit crime statistics directly to the state and federal government. At this time, the number of law enforcement agencies submitting data to OIBRS represents approximately 81% of the population. OIBRS does not reflect final charging data or eventual sentencing, but it may provide a sense of the overall number of violations of an offense.