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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 252  
(1\_136\_2747-1)  
136<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 252's Bill Analysis](#)

**Version:** In House Judiciary

**Primary Sponsors:** Reps. Click and Bird

**Local Impact Statement Procedure Required:** No

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### Highlights

- The bill may result in new criminal charges or potential enhanced penalties due to the bill's modifications to existing law related to the offenses of burglary, aggravated burglary, and trespass in a habitation when a person is present or likely to be present.
- To the extent that additional offenders are found guilty, the Department of Rehabilitation and Correction (DRC) may experience a minimal increase in marginal incarceration expenditures over time.
- Any related costs to adjudicate these cases by local criminal justice systems would likely be offset, at least partially, from revenue in the form of fines, fees, and court costs collected from violators. The state may gain a negligible amount of revenue related to the portion of fines that are remitted to the state for each conviction.

### Detailed Analysis

The bill creates the offenses of (1) aggravated burglary, (2) burglary, and (3) trespass in a habitation where a person is present or likely to be present that are the same as the current law offenses except that the new offenses do not require that the offender commit the offense by "force, stealth, or deception" and require the offender to commit the offense with a mental state of "knowingly." The expansion of certain elements for these offenses may make charges easier to file or ultimately prosecute, potentially leading to more convictions. All three offenses are subject to felony level sanctions, some of which could result in penalty enhancements depending on the circumstances surrounding the prohibited act. The net result could lead to additional offenders being sanctioned to incarceration in an institution operated by the Department of Rehabilitation and Correction (DRC) or for longer terms than they otherwise would have been sentenced to under current law.

See the [Substitute Bill Comparative Synopsis \(PDF\)](#) for a complete description of the changes to these three offenses. Generally, the bill provides for the following range of penalties:

- Aggravated burglary (all circumstances) – first degree felony (same as current law);
- Burglary – third, second, or first degree felony, depending on circumstances present (potential penalty enhancement under the bill);
- Trespass in a habitation when a person is present or likely to be present – fourth or third degree felony, depending on circumstances present (potential penalty enhancement under the bill).

The table below illustrates the potential sanctions for each felony conviction. A sanction may include either a term of incarceration, a fine, or both. It should also be noted that for lower level felonies (e.g., F-4), community control could be a sentencing option for the courts.

Table 1. Felony Sentences and Fines for Offenses, Generally		
Offense Level	Fine	Term of Incarceration
F-1	Up to \$20,000	Indefinite prison term consisting of a minimum term selected by the sentencing judge from the range of terms authorized for a first degree felony (3, 4, 5, 6, 7, 8, 9, 10, or 11 years), and a maximum term set by statute and based on the minimum selected
F-2	Up to \$15,000	Indefinite prison term consisting of a minimum term selected by the sentencing judge from the range of terms authorized for a second degree felony (2, 3, 4, 5, 6, 7, or 8 years), and a maximum term set by statute and based on the minimum selected
F-3	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
F-4	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term

## Fiscal effect

### Local criminal justice systems

The bill's modifications to current law and the creation of new offenses may impact criminal cases and how they are charged and ultimately adjudicated. However, the number of new cases generated annually will likely be minimal. Courts of common pleas, the courts with jurisdiction over felonies, may see an uptick in cases. However, more likely is that existing cases may be impacted in the manner that they are adjudicated. It is likely that offenders charged with any of these charges may also have other charges pending related to the incident. As such, the bill is not likely to add significantly to the number of criminal cases or the workload of law enforcement, the courts, prosecutors, and public defenders.

To the extent that additional charges are filed and lead to possible convictions though, there will be a corresponding increase in the amount of fine, fee, and court cost revenue generated for the state and political subdivisions, potentially offsetting in part any new costs.

## Department of Rehabilitation and Correction

The Department of Rehabilitation and Correction (DRC) may experience an increase in related operating and incarceration costs if additional offenders are found guilty of any of these three offenses. In calendar year (CY) 2024, the marginal cost to house an individual inmate was \$13.47 per day, or nearly \$5,000 per year. Marginal costs are based on additional medical and mental health costs as well as food and clothing. It does not include additional security, facility, or administrative costs which have already been factored into the overall operating costs of DRC (i.e., institutional costs). For purposes of this fiscal note, using the marginal cost rate seems reasonable to presume.

Because the penalties for specific burglary and trespassing offenses could be increased, it is possible that some offenders convicted under this bill may serve longer sentences in the custody of DRC, potentially leading to a stacking effect over time.

Table 2 below displays the most recently available commitment and population data for like periods of time, specifically for the year ending around 2022.<sup>1</sup> The figures shown reflect the most serious offense committed by the offender. In many instances, the offender may have multiple convictions related to the same criminal activity. According to DRC's most recent time served report for CY 2016, these were the average times served for each offense (likely unaffected by the bill if trends remain consistent): aggravated burglary – 7.76 years, burglary – 3.97 years (F-2) and 2.1 years (F-3), and breaking and entering – 0.95 years.<sup>2,3</sup>

<b>Offense</b> (most serious offense resulting in commitment to DRC)	<b>CY 2022 Commitments</b>	<b>Percentage of Total Commitments</b>	<b>January 2023 Population</b>	<b>Percentage of Total Population</b>
Aggravated Burglary	100	0.71%	1,207	2.76%
Burglary (all degree levels)	724	5.14%	2,152	4.92%
Trespass	1	--	1	0.0%
All Offenses	14,490	100%	43,758	100%

<sup>1</sup> See DRC's January 2023 Population Report and CY 2022 Commitment Report, which are available on the Department's website via keyword searches "Institution Census" and "Commitment": [drc.ohio.gov](http://drc.ohio.gov).

<sup>2</sup> See DRC's 2016 Time Served Report, which is available on the Department's website via keyword search "2016 Time Served": [drc.ohio.gov](http://drc.ohio.gov). This report is the most recently available.

<sup>3</sup> The 2016 Time Served Report included no data for the offense of trespass.

## Synopsis of Fiscal Effect Changes

The substitute bill (I\_136\_2747-1) modifies the offenses of “aggravated burglary,” “burglary,” and “trespass in a habitation where a person is present or likely to be present.” The substitute bill also removes the prior modifications to the offense of “breaking and entering” that were included in the As Introduced version of the bill, thus reverting back to current law.

The substitute bill creates the offenses of (1) aggravated burglary, (2) burglary, and (3) trespass in a habitation where a person is present or likely to be present that are the same as the current law offenses except that the new offenses do not require that the offender commit the offense by “force, stealth, or deception” and require the offender to commit the offense with a mental state of “knowingly.” The offenses in the bill will continue to be charged as felonies under the jurisdiction of the courts of common pleas. If certain circumstances are present, some cases may be subjected to penalty enhancements, resulting in potentially longer terms of incarceration and additional costs to the Department of Rehabilitation and Correction. The fiscal effects outlined in the prior version of the fiscal note largely remain unchanged.