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H.B. 528
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsor: Rep. Williams

Local Impact Statement Procedure Required: No

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Highlights

- The Department of Rehabilitation and Correction (DRC) estimates that the bill will result in a bed count increase ranging from 100 to 200 beds, which, based on the December 2024 population and assuming all other factors remain the same, equates to a population increase of less than 0.5%. The "stacking effect" increase would begin to be seen approximately three years after the bill's effective date and then with most of the impact occurring by the end of a seven-year period.
- Based on DRC's "marginal cost" scenario, costs which assumes an incremental shift in population, could reach $491,655 and $983,310 annually. The "institutional cost" scenario, which includes all overhead expenses which may lead to additional institutional needs like staffing, could reach between $3.9 million and $7.7 million annually.

Detailed Analysis

The bill requires a court to impose a mandatory minimum prison term of at least seven years when an offender is convicted of the prohibition within the offense of rape that involves purposely compelling another person to submit to sexual conduct by force or threat of force ("forcible rape"). Under continuing law, the general penalty for rape is a first degree felony, though the circumstances constituting a violation of the offense's other prohibitions carry enhanced penalties.

For a violation of the forcible rape prohibition described above, the bill requires the court to impose one of the standard minimum terms for a first degree felony, but the minimum term imposed must be at least seven years. The available minimum terms for a first degree felony under current law are 3, 4, 5, 6, 7, 8, 9, 10, or 11 years. As such, the bill affects only those offenders who, under current law and sentencing practices, would otherwise receive a minimum

term of three to six years, as these individuals would instead be subject to a minimum term of at least seven years.

Fiscal effect

The bill will not result in any new felony cases for local courts to adjudicate, or offenders committed to the Department of Rehabilitation and Correction (DRC), as the offense of rape is already classified as a felony that carries a presumption for prison. However, the new minimum mandatory term may impact the amount of time and effort that prosecutors, defense attorneys, and the court expend to adjudicate these types of cases, to the extent that the potential for more prison time under the bill affects plea negotiations. The principal impact of increasing the mandatory minimum prison term for forcible rape is that some number of offenders will serve longer sentences.

This analysis primarily focuses on the adult inmate population. However, regarding the Ohio Department of Youth Services (DYS), in FY 2025, approximately 44 of the 435 total admissions to DYS were for sex offenses. There is no breakdown specifically for rape. While DYS may be impacted by the bill's penalty enhancements, the overall fiscal impact would likely be negligible.

The table below provides some context regarding the current adult inmate population, based on DRC commitment data from FY 2021 through FY 2025. First degree felony rape offenses, tracked as the most serious committing offense, accounted for an average of 1.4% of total commitments over this time period. According to DRC, offenders released in 2024 whose most serious offense was first degree felony rape served an average of approximately 11.2 years. It is important to note that while these figures include forcible rape cases, they also encompass other first degree felony rape offenses that may already be subject to enhanced penalties under current law. Because DRC does not separately track the specific prohibition addressed by the bill, the number of offenders affected cannot be determined from this data and would represent only a subset of all commitments for the offense.

Prison Commitments for First Degree Felony Rape Offenses, FY 2021-FY 2025[1]

Offense	2021	2022	2023	2024	2025
First Degree Felony Rape	193	205	194	233	160
% of New Commitments	1.6%	1.4%	1.3%	1.6%	1.1%
Total All New Commitments	**12,023**	**14,325**	**14,417**	**14,411**	**14,289**

Department of Rehabilitation and Correction

Increasing the minimum mandatory term for forcible rape will lead to longer prison terms for certain offenders. As a result, DRC will likely experience an increase in related operating and

[1] Data provided by DRC.

incarceration costs. According to the DRC December 2024 Fact Sheet, DRC's inmate population totaled 45,490[2] and total institutional operating costs totaled approximately $1.3 billion.

DRC estimates that the bill will result in a bed count increase of 100 to 200, which, based on the December 2024 population and assuming all other factors remain the same, equates to a population increase of less than 0.5%. The "stacking effect" increase would begin to be seen approximately three years after the bill's effective date (the lowest possible term under current law), and then with most of the impact occurring by the end of a seven-year period (the minimum mandatory term provided under the bill).[3]

There are two cost scenarios that may be considered when determining the overall "bed count" cost to DRC: (1) marginal cost increases or (2) institutional cost increases. The marginal cost scenario seems most likely at the time of this writing. Both estimates, provided below, are dependent on a variety of assumptions, least of which is the assumption that no other sentencing factors will be altered between the time the bill is enacted and when the first impacts to the bed counts begin to occur.

Marginal cost scenario

According to DRC, the FY 2024 average marginal cost to house an additional offender was $13.47 per day or $4,916.55 per year. Marginal costs, as defined by DRC, are those that increase or decrease directly on a per-person basis with changes in prison population. The major categories that comprise marginal costs, from largest to smallest, are:

- Medical (pharmaceuticals, medical supplies, hospitalization, and ambulance services);
- Food Service;
- Storeroom/Quartermaster (clothing, mattresses, and sheets and blankets); and
- Mental Health (pharmaceuticals and mental health supplies).

Using this cost basis scenario, once all 100 to 200 beds have been added, DRC would incur additional expenditures of between $491,655 and $983,310 annually. Again, these costs would not be immediate and would gradually occur, as mentioned, beginning in the third year and eventually peaking by year seven.

Institutional cost scenario

According to the DRC December 2024 Fact Sheet, the average institutional cost to house an offender was $105.75 per day or $38,598.75 per year. Institutional costs are calculated by dividing all DRC operating costs by the number of housed offenders, for a certain time period. Included in this cost are items such as employee salaries, building costs and maintenance, and other items of expense that are incurred regardless of inmate population. Traditionally, DRC

[2] DRC December 2024 Fact Sheet (PDF).

[3] This term "stacking effect" 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. This "stacking" process will stabilize when the number of offenders who begin serving their additional time as part of the penalty enhancements in the bill is about the same as the number leaving prison after serving their additional time.

relies on "marginal cost" for forecasting future expenditure estimates. However, given that the anticipated population increase and length of time that all future impacts would be realized, it is possible that the "institutional cost" scenario may be equally possible, especially in terms of potential staffing needs. Under this scenario, once all 100 to 200 beds have been added, DRC would incur additional expenditures of between $3.9 million and $7.7 million annually for each year thereafter under this scenario.

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