Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

REVISED

BILL:	**Sub. H.B. 106**	DATE:	**July 21, 1997**
STATUS:	**As Recommended by Senate Criminal Justice Subcommittee**	SPONSOR:	**Rep. Winkler**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Increases the penalty for assault of certain school employees to a fifth degree felony**

State Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
General Revenue Fund			
Revenues	-0-	Potential minimal gain	Potential minimal gain
Expenditures	-0-	Potential minimal increase	Potential minimal increase
Crime Victims Reparation Fund			
Revenues	-0-	Potential minimal gain	Potential minimal gain
Expenditures	-0-	- 0 -	- 0 -

- The bill could generate a potential minimal gain in state revenues to both the General Revenue Fund (GRF) and the Crime Victims Reparations Fund (CVRF) as a result of increased collection of state court costs in felony cases. State court costs in felony cases are $41 and are divided between the GRF and Crime Victims Reparations Fund on the basis of $11 and $30 respectively.

- The bill could also generate a potential minimal increase in state expenditures related to indigent defense, incarceration of additional felony offenders, and increased subsidies to counties treating delinquent felony juveniles at the community level.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties			
Revenues	-0-	Potential minimal gain	Potential minimal gain
Expenditures	-0-	Potential net minimal increase	Potential net minimal increase
Municipalities			
Revenues	-0-	Potential minimal loss	Potential minimal loss
Expenditures	-0-	Potential minimal decrease	Potential minimal decrease

- The bill could produce a potential minimal gain in county revenues related to increased collection of local court costs and fines as well as additional state subsidies for treating delinquent felony youths at the local level.

- Additionally, the bill could produce a potential minimal loss in municipal revenues in the form of local court costs from cases shifted from municipal to common pleas courts. However, it must be noted that accompanying any potential loss in revenues from a shift in cases, municipalities should also experience a reduction in expenditures related to adjudication.

- The bill could also produce a potential increase in expenditures to counties related to adjudication, prosecution, indigent defense of additional felony offenses. However, it must be noted that counties could also experience a potential decrease in expenditures related to a shifting incarceration costs to the state. The decrease is not likely to offset the increase in expenditures noted above.

Detailed Fiscal Analysis

Provisions of the Bill

Under current law, the offense of "assault" is committed if a person knowingly causes or attempts to cause physical harm to another or if a person recklessly causes serious physical harm to another. Assault is generally a misdemeanor of the first degree (M-1), but can be increased under certain circumstances, to a felony of the third (F-3), fourth (F-4), or fifth (F-5) degree.

The bill would elevate assault to an F-5 if the victim of the offense is a school teacher, administrator, or bus operator and the offense occurs on school premises, in a school building, on a school bus, or while the victim is outside of school premises but engaged in the course of duties or official responsibilities associated with their employment. Examples of outside of school premises employment specified in the bill are tutoring students and accompanying or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions.

Fiscal Effects of the Bill

If a person is convicted of assaulting certain school employees and is 18 years of age or older, the offender is and would continue to be dealt with in the adult criminal justice system. Under current law, assault is an M-1, punishable by a maximum $1,000 fine and six months in jail. As a result of the distinction of assaulting a school employee, the offense would become an F-5, the penalties for which are six to twelve months in jail or prison and a fine of up to $5,000.

For a state law misdemeanor offense, incarceration costs are the complete responsibility of the counties, while counties or municipalities (depending on which jurisdiction operates the court) pay the cost of adjudication. In the case of a felony offense, counties are responsible for adjudication, prosecution and a share of indigent defense, while the state pays the remainder of indigent defense and all incarceration costs. All fine revenue goes to counties in either case. As a result, by increasing the penalties for assaulting a school employee from a misdemeanor to a felony, the state could experience a potential increase in expenditures related to incarceration costs. Meanwhile, municipalities could experience a decrease in expenditures related to a shift of cases from misdemeanor to felony status. Should this occur, counties would then absorb the

entire cost of adjudicating and prosecuting additional felony offenders, while decreasing incarceration expenditures by shifting certain offenders to state facilities.

If a person convicted of assaulting certain school employees is under 18 years of age, the offender would most likely be dealt with in the juvenile justice system. Since the circumstances under which penalties increase are school related, it is assumed that most of the fiscal impact of the bill would be concentrated in the juvenile justice system. All juvenile cases are currently heard in the juvenile division of the county court of common pleas. If a juvenile is adjudicated delinquent for the commission of a felony, they could potentially be committed to the custody of the Department of Youth Services (DYS) until the age of 21.

However, since the offense addressed in the bill would be a low level felony offense, it is more likely that the delinquent juvenile would be treated at the local level. According to a spokesperson from Franklin County Domestic Relations and Juvenile Court, only about 25 percent of felony delinquent youths in Franklin County are committed to DYS, the vast majority are instead treated in the community.

Currently the state, via the DYS Reclaim Ohio Program, provides a subsidy to counties for treating felony delinquent youths at the local level. Should a youth be sent to a DYS institution, the costs of this institutionalization are paid by the county out of its subsidy allocation. On the other hand, the costs of a youth treated in the community are paid by the counties using a combination of the Reclaim Ohio subsidy money and supplemental local funds.

Since no reliable data exists regarding the level of assaults presently occurring in Ohio's schools, LBO conducted a survey of school districts across the state in an attempt to assess the potential impact of the bill (see Table 1*). The districts selected were chosen on the basis of size, setting, and location in an attempt to provide a representative portrait of the situation as it exists across the state.

Assaults on School Personnel in 1995-96 School Year (Table 1)

District	**Number of Assaults**
Cleveland City School District	237
Columbus City School District	170
Lima City School District	7
Mansfield City School District	9
Southeastern Ross Local School District	1
Chesapeake Exempted Village School District	0

While the number of assaults varied significantly from one district to another, it appears as though large urban districts tend to experience most of the incidents. This being said however, the degree to which these incidents lead to prosecution is still difficult to determine. Specifically, in conversations with administrators of the districts identified in the table most indicated that they generally expelled or suspended the student offender and that it was the option of the individual staff member whether or not to pursue criminal charges – an option often not taken.

* Totals include all staff and violations that currently classify as both misdemeanors and felonies, whereas the bill addresses only assaults on teachers, administrators, and school bus operators

Therefore, while no data is available on the number of students prosecuted, it may be assumed that this number is not large and is probably concentrated in the urban counties. Furthermore, under existing law, a serious assault can be charged under section 2903.11 or 2903.12 of the Ohio Revised Code with penalties ranging from an F-1 to an F-4. It is therefore assumed that increasing the penalties for assaulting school employees under the bill would be unlikely to significantly increase costs to the adult criminal or juvenile justice system.

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