



## ***Detailed Fiscal Analysis***

The bill expands the offense of obstructing justice to include aiding a child who committed a delinquent act, if that act would be a crime if committed by an adult. Currently, any person who purposely hinders the discovery, apprehension, prosecution, conviction or punishment of another for a crime or assisting another to benefit from the commission of a crime, by performing any of the five prohibited actions set in law, is guilty of obstructing justice.

The penalties for the new offense are identical to the penalties for the continuing prohibition. If the crime committed by the person aided is a misdemeanor, obstructing justice is a misdemeanor of the same degree. If the crime committed is a felony of the third degree or lower, obstructing justice is a felony of the fifth degree. However, if the crime committed is a felony second degree or higher, murder or aggravated murder, obstructing justice is a felony of the third degree.

### **Effects of the Bill**

In estimating the effects of the bill, LBO analyzed the total number of commitments to the DRC in FY 1996. DRC intake for obstruction of justice was 19 in FY 1996, with an average time served of 1 year for such an offense in 1995. Applying the Bureau of Justice Statistics finding in 1994 of state courts, that the likelihood of a felony arrest leading to a felony conviction was 42 percent, we then assume that, there were approximately 46 persons arrested for obstruction of justice. For misdemeanors we again apply the national average that courts closed twice as many misdemeanor cases as felony cases. Thus, misdemeanor arrests for obstruction of justice would total 92. If we further assume that the incidence of obstruction of justice in juvenile cases is identical to that of adult cases (44 percent of all crime arrests are now juveniles), we thus estimate an annual average of 19 felony convictions and 39 misdemeanor convictions for obstruction of justice when the subject of the case is a child. The degrees of a felony or misdemeanor can however not be determined here. The tables below show the general sanctions for felonies and misdemeanors and the related fines that could be imposed on the offenders.

<b>Felony Schedule</b>		
<b>Felony Level</b>	<b>Basic Prison Terms</b>	<b>Maximum Fine</b>
1 <sup>st</sup> Degree	3 to 10 years	\$20,000
2 <sup>nd</sup> Degree	2 to 8 years	\$15,000
<b>3<sup>rd</sup> Degree</b>	<b>1 to 5 years</b>	<b>\$10,000</b>
4 <sup>th</sup> Degree	6 to 18 months	\$5,000
<b>5<sup>th</sup> Degree</b>	<b>6 to 12 months</b>	<b>\$2,500</b>

<b>Misdemeanor Schedule</b>		
<b>Misdemeanor Level</b>	<b>Maximum Sentence</b>	<b>Maximum Fine</b>
1 <sup>st</sup> Degree	6 months	\$1,000
2 <sup>nd</sup> Degree	90 days	\$750
3 <sup>rd</sup> Degree	60 days	\$500
4 <sup>th</sup> Degree	30 days	\$250
Minor Misdemeanor	None	\$100

Hence, DRC could have an additional 19 persons committed to its prisons, for an estimated annual cost increase of \$76,285 [19 X \$4,015(marginal cost of incarceration)]. The state could experience a potential negligible gain in revenues to the GRF and the Crime Victims Reparation Fund (CVRF) from increased collection of state court costs. State court costs for felony cases are currently \$41, split between the GRF-\$11, and CVRF-\$30. For misdemeanor cases state court costs are currently \$20, \$11 to the GRF and \$9 to the CVRF.

For counties, and municipalities that operate courts handling misdemeanor cases, expenditures could increase due to additional prosecution costs. County and municipal incarceration costs could also increase if the misdemeanants are committed to county or municipal jails. Presently, the average cost of incarceration in a county jail is \$52 per day.

□ *LBO staff: Ogbe O. Aideyman, Budget Analyst/Economist*

*H:\WEB\NEWFNS\HB0161SR.DOC*