# *Fiscal Note & Local Impact Statement*

*122 nd General Assembly of Ohio*

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| BILL: | **H.B. 382 (with LSC amendment H0382.122-4174/cmh)** | DATE: | **February 18, 1998** |
| STATUS: | **As Recommended by Senate Criminal Justice Subcommittee** | SPONSOR: | **Rep. Ogg** |

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

CONTENTS: **Increases the penalty for inducing panic when a public place involved in the offense is a school**

## *State Fiscal Highlights*

| STATE FUND | FY 1998 | FY 1999 | FUTURE YEARS |
|---|---|---|---|
| **General Revenue Fund** | | | |
| Revenues | - 0 - | -0- | -0- |
| Expenditures | - 0 - | Minimal increase | Minimal increase |
| **Crime Victims Reparations Fund** | | | |
| Revenues | -0- | Minimal gain | Minimal gain |
| Expenditures | - 0 - | - 0 - | - 0 - |

- The bill is expected to impact a small number of cases producing a minimal gain in revenues to the Crime Victims Reparations Fund (CVRF) from increased collection of state court costs for newly classified felony offenses. State court costs in felony cases are $41 and divided between the General Revenue Fund (GRF) and the CVRF on the basis of $11 and $30 respectively. There is no increase in the GRF revenue as their share is $11 regardless of the level of offenses.

- Additionally, the bill could produce a potential minimal increase in state expenditures related to indigent defense, incarceration or treatment of additional felony offenders.

## *Local Fiscal Highlights*

| LOCAL GOVERNMENT | FY 1998 | FY 1999 | FUTURE YEARS |
|---|---|---|---|
| **Counties** | | | |
| Revenues | - 0 - | Potential minimal loss | Potential minimal loss |
| Expenditures | - 0 - | Potential net minimal increase | Potential net minimal increase |
| **Municipalities** | | | |
| Revenues | - 0 - | Potential minimal loss | Potential minimal loss |
| Expenditures | - 0 - | Potential net minimal decrease | Potential net minimal decrease |
| **School Districts** | | | |
| Revenues | - 0 - | -0- | -0- |
| Expenditures | - 0 - | Potential minimal savings | Potential minimal savings |

- The bill could produce a potential minimal loss in county revenues related to a possible decrease in the collection of fine revenue. However, this loss should in part be offset by the collection of additional local court costs. Local court costs vary by jurisdiction and are retained entirely by the political subdivision operating the court.

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

- Furthermore, the bill could generate a potential increase in county expenditures related to adjudication, prosecution, and indigent defense of additional felony cases. However, it must be noted that counties could also experience a potential decrease in expenditures related to shifting incarceration costs to the state.

- The bill could generate a potential minimal savings to school districts by allowing lost days to be made up in half-hour increments instead of through an extension of the existing school year.

# *Detailed Fiscal Analysis*

**Provisions of the Bill**

Under existing law, the offense of inducing panic is a misdemeanor of the first degree (M-1), unless it results in physical harm to any person, in which case it is upgraded to a felony of the fourth degree (F-4). The bill increases the penalty for inducing panic to an F-4 when the public place involved in the violation is a school and the offense does not result in physical harm to any person. Should the violation result in physical harm, the penalty is then upgraded to an F-3. The penalties for the various offenses are detailed below. Furthermore, the bill permits that districts not meeting the minimum required number of hours of daily attendance as a result of a bomb threat or similar occurrence the district may make up such time in half-hour increments. Under current law the minimum length of a school day is five hours, with most Ohio school districts in attendance approximately seven hours. Current law requires that failure to meet the minimum requirement of a five-hour day must be made up on a day for day basis, which in essence requires an extension of the school year.

| **Penalties for Inducing Panic** | | |
|---|---|---|
| ***Level of Offense*** | ***Incarceration*** | ***Maximum Fine*** |
| M-1 | Up to 6 Months | $1,000 |
| F-4 | 6 to 18 Months | $5,000 |
| F-3 | 1 to 5 Years | $10,000 |

**Impact of the Bill**

Since the bill enhances penalties for existing offenses and no additional cases should be created, the fiscal impact should be confined to upgrading the seriousness of the offense and the shifting responsibilities for prosecution, adjudication, incarceration, and indigent defense. While no reliable data exists regarding the number of incidents presently occurring statewide in Ohio's schools, discussions with school administrators and local prosecutors indicate such incidents have traditionally been minimal and are expected to remain the same.

Under the bill, if a person can be convicted of inducing panic in a school and is 18 years of age or older, they would continue to be dealt with in the adult criminal justice system. As described above, inducing panic is currently an M-1 (F-4 if physical harm results) which is punishable by a maximum $1,000 fine and six months in jail. As a result of the distinction of inducing panic in a school, the offense would become an F-4 (F-3 if physical harm results), the penalties for which are six to eighteen months in jail or prison and a fine of up to $5,000. Since fine revenues in cases involving offenses under the Ohio Revised Code go entirely to the counties and considering that fines are rarely levied in felony convictions, counties could experience a potential loss in revenues. Certain state revenues meanwhile could experience a potential minimal gain related to the collection of additional court costs in felony cases. State court costs in misdemeanor cases are $20 and are divided between the General Revenue Fund (GRF) and the Crime Victims Reparations Fund (CVRF) on the basis of $11 and $9 respectively. However, state court costs in felony cases are $41 and are divided between the GRF and CVRF on the basis of $11 and $30 respectively, thus generating the potential gain to the CVRF.

Meanwhile, incarceration costs in state misdemeanor cases are the complete responsibility of the counties, while counties or municipalities (depending on which subdivision operates the court) are responsible for adjudication. In the case of felony offenses, counties are responsible for adjudication, prosecution and the local share of indigent defense, while the state pays the remainder of indigent defense and 100 percent of incarceration costs. According to data provided by the U.S. Department of Justice Bureau of Justice Statistics indigent defense is required in 78 percent of all felony cases and averages $395. Therefore, as a result of upgrading the penalties for inducing panic in a school from a misdemeanor to a felony, the state could experience a potential increase in expenditures related to incarceration costs. Additionally, 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 cost of adjudicating and prosecuting additional felony offenders, while shifting incarceration expenditures to the state.

Should a person convicted of inducing panic in a school be under 18 years of age, they 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. Should a juvenile be 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, in that the offense addressed in the bill would be a low level felony offense, it is possible 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, responsibility for paying for treatment is handled by the county from its subsidy allocation. Meanwhile, the costs of treating a youth locally are paid by the counties using the Reclaim Ohio subsidy money supplemented by local funds.

According to local school administrators of districts encountering numerous bomb or explosion threats during the 1996-97 school year, the provision of the bill permitting a district to make up time lost as a result of bomb threats in half-hour increments could generate a potential savings related to decreased transportation costs. However, since most districts possess a built-in cushion of approximately two hours per day and avoid early dismissal if at all possible, the number of days required to be made up is small. Furthermore, administrators believe that any savings generated as result of employing the option of extending the existing school day would be at in large part offset by overtime costs generated from local collective bargaining agreements and would thus be minimal.

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