
Detailed Fiscal Analysis

The bill creates new telecommunication related criminal offenses and broadens several existing offenses to reflect technological advancements. Also, the bill expands the criminal jurisdiction of Ohio's courts and the appropriate venues where criminal offenders may be prosecuted. This bill should have a minimal fiscal effect on the state, but will potentially have a strong fiscal effect on Ohio's counties. Additionally, the Office of the Ohio Attorney General has recently created a special unit that will help local officials in investigating and prosecuting violations of both the current law and the proposed legislation dealing with telecommunication offenses.

The bill creates three new criminal offenses. It creates the offenses of telecommunications fraud, unlawful use of a telecommunications device and illegal use of information about a minor. All three of the offenses are felonies of the fifth degree, with the possibility of increasing the penalty for telecommunications fraud to the fourth or third degree depending upon the aggregate value of the benefit obtained by the offender or of the detriment to the victims.

Additionally, the bill expands eight current offenses to address the advancement of technology in unlawful activity. In general, the bill expands the offenses by prohibiting the use of a computer, computer system or network, telecommunication, telecommunication device or service as a means of transmitting illegal material or conducting an unlawful activity. It also expands the offenses of unauthorized use of computer property and tampering with records. These offenses have penalties ranging from first-degree misdemeanors up to second-degree felonies.

The bill also expands the jurisdiction of courts to enable criminal prosecutions to take place when an offender uses this technology to cause or allow any writing, data, image or other telecommunication to be transmitted or disseminated into the state in violation of Ohio law. Venue is enlarged by allowing offenders to be prosecuted in any jurisdiction from or into which the illegal items are disseminated or transmitted. Venue deals with where the proper court is, and jurisdiction refers to what may be brought up before the court.

At the end of 1997, the Attorney General created a new unit within the Bureau of Criminal Identification and Investigation (BCII) to assist local authorities in investigations related to crimes involving computers. The Computer Crime Unit operates under the budget of the Attorney General's Office and is partially supported through a grant of federal funds. While the state's portion of the unit's operating cost is not directly connected to this bill, the association can be made that the additional state support will potentially lead to additional charges and an increase in the rate of convictions. The creation of this new unit was envisioned to operate in tandem with such a new telecommunications law.

The counties will feel the main fiscal effects of this bill. The state will potentially face increased costs for several reasons. First, the bill would increase the number of those to be incarcerated into prison. Second, the increased number of offenders will increase the demands on public defenders. The costs of public defense are borne by both the state and the county where the prosecution is taking place. Finally, the state should probably expect to see a future

increase in funding for BCII's Computer Crime Unit as the demand for help from local authorities increases.

For the most part, either the county sheriff or a municipal police department will fund the cost of any criminal investigation. The Counties will fund the prosecution. Counties provide for the cost of prosecuting felonies and state law misdemeanors. Fines will counterbalance some of these expenses. Violating either the felonies or misdemeanors within the bill produces revenue for the local county. If the offenders require assistance in their defense, a county or multi-county public defenders office will provided legal representation. Currently, counties are reimbursed approximately 48% of expenses from the state's Public Defender Commission. Additionally, counties will receive a small portion of revenue from local court costs. Ohio also benefits from state court costs that are used to help support the Court of Claims' Victims of Crime program and the Public Defender Commission's Indigent Defense Fund. Lastly, the cost of incarceration falls upon both the counties and the state. A person convicted of a 2nd or 3rd degree felony will be imprisoned within a Department of Rehabilitation and Corrections facility. Individuals convicted of misdemeanors are kept in a county or regional jail at the county's expense. Those offenders convicted of non-violent 4th and 5th degree felonies are more likely to be housed in a jail rather than a prison, but there are exceptions.

It is difficult to project how many offenders will be charged under only the new or expanded provisions of the bill. A number of the offenders may also be charged with other offenses. However, prosecutors in Cuyahoga, Medina and Montgomery Counties have indicated that this bill will enable them to pursue prosecutions that could generate a significant local fiscal effect. It is believed that the total statewide number of prosecutions will be small. The area of telecommunication offenses is growing and evolving. As technology advances, the opportunities increase that unlawful activity will find a way to take advantage of these new devices and medium. Local costs may be not be significant, but they are expected to be larger than minimal costs for several counties.

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