

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: S.B. 1 DATE: March 12, 1997

STATUS: As Introduced SPONSOR: Sen. Kearns

LOCAL IMPACT STATEMENT REQUIRED: No — No local cost

CONTENTS: **Modifies the definitions and requirements that applies to the offense of domestic violence and to the issuance of protective orders; Brings the State of Ohio into compliance with the Violence Against Women Act; and Provides immunity from civil liability to peace officers arresting an offender for violating a protection order.**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties and Municipalities			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Avoidance of potential expenditures & Potential indeterminate increase		

- The possibility exists for the avoidance of possible expenditures that could have risen from civil suits. The provision of immunity from civil liability would protect county and municipal peace officers from damages for injury, death or loss to person or property when arresting in good faith an offender for violating a facially valid protection order or consent agreement.
- Provisions of the bill would increase not only the definition of a family or household member that apply to the offenses of domestic violence and violation of a protection order, but also the general duration of a civil protection order from two to five years. These changes should increase the number of individuals who could possibly violate a protection order. However, statistics are not compiled on a state or national level for the offense of violating a protection order or consent agreement.



Detailed Fiscal Analysis

The majority of the provisions in the bill would bring Ohio into compliance with the federal Violence Against Women Act (18 U.S.C.A. Sec. 2265) and would clarify the intent of current Ohio law. This bill incorporates recommendations from a report of the Supreme Court of Ohio's Domestic Violence Task Force. These changes, for the most part, have no fiscal effect on the State or its political subdivisions.

Enforcement of a civil, temporary or similar protection order issued by another state is not addressed in the Ohio Revised Code. However, Article IV, Section 1 of the United States Constitution requires each state to give "full faith and credit" to the judicial proceedings of every other state. More specifically, the 1994 Violence Against Women Act mandates that states provide full protection to complainants, regardless of where the protection order was issued. The current enforcement of out-of-state protection orders is not uniform throughout Ohio. This provision of the bill addresses the need to clarify in the code that out-of-state orders are enforceable and under the jurisdiction of the local municipal or county court.

The bill would increase the number of individuals covered by protection orders by enlarging the definition of family or household member to include the *alleged natural parent* of any child of whom the offender is the other natural parent. The bill also would expand the definition of "person living as spouse" to include those who have cohabited with the offender with the past *five years* instead of the past year. The expansion of the definition of family member increases the potential number of people who could have a protection order filed against them. This would then increase the number of people who could potentially violate such an order. Municipal court prosecutors in Cleveland, Toledo and Franklin County have indicated that these changes would have a minor effect on increasing the actual number of additional offenders. These changes should not have a fiscal effect on the municipal or county courts.

The bill would enact an immunity provision for peace officers, specifying that an officer who, in good faith, arrests an offender for violating a protection order or consent agreement that on the surface appears valid will not be held liable in a civil action for damages for injury, death or loss to a person or property allegedly caused by or related to the offense. This provision would have a fiscal effect of potentially eliminating expenditures related to civil actions against police or sheriff's departments. The costs involved in a trial or settlement could be avoided.

The bill also contains provisions that place requirements on localities that have no fiscal effects. Localities must adopt a written domestic violence response policy and refer offenders to federal authorities for prosecution under federal law if applicable. A protection order must also clearly state that it cannot be waived or nullified by an invitation to the alleged offender from the complainant or another family or household member. The bill also eliminates the requirement that a court which issues an ex parte civil protection order hold a full hearing within a specified period of time. Also, the ex parte order will not expire because of a failure to serve notice upon the respondent.

□ *LBO staff: Corey C. Schaal, Budget/Policy Analyst*