Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Sub. S.B. 82** DATE: **October 20, 1997**

STATUS: **As Reported by House Criminal Justice** SPONSOR: **Sen. Sheerer**

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

CONTENTS: **Amends the offense of voyeurism and upgrades certain penalties**

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
General Revenue Fund			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	Potential negligible increase	Potential negligible increase	Potential negligible increase
Crime Victims Reparations Fund			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -

- Since the bill creates enhancements for an existing offense, no additional cases should be created. However, the bill could result in a potential negligible increase in both state revenues and expenses.

- Any increase in revenues should be related to increased collection of state court costs for newly classified felony offenses. State court costs in felony cases are $41 and allocated between the General Revenue Fund and the Crime Victims Reparations Fund. Increased expenditures on the other hand should be related to potential additional demand for indigent defense and incarceration.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Counties			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	Potential negligible increase or decrease	Potential negligible increase or decrease	Potential negligible increase or decrease
Municipalities			
Revenues	Potential negligible loss	Potential negligible loss	Potential negligible loss
Expenditures	Potential negligible decrease	Potential negligible decrease	Potential negligible decrease

- As a result of creating additional felony cases, the bill could generate a potential negligible increase in both county revenues and expenditures. Revenue gains would take the form of additional local court

costs and fines, while increased expenditures would be related primarily to prosecution and indigent defense in additional cases.

- Additionally, the bill could produce a savings to counties related to incarceration costs as a result of shifting newly classified felony offenders to the state system.

- Municipalities could experience a negligible loss in revenues in the form of local court costs as the result of shifting certain cases from municipal to common pleas courts. Additionally, municipalities could experience either negligible increase or decrease in expenditures as municipal courts both shift cases to common pleas courts and adjudicate more serious misdemeanor cases.

Detailed Fiscal Analysis

Provisions of the Bill

The bill further defines voyeurism to specifically include surreptitiously photographing for the purpose of sexually arousing or gratifying one's self and increases the penalty for such a violation from an M-3 to an M-2. Additionally, the bill further increases the penalty for the offense to an M-1 if the victim of the offense is a minor and to an F-5 if the victim is a minor and any of the following are appropriate in describing the relationship of the offender to the victim: 1) the offender is the minor's natural or adopted parent, stepparent, guardian, or custodian in loco parentis of the minor; 2) the minor is in custody of law or is a patient in a hospital or other institution and the offender has supervisory or disciplinary authority over the minor; 3) the offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school or institution of higher education that the minor is enrolled in or attends; 4) the offender is a caregiver, administrator or other person in authority employed by or serving in a child daycare center or family daycare home that the minor is enrolled in or attends; or 5) the offender is the minor's athletic or other type of coach, instructor, leader of a scouting troop of which the minor is a member, provides babysitting care for the minor, or is a person with temporary or occasional disciplinary control over the minor.

Fiscal Effects of the Bill

Since the offenses addressed in the bill are covered under existing law, the bill should not result in the creation of additional cases. This being said however, as a result of the introduction of enhanced penalties, the bill could produce both the shift of a small number cases from misdemeanor to felony courts as well as an increase to the state and various subdivisions in terms of expenditures related to adjudication, prosecution, indigent defense and incarceration of more serious cases. However, since the occurrence of the specific offenses addressed by the enhancements in the bill appears to be extremely rare, the net impact of the bill should be negligible.

Specifically, data secured from misdemeanor court reports suggest that the extent to which the offense of voyeurism is currently being adjudicated statewide is at most minimal. The potential impact of the enhancements should make this number even less, although to what extent it is difficult to say. However, an appropriate estimate is that the bill will probably result in no more than a handful of misdemeanor and felony enhancements statewide.

As briefly discussed above, since the bill simply increases the penalties for existing offenses and the number of cases impacted statewide is expected to be minimal, LBO estimates a potential negligible increase in both state revenues and expenditures. Specifically, since the potential exists that a small number of cases formerly tried as misdemeanors could be tried as felonies, 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 in misdemeanor cases are currently $20 with proceeds split between the GRF and CVRF on the basis of $11 and $9 respectively. For the newly created felony cases, state court costs would be $41, with proceeds split between the GRF and CVRF on the basis of $11 and $30 respectively. Additionally, since the bill increases the seriousness of certain existing offenses, it could also result in a potential negligible increase in state expenditures related to indigent defense for more serious prosecutions and incarceration. In felony cases, the state pays 100

percent of the incarceration costs, while splitting the cost of indigent defense with the counties. Currently, the average daily incarceration costs in a Community Based Correctional Facility (CBCF) are approximately $65, while average indigent defense costs in misdemeanor and felony cases are $175 and $395 respectively.

The bill could also result in a potential increase in revenues to counties and a loss in revenues to municipalities related to a shift in caseload and increased collection of fine revenue. Specifically, as a result of increasing the seriousness of certain offenses and creating a new felony offense, the potential exists for a small number of cases currently tried in municipal courts to be shifted to common pleas courts. In the event that such a shift occurs, those municipalities operating municipal courts could experience a loss in local court cost revenue, while counties could experience a gain resulting from the shift. Additionally, as a result of increasing the seriousness of the offenses addressed in the bill, counties could experience an additional increase in the collection of fine revenues. Since the bill increases the seriousness of the offense from an M-3 to either an M-2, M-1, of F-5 depending on the circumstances the following fines could be collected by the counties.

(Table 1) Seriousness of Offense and Sanctions		
Level of Offense	**Maximum Fine**	**Maximum Sentence**
M-3	$500	60 Days
M-2	$750	90 Days
M-1	$1,000	6 Months
F-5	$2,500	6 Months to 12 Months

Additionally, the bill also could result in a potential negligible increase in county expenditures related to adjudication, prosecution, indigent defense, and incarceration in more serious cases. However, in that it is the responsibility of the state to pay for the incarceration of felony offenders, counties could experience a potential savings in this area. Currently, the average daily cost of incarcerating a prisoner in a county jail is $52. However, since the number of cases affected under the bill is expected to be slight, any fiscal impact should be negligible.

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