



## ***Local Fiscal Highlights***

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
<b>Counties</b>			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	Minimal increase	Minimal increase	Minimal increase
<b>Municipal Governments</b>			
Revenues	Potential negligible loss	Potential negligible loss	Potential negligible loss
Expenditures	Negligible decrease	Negligible decrease	Negligible decrease

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Counties will experience some additional adjudication, prosecution, indigent defense, and offender sanctioning burdens as certain misdemeanor cases are elevated to felony status. Conversely, some municipalities will be relieved of adjudication, prosecution, and indigent defense burdens as those misdemeanor cases are shifted to the felony system. The amount of these shifted costs is assumed to be minimal.
- Counties will experience a potential gain in revenue from court costs and fines. Similarly, municipalities also will experience a loss in revenues from court costs as certain misdemeanors are elevated to felony status. However, LBO estimates that the amounts involved will be negligible at most.

## ***Detailed Fiscal Analysis***

### **Provisions of the Bill**

The bill enhances the penalty for “failure to comply with an order or signal of a police officer” from a fourth-degree felony (F4) to a third-degree felony (F3), under certain specified circumstances. The penalty enhancement applies when the offender, in operating the motor vehicle, was a proximate cause of serious physical harm to persons or created a substantial risk of serious physical harm to persons. The bill specifies additional factors that the sentencing court must consider when sentencing the offender, if a police officer pursues an offender failing to comply with a police order. These additional factors include the duration and distance of the pursuit, the rate of speed at which the offender operated the motor vehicle, whether the offender failed to stop for traffic lights or stop signs and the number of traffic lights or stop signs ignored, whether the offender committed other moving violations and the number of violations committed, and whether the offender operated the motor vehicle without lighted lights at a time when lighted lights are required. The bill specifies that if the offender is sentenced to a prison term at the F3 level, the prison term will be served consecutively with any other prison term or mandatory prison term imposed upon the offender.

### **Fiscal Impact of the Bill**

*Number of cases affected.* The number of cases affected annually cannot be determined conclusively, but LBO estimates that not more than 1000 cases may be affected annually as a result of this bill and that most of the changes resulting from the bill will affect approximately 200

cases currently handled at the F4 level. This estimate is arrived at through an analysis of misdemeanor and felony failure to comply charge data.

Data provided by the Office of the Ohio Public Defender indicates that there were approximately 805 failure to comply cases in FY 1997 and 1,019 in FY 1998. Using data compiled through the first six months of FY 1999, LBO projects there will be around 900 failure to comply cases in FY 1999. These figures include both misdemeanor and felony fleeing charges; no data is available that easily permits categorization by level of offense.

LBO estimates that approximately 200 offenders were incarcerated in state prison for felony failure to comply in CY 1997, the latest year for which data is available. Department of Rehabilitation and Correction (DRC) intake records, which combine resisting arrest and failure to comply charges, indicate that 234 offenders were incarcerated in that combined category during CY 1997. A two-month intake study conducted by DRC in 1996 revealed that those two offenses occurred in a ratio of one resisting-arrest to nine failure-to-comply. Using this ratio, the number of offenders committed for the felony failure-to-comply offense is approximately 200 individuals per year.

The conditions specified in the bill— causing serious physical harm to persons or causing substantial risk of serious physical harm to persons—are common to most police pursuits in that offenders often operate motor vehicles at high rates of speed, fail to stop for stop lights or stop signs and, at night, fail to light their vehicle lights.

*Application of the Penalty Enhancement.* The penalty enhancement provision of the bill will likely decrease the costs associated with local sanctions and increase the costs associated with incarceration in state prisons, as more offenders will likely receive prison sentences under F3 sentencing guidance. In addition, the number of cases going to trial under this charge is likely to increase, although the extent of the increase is difficult to discern at this time.

Under current statute, failure to comply with the order of a police officer is a misdemeanor, unless it is determined that the offender was fleeing the immediate commission of a felony or, in the operation of the motor vehicle, caused serious physical harm (or risk of harm) to persons or property. In such cases, under current law, the offense is an F4. Sentencing guidelines at the F4 level specify a determinate sentence of 6 to 18 months, but generally prescribe against prison and in favor of local sanctions. It does appear, however, that under current practice the circumstances surrounding felony fleeing are such that most offenders are being sentenced to prison. The bill would make the offense an F3 under certain criteria. Sentencing guidelines for F3s do not include the presumption against prison that exists at the F4 level and prison terms at the F3 level are determinate sentences ranging from 1 to 5 years. Consequently, most of the current felony-fleeing offenders currently sentenced to prison will experience a longer length of stay in the custody of DRC.

As a result of the bill, some offenders currently charged with an F4 but who plea down to an M1 may be charged with an F3. In these circumstances, the costs associated with adjudication, prosecution, indigent defense, and offender sanctioning will shift from municipalities to counties as misdemeanor cases are elevated to felony status. However, LBO estimates that the number of misdemeanants so affected will be few and the shifted costs negligible.

*Increase in Cases Reaching Trial.* Most offenders engaged in police pursuits have serious collateral charges pending or fear that complying with the police order would bring forth charges with more serious sanctions than those in the existing statute for failure to comply. As a result, most failure to comply cases currently do not result in trials; for FY 1997 and FY 1998 combined, only 5 of the estimated 1,824 failure to comply cases (misdemeanor and felony) went to trial, the balance choosing to accept a plea bargain. Because the penalty facing offenders would be more severe under the bill, more offenders may be likely to take their cases to trial. No estimate is available of the number of additional cases that would go to trial as a result of the bill.

*Increase in Reparations Fund Revenues.* The Reparations Fund, a.k.a. Victims of Crime Fund, may experience a negligible gain in annual revenue. Some number of criminal matters that were treated as misdemeanors under current law may be prosecuted as felonies as a result of the bill. The locally-collected state court cost for a misdemeanor offense is \$9, while that for a felony offense is \$30. LBO estimates that the number of cases so affected will be small and that this gain will be negligible at best.

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