

Fiscal Note & Local Impact Statement

123rd General Assembly of Ohio

BILL: H.B. 29

DATE: February 23, 1999

STATUS: As Introduced

SPONSOR: Rep. Grendell

LOCAL IMPACT STATEMENT REQUIRED: Yes

CONTENTS: Increases the penalty for "failure to comply with an order or signal of a police officer" regarding the dangerous operation of a motor vehicle

State Fiscal Highlights

STATE FUND	FY 1999	FY 2000	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase, dependent upon size of increase in prison intake and length of stay	Increase, dependent upon size of increase in prison intake and length of stay	Increase, dependent upon size of increase in prison intake and length of stay
Reparations Fund (a.k.a. Victims of Crime Fund)			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- The total annual inmate population in the custody of the Department of Rehabilitation and Correction (DRC) will rise as a result of offenders being sentenced to terms of imprisonment who would not otherwise have been shipped to prison and as a result of offenders whose terms of imprisonment will be longer. DRC's annual incarceration costs and post-release control (parole) supervision costs will increase as a result, but the amount of those cost increases is uncertain.
- A potential negligible annual gain in revenue to the Reparations Fund (a.k.a. Victims of Crime Fund) is expected to result from the elevation of a small number of first-degree misdemeanor (M1) cases to second-degree felonies (F2). The locally-collected state court costs for a misdemeanor offense is \$9, while that for a felony is \$30.



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
Counties			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	Minimal increase	Minimal increase	Minimal increase
Municipal Governments			
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 second-degree felony (F2) 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 second-degree felony (F2), under certain specified circumstances. This penalty enhancement applies when the offender, in operating the motor vehicle, created a substantial risk, or caused serious physical harm to persons or property by meeting two criteria: 1) operating the motor vehicle at least 35 m.p.h. over the established speed limit in a heavily-trafficked area; and 2) failing to stop for traffic light/stop signs and/or operating the motor vehicle without lighted lights when lights are required.

Fiscal Impact of the Bill

Number of cases affected. LBO estimates that as many as 1,000 cases may be affected annually as a result of this bill. This estimate is arrived at through an analysis of misdemeanor and felony failure to comply charge data. Approximately 200 of these cases will involve offenders who would be charged with an F4 under existing law; the balance, around 800, include offenders who currently would be charged with a first-degree misdemeanor (M1).

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—speed in excess of 35 m.p.h. above the legal limit, turning lights off at night, and ignoring traffic signs and stoplights—are common to most police pursuits, irrespective of whether an offender is ultimately convicted of a misdemeanor or felony.

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 offenders will face a presumption for prison at the F2 level. 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 F2 under certain criteria. Sentencing guidelines for F2s include a presumption for prison with a determinate sentence ranging from 2 to 8 years. Consequently, most of the current felony-fleeing offenders will experience a longer length of stay in the custody of DRC.

As a result of the bill, many offenders currently charged with an M1 may be charged with an F2 because the conditions specified in the bill are common to most police pursuits. Some offenders currently charged with an F4 but who plea down to an M1 may be charged with an F2 under the bill. 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 strict (presumption for prison for at least 2 years versus guidance against prison with a possible term not longer than 18 months) under the bill, more offenders are 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, will likely experience a gain in annual revenue. Some number of criminal matters that were treated as misdemeanors under current law will become chargeable 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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