Fiscal Note & Local Impact Statement

123 rd General Assembly of Ohio

BILL:	**Am. H.B. 137**	DATE:	**May 21, 1999**
STATUS:	**As Passed by the House**	SPONSOR:	**Rep. Carey**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal Cost**

CONTENTS: **Expands the offenses of disrupting public services and misconduct at an emergency scene to activities of emergency medical services personnel; increases the penalties for misconduct at an emergency and obstructing official business if risk of physical harm is involved; increases the penalty for disorderly conduct if committed in the presence of certain authorized persons performing duties at the scene of an emergency; and specifies that "pattern of conduct" in menacing by stalking includes actions obstructing a public official's performance of authorized acts**

State Fiscal Highlights

STATE FUND	FY 2000	FY 2001	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential negligible increase	Potential negligible increase	Potential negligible increase
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 Department of Rehabilitation and Correction may experience a negligible increase in annual incarceration and post-release control costs, as it is possible that an extremely small number of offenders who would not have been sent to prison under existing law may be sentenced to prison.

- The Reparations Fund may experience a potential negligible annual gain as a small number of obstructing official business offenses, currently second-degree misdemeanors (M2) are elevated to the fifth-degree felony (F5) level. The locally-collected state court cost for a misdemeanor offense is $9, while that for a felony offense 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	Negligible effect	Negligible effect	Negligible effect
Municipalities			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	Negligible effect	Negligible effect	Negligible effect

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

- The bill could generate a potentially negligible increase in county and municipal criminal justice expenditures and fine revenue related to a small number of new misdemeanor cases involving interference with EMS personnel.

- The bill's penalty enhancement provisions that involve transforming misdemeanor offenses into felony offenses will shift a small number of cases from municipal and county courts to common pleas courts, the practical effect of which should be to cause a negligible decrease in annual municipal criminal justice expenditures and court costs, and to cause a potential negligible effect on county criminal justice expenditures and fine revenue, depending upon the number of cases sent to common pleas courts.

Detailed Fiscal Analysis

Provisions of the Bill

The bill expands the scope of certain sections of the Ohio Revised Code to include actions or incidents against emergency medical service (EMS) personnel or against public officials acting in their official capacity and enhances the penalty for existing offenses. Specifically, the bill:

- revises the offense of disrupting public services to include impairing the ability of EMS personnel to respond to an emergency or perform their duties at an emergency (currently only applicable concerning the operations of law enforcement officers, firefighters, or rescue personnel);
- extends the offense of misconduct at an emergency to include hampering any EMS person from the performance of their duties at an emergency (currently only applicable concerning the operations of law enforcement officers, firefighters, or rescue personnel); and,
- expands the definition of "pattern of conduct" used in the offense of menacing by stalking to include actions or incidents that prevent, obstruct, or delay the performance by a public official of their official duties.

In addition, the bill enhances the penalty for certain existing misdemeanors. The changes proposed in the bill are summarized in the following table:

OFFENSE	CURRENT PENALTY	PROPOSED PENALTY
Misconduct at an emergency	M4	M1, if risk of physical harm to persons or property is created
Disorderly conduct	Minor misdemeanor; M4, if the offender persists after warning/order to desist or if committed in vicinity of a school	M4, if committed in presence of certain public officials at an emergency
Obstructing official business	M2	F5, if risk of physical harm to persons is created

The offense of misconduct at an emergency, currently a fourth-degree misdemeanor (M4) is elevated to a first-degree misdemeanor (M1) if the violation creates a risk of physical harm to persons or property. The bill also increases the penalty for disorderly conduct from a minor misdemeanor to an M4 if the offense occurs in the presence of any law enforcement officer, firefighter, rescuer, medical person, EMS person, or other authorized person engaged in the person's duties at the scene of an emergency. Currently, disorderly conduct becomes an M4 only if the offender persists in the disorderly conduct, or if the offense is committed in the vicinity of a school. The bill also increases the penalty for obstructing official business from a second-degree misdemeanor (M2) to a fifth-degree felony (F5) if the violation creates a risk of physical harm to any person.

Fiscal Effects of the Bill

Number of Cases Affected. The bill expands the scope of several existing offenses and enhances penalties for others, but the number of annual cases affected by the bill is likely to be well under 100. The changes proposed in the bill are intended to enhance the response of the law enforcement community and criminal justice system to instances in which an offender interferes with EMS personnel in the performance of the official duties. Although no formal data concerning EMS interference is recorded at the state level or maintained by localities or EMS districts, LBO believes that the number of such cases occurring in Ohio annually is relatively small. The Ohio Criminal Sentencing Commission estimates that the number of such instances of interference to be in the "dozens."

Penalty Enhancements within the Misdemeanor Level. The penalty enhancement provisions of the bill will have negligible fiscal effects. Increasing the penalty for misconduct at an emergency from a fourth-degree misdemeanor (M4) to a first-degree misdemeanor (M1) if the violation creates a risk of physical harm to persons or property may increase the fines assessed by counties and municipalities and extend the terms of local sanctions. Similarly, increasing the penalty for disorderly conduct from a minor misdemeanor to an M4 if the offense occurs in the presence of any law enforcement officer, firefighter, rescuer, medical person, EMS person, or other authorized person engaged in the person's duties at the scene of an emergency also may increase the fines assessed by counties and municipalities, shift court costs from municipalities to counties, and extend the terms of local sanctions.

In addition, the provision of the bill changing the definition of "pattern of conduct" used in the menacing by stalking offense to include actions or incidents that prevent, obstruct, or delay the performance by a public official of any authorized act within their official capacity, may result in some incidents of interference being prosecuted as menacing by stalking which is a first-degree misdemeanor (M1). If the offender has previously been convicted of stalking involving the same person who is the victim of the current offense, menacing by stalking becomes a fifth-degree felony (F5). LBO has not been able to determine the number of cases affected by these penalty enhancement provisions of the bill, but believes the number is negligible.

Penalty Enhancements involving Elevation to the Felony Level. The number of cases of obstructing official business that involve risk of physical harm to any person cannot be determined precisely, but is likely to be negligible also. In these instances, the bill provides for an increase in penalty from M2 (maximum sentence of 90 days and maximum fine of $750) to an F5 (determinate prison terms for 6 to 12 months although presumption against prison, and a maximum fine of $2,500). As a result of these provisions of the bill, a very small number of cases will be adjudicated annually as felony cases in county common pleas courts rather than as misdemeanor cases in municipal and county courts. At the F5 level, there is a possibility that some of these cases may result in prison sentences despite the F5 sentencing guideline against prison. The Department of Rehabilitation and Correction may experience a minimal increase in annual incarceration and post-release control costs for cases so affected.

For these few cases that would be transformed from misdemeanors to felony offenses, counties will potentially gain court cost and fine revenue while municipalities will potentially lose court cost revenue. Given the small number of affected cases, that potential change in revenue for counties and municipalities will most likely be negligible. The adjudication, prosecution, indigent defense (if applicable), and sanctioning costs associated with a felony case are typically higher than those associated with a misdemeanor case. Thus municipalities will experience a decrease in annual criminal justice expenditures while counties will experience an increase in annual criminal justice expenditures. However, the amount of that increase or decrease will be negligible given the small number of cases affected annually.

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