

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

- **Counties.** As a result of the penalty elevation for certain offenses, counties will experience an increase in annual case processing expenditures, which are greater for felony than for misdemeanor cases, and in expenditures related to the issuance of temporary protection orders. The number of affected cases will be relatively small and the resulting rise in spending will be minimal. Counties will also pick up additional fine and court cost revenue associated with cases elevated from misdemeanors to felonies, but the amount of that annual revenue gain will likely be negligible.
- **Municipalities.** The transfer of a small group of existing misdemeanor offenses to felony status will shift some case processing costs from municipalities to counties. Municipalities will lose some court cost revenue, but the magnitude of both of these shifts is likely to be negligible.

Detailed Fiscal Analysis

The bill increases the penalties for four offense charges involving assaulting or menacing personnel of public children services agencies (PCSA) or private child placing agencies (PCPA). Generally, these penalties are increased from a first-degree misdemeanor to a felony of the fifth or fourth degree depending on if the offender had been previously convicted of or pleaded guilty to assaulting or menacing such employees; however, the bill increases the penalty for menacing from a fourth-degree misdemeanor to a first-degree misdemeanor. In addition, the bill declares the residential addresses of PCSA and PCPA personnel to be confidential information not subject to disclosure or obtainable as part of a public record.

Currently, there are approximately 1,300 public children services agency employees statewide, according to the Department of Human Services. Although no statewide statistics have been recorded regarding the number of PCSA employees that have been assaulted or menaced, anecdotal information provided by the Public Children Services Association (PCSAO) of Ohio reveals that there were at least 18 cases of assault during 1997 and 1998, the most recent year for which data is available. According to information provided by the Franklin County Children Services Board, five cases of assault or menacing against its employees were successfully prosecuted between 1995 and 1998. LBO estimates that statewide perhaps several dozen cases of assault and menacing against PCSA or PCPA workers occur annually.

Penalty enhancement for assaulting/menacing PCSA or PCPA personnel. The bill enhances the penalties for the offense of assault, menacing, aggravated menacing, or menacing by stalking, if the victim of such an assault is an employee of a PCSA or PCPA. Currently, assault, aggravated menacing, and menacing by stalking are first-degree misdemeanors, which carry a penalty of up to six months in incarceration and a fine of not more than \$1000; the offense of menacing is currently a fourth-degree misdemeanor, which carries a punishment of not more than 30 days in jail and a maximum penalty of \$250. The bill elevates the offenses of assault, aggravated menacing, and menacing by stalking, in cases in which the victim is a PCSA or PCPA employee, to a fifth-degree felony punishable by a determinate prison sentence of between 6 and 12 months and a fine of not more than \$1200. Subsequent offenses become fourth-degree felonies carrying penalties of a determinate sentence of between 6 and 18 months

and a fine of not more than \$5000. The current and proposed penalty structures are summarized in the following table:

Table 1 Penalty Structure for Assault/Menacing Offenses Against PCSA or PCPA Personnel Current Statute vs. H.B. 412						
OFFENSE	Current Penalty			Penalty under H.B. 412		
	Level	Maximum Fine	Maximum Term	Level	Maximum Fine	Maximum Term
Assault, Aggravated Menacing, Menacing by Stalking	M1	\$1000	6 months	F5*	\$2500	6, 7, 8, 9, 10, 11 or 12 months
Menacing	M4	\$250	30 days	M1 (F4 on repeat)	\$1000	6 months

*F4 on second and subsequent offense

As a result of the penalty enhancement in certain adjudicated cases resulting in felony convictions, the state may experience a negligible gain in annual Reparations Fund revenue related to the collection of additional state court costs. The locally collected state court cost for a misdemeanor offense is \$9, while that for a felony is \$30. Additionally, the Department of Rehabilitation and Correction may incur a minimal increase in annual incarceration and post-release supervision costs, as a few more offenders may find themselves sentenced to prison each year. Under current law that would not have been possible since an offender cannot be sentenced to prison for a misdemeanor conviction.

This shifting of certain criminal offenses from a misdemeanor to a felony carries fiscal consequences, as the latter are typically more expensive for various components of a local criminal justice system (law enforcement, prosecution, indigent defense, adjudication, and sanctioning) to process. A fifth-degree felony carries a higher maximum fine of \$2,500 compared to the \$1,000 maximum fine allowed for a first-degree misdemeanor. As a result of the criminal offense shifting that will occur as a result of this provision of the bill, in combination with local charging practices, certain municipalities will shed some of these processing costs and lose court cost and fine revenue. Conversely, the case processing costs for counties will increase and opportunities for court cost and fine revenue are created.

Confidentiality of PCSA and PCPA personnel residential addresses. The bill also excludes the names and residential addresses of PCSA and PCPA personnel from the disclosure requirements of the public records law. The bill imposes a penalty of M4 upon any personnel of a PCSA, PCPA, juvenile court, or law enforcement agency found guilty of disclosing such information to any person described in the bill without a waiver permitting the disclosure. Although an M4 carries a maximum fine of \$250 and no more than 30 days in jail, LBO does not anticipate many, if any, violations. To the extent that the bill enhances the protection of PCSA and PCPA personnel performing their official duties, it may reduce the need of counties to seek protection orders, an effect whose magnitude or certainty LBO cannot anticipate but which could reduce county expenditures negligibly.

□ *LBO staff: Eric J. Karolak, Budget/Policy Analyst*
\\Budget_office\isis_voll.lbo\FN123\Hb0412.in.doc