Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **H.B. 141** DATE: **May 24, 2007**

STATUS: **As Introduced** SPONSOR: **Rep. Letson**

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

CONTENTS: **Courthouse assaults**

State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase in incarceration costs	Potential minimal increase in incarceration costs	Potential minimal increase in incarceration costs
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	Potential negligible gain in court cost revenues	Potential negligible gain in court cost revenues	Potential negligible gain in court cost revenues
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- ***Incarceration costs.*** It is possible as a result of the bill that, annually, a few more adult and juvenile offenders could end up being sentenced to prison or committed to the state, which would increase, respectively, the Department of Rehabilitation and Correction's (DRC) annual incarceration costs and the Department of Youth Services' (DYS) annual care and custody costs. The number of additional adult and juvenile offenders that might actually be sentenced or committed to the state annually appears likely to be relatively small. Assuming that were true, then any related increase in DRC's annual incarceration costs and DYS' annual care and custody costs would be no more than minimal. For the purposes of this fiscal analysis, "minimal" means an estimated cost of no more than $100,000 for the state per year.

- ***Victims of Crime/Reparations Fund.*** The state may gain some locally collected court cost revenue for the Victims of Crime/Reparations Fund (Fund 402). This is because the state court cost imposed on an offender and deposited to the credit of Fund 402 is slightly higher for a felony than it is for a misdemeanor: $30 versus $9. The amount of money that Fund 402 may gain annually, however, is likely to be negligible, as the number of affected criminal and juvenile cases appears to be relatively small. For the purposes of this fiscal analysis, "negligible" means an estimated gain of no more than $1,000 for the state per year.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties			
Revenues	Potential gain in court costs and fines, likely to be no more than minimal	Potential gain in court costs and fines, likely to be no more than minimal	Potential gain in court costs and fines, likely to be no more than minimal
Expenditures	Potential increase in criminal and/or juvenile justice system operating costs, likely to be no more than minimal	Potential increase in criminal and/or juvenile justice system operating costs, likely to be no more than minimal	Potential increase in criminal and/or juvenile justice system operating costs, likely to be no more than minimal
Municipalities			
Revenues	Potential loss in court costs and fines, likely to be no more than minimal	Potential loss in court costs and fines, likely to be no more than minimal	Potential loss in court costs and fines, likely to be no more than minimal
Expenditures	Potential decrease in criminal justice system operating costs, likely to be no more than minimal	Potential decrease in criminal justice system operating costs, likely to be no more than minimal	Potential decrease in criminal justice system operating costs, likely to be no more than minimal

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

- ***Local expenditures generally.*** The effect of the bill on local governments will be to: (1) shift certain misdemeanor assault and menacing cases from a municipal court or a county court to a court of common pleas as felony assault and menacing cases, and (2) raise the possibility of more serious sanctions being imposed on juvenile offenders. As a result of the former effect, municipalities may shed some of their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders who commit these assaults and menacing. Conversely, counties could experience an increase in their annual criminal justice system expenditures, as felonies are typically more time-consuming and expensive to resolve and the local sanctioning costs can be higher as well. Annual costs to county juvenile justice systems to resolve certain assault and menacing cases and appropriately sanction the offending juvenile may rise as well. Given the number of criminal and juvenile cases that will be affected by the bill's penalty enhancements appear to be relatively small, any potential decrease in annual municipal criminal justice system expenditures and any potential increase in annual county criminal and juvenile justice system expenditures would likely be no more than minimal. For the purposes of this fiscal analysis, "minimal" means a change in expenditures estimated at no more than $5,000 for any affected municipality or county per year.

- ***Local court cost and fine revenues generally.*** As the penalty enhancements would shift certain assault and menacing cases involving adult offenders out of a county court or a municipal court (which handle misdemeanors) and into a court of common pleas (which handle felonies), this creates a potential loss of court cost and fine revenue for municipalities. Conversely, it creates the possibility that counties may gain court cost and fine revenue. It is also possible that juvenile offenders may be fined higher amounts than would otherwise have been the case under current law and sentencing practices. As the number of affected criminal and juvenile cases appears likely to be relatively small, the amount of annual court cost and fine revenue that municipalities might lose and counties might gain would

be no more than minimal. For the purposes of this fiscal analysis, "minimal" means a change in revenue estimated at no more than $5,000 for any affected municipality or county per year.

Detailed Fiscal Analysis

Overview of the bill

Under current law, when an assault or aggravated menacing offense is committed in a courthouse it is a misdemeanor of the first degree. This bill elevates the offense to a felony of the fourth or fifth degree depending on the status of the victim. The bill increases the penalties for assault and aggravated menacing when the offense is committed in a courthouse to felonies of the fifth degree.

At this point in time, LSC fiscal staff has not uncovered any evidence to suggest that the bill's penalty enhancement provisions will alter, to any significant degree, annual state incarceration costs or local criminal and juvenile justice system expenditures.

Felony and misdemeanor sentences and fines generally

Table 1 below summarizes the existing sentences and fines, unchanged by the bill, for felony and misdemeanor offenses generally.

Table 1
Existing Sentences and Fines for Misdemeanor Offenses Generally

Offense Level	Fine	Maximum Term
Felony 1st degree	Up to $20,000	3, 4, 5, 6, 7, 8, 9, 10 years' definite prison term
Felony 2nd degree	Up to $15,000	2, 3, 4, 5, 6, 7, 8 years' definite prison term
Felony 3rd degree	Up to $10,000	1, 2, 3, 4, 5 years' definite prison term
Felony 4th degree	Up to $5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 months' definite prison term
Felony 5th degree	Up to $2,500	6, 7, 8, 9, 10, 11, 12 months' definite prison term
Misdemeanor 1st degree	Up to $1,000	6-month jail stay
Misdemeanor 2nd degree	Up to $750	90-day jail stay
Misdemeanor 3rd degree	Up to $500	60-day jail stay
Misdemeanor 4th degree	Up to $250	30-day jail stay
Minor misdemeanor	Up to $150	Citation issued; No arrest

Expenditures generally

The bill's penalty enhancement provisions will affect local expenditures on certain criminal and juvenile assault and menacing cases in at least two ways.

First, it will shift criminal cases that would have been handled by a municipal court or a county court as misdemeanor assaults and menacing under existing law to a court of common pleas where they will be handled as felonies and offenders could be subjected to more serious sanctions. As a result, municipalities may shed some of their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders who assault or menace persons in a courthouse. Conversely, counties could experience an increase in their annual criminal justice system expenditures, as felonies are typically more time-consuming and expensive to resolve and the local sanctioning costs can be higher as well.

Second, offenders who are young enough to be processed through the juvenile courts would also face the possibility of more serious penalties and sentencing. As a result, the annual costs to county juvenile justice systems to resolve these assault and menacing cases and appropriately sanction the offending juvenile may rise.

Given the number of criminal and juvenile cases that will be affected by the bill's penalty enhancements appear to be relatively small, any potential decrease in annual municipal criminal justice system expenditures and any potential increase in annual county criminal and juvenile justice system expenditures would likely be no more than minimal. For the purposes of this fiscal analysis, minimal means a change in expenditures estimated at no more than $5,000 per year for any affected local jurisdiction.

It is also possible as a result of the bill that: (1) additional adult offenders could be sentenced to prison, which theoretically increases the Department of Rehabilitation and Correction's (DRC) annual incarceration costs, and (2) additional juvenile offenders could be committed to the state, which theoretically increases the Department of Youth Services' (DYS) annual care and custody costs. As of this writing, however, it would appear that very few additional adult and juvenile offenders will be sentenced to prison or committed to the state annually as a result of the bill's penalty enhancements and thus any related potential increase in DRC's annual incarceration costs or DYS' annual care and custody costs would be no more than minimal. For the purposes of this fiscal analysis, in the context of state expenditures, minimal means an annual cost increase estimated at less than $100,000.

Revenues generally

As the penalty enhancements would shift certain assault and menacing cases involving adult offenders out of a county court or a municipal court (which handle misdemeanors) and into a court of common pleas (which handle felonies), this creates a potential loss of court cost and fine revenue for municipalities. Conversely, it creates the possibility that counties may gain court cost and fine revenue. It is also possible that juvenile offenders may be fined higher amounts than would otherwise have been the case under current law and sentencing practices. As the number of affected criminal and juvenile cases appears likely to be relatively small, the amount of annual court cost and fine revenue that municipalities might lose and counties might gain would be no more than minimal. For the purposes of

this fiscal analysis, "minimal" means a change in revenues estimated at no more than $5,000 per year for any affected local jurisdiction.

The state may also gain some locally collected court cost revenue for the Victims of Crime/Reparations Fund (Fund 402). This is because the state court cost imposed on an offender and deposited to the credit of Fund 402 is slightly higher for a felony than it is for a misdemeanor: $30 versus $9. The amount of money that Fund 402 may gain annually, however, is likely to be negligible, as the number of affected criminal and juvenile cases appears to be relatively small. For the purposes of this fiscal analysis, in the context of state revenues, negligible means an annual gain estimated at less than $1,000.

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