Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **H.B. 264** DATE: **February 20, 2008**

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

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

CONTENTS: **Self-defense**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	Potential negligible loss in locally collected state court costs	Potential negligible loss in locally collected state court costs	Potential negligible loss in locally collected state court costs
Expenditures	Potential, minimal at most, incarceration cost decrease	Potential, minimal at most, incarceration cost decrease	Potential, minimal at most, incarceration cost decrease
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	Potential negligible loss in locally collected state court costs	Potential negligible loss in locally collected state court costs	Potential negligible loss in locally collected state court costs
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- ***Incarceration costs.*** The bill may result in some reduction in convictions over time for offenses related to self-defense, which would, theoretically at least, yield some marginal decline in the population of the state prison system. Any corresponding reduction in the Department of Rehabilitation and Correction's GRF-funded incarceration costs would not likely exceed minimal. For purposes of this fiscal analysis, minimal in the context of state expenditures refers to a decrease in incarceration costs estimated at less than $100,000 per year.

- ***Court cost revenues.*** As a result of the bill's rebuttable presumption, and the potential reduction in certain criminal convictions, there could be some corresponding reduction in state court cost revenues, which are collected locally and forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). Given the expectation that there would likely be a relatively small number of cases statewide in which persons are not convicted of self-defense related crimes, any loss of state revenue will likely be negligible. For the purposes of this fiscal analysis, negligible means an estimated revenue loss of less than $1,000 for either state fund per year.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential, minimal at most, loss in court costs, fees, and fines	Potential, minimal at most, loss in court costs, fees, and fines	Potential, minimal at most, loss in court costs, fees, and fines
Expenditures	Potential, minimal at most, reduction in criminal and/or civil justice system operating costs	Potential, minimal at most, reduction in criminal and/or civil justice system operating costs	Potential, minimal at most, reduction in criminal and/or civil justice system operating costs

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

- ***Local criminal justice systems generally.*** The most likely effect of the bill's rebuttable presumption provision may be to reduce the number of persons who might otherwise have been prosecuted and convicted in a criminal case involving a claim of self-defense, which would, theoretically at least, create some level of savings in local criminal case processing costs and a related loss in court costs and fine revenues that might otherwise have been collected. The magnitude of these potential changes in local revenues and expenditures appear unlikely to exceed minimal, which, for the purposes of this fiscal analysis, means an estimated dollar amount of no more than $5,000 per year for any affected county or municipal criminal justice system.

- ***Local civil justice systems generally.*** If, as a result of the bill's civil immunity provision, there is a reduction in the number of civil actions related to instances in which there is some use of force, there would, theoretically at least, be an overall savings realized in any affected local civil justice system resulting from a decrease in its judicial docket and a reduction in the related workload of other court personnel. It is quite likely that the resulting savings in annual operating costs for any given local jurisdiction, to the degree that such savings can be measured, would not exceed minimal. If there is, in fact, some reduction in the number of civil actions filed, courts will likely see a loss in various court costs and filing fee revenues that might otherwise have been collected. However, the savings realized by any affected court in terms of their personnel and related operating costs would likely be greater than any possible revenue loss.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the bill most notably modifies the laws governing the use of force, including deadly force, for purposes of self-defense as follows:

- Creates a rebuttable presumption of self-defense or defense of others, in certain circumstances, if raised as an affirmative defense in a criminal case.
- Provides a person who properly establishes the affirmative defense with immunity from damages in a civil action.

State fiscal effects

Incarceration costs

By creating a rebuttable presumption supporting a claim of self-defense or defense of others as a justification for the use of force, including deadly force, the bill may reduce the number of persons that would have, or could have, been convicted under current law on charges stemming from the use of force when such persons claimed the use of force was necessary and justified under the laws of self-defense, yet the specific circumstances lent themselves to prosecution and conviction. To the extent that such a reduction in convictions occurs, there, theoretically at least, could be a corresponding reduction in the number of persons sentenced to prison.

Research concerning similar legislation in a number of other states revealed no specific data or other discussions concerning the magnitude of any impact that this type of legislation would have on criminal cases involving assertions of self-defense or defense of others. That said, LSC fiscal staff believes it is reasonable to conclude that there may be some reduction in convictions over time, as stated above, which would yield some marginal decline in the population of the state prison system. Any corresponding reduction in the Department of Rehabilitation and Correction's GRF-funded incarceration costs would not likely exceed minimal. For the purposes of this fiscal analysis, minimal in the context of state expenditures refers to a decrease in incarceration costs estimated at less than $100,000 per year.

Court cost revenues

As a result of the bill's rebuttable presumption, and the potential reduction in certain criminal convictions, there could be some corresponding reduction in state court cost revenues, which are collected locally and forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). The state court costs for a felony offense total $45, of which the GRF receives $15 and Fund 402 receives $30. The state costs for a misdemeanor offense total $24, of which the GRF receives $15 and Fund 402 receives $9.

If, as expected, the numbers of cases in which persons are not charged or convicted of a crime annually statewide due to the affirmative defense provided by the bill are relatively small, then any loss of state revenue will likely be negligible. For the purposes of this fiscal analysis, negligible means an estimated revenue loss of less than $1,000 for either state fund per year.

Local fiscal effects

Local criminal justice systems generally

As previously stated, a potential effect of the bill's rebuttable presumption is the possible reduction in the number of criminal cases involving claims of self-defense or defense of others, which would, theoretically at least, create some level of savings in local criminal case processing costs and a related loss in court costs and fine revenues that might otherwise have been collected. The magnitude of these potential changes in local revenues and expenditures appear unlikely to exceed minimal, which, for the purposes of this fiscal analysis, means an estimated dollar amount of no more than $5,000 per year for any affected county or municipal criminal justice system. Conversely, if local prosecutors decide to prosecute in circumstances where the affirmative defense has been raised, and let a judge or jury decide the issues of fact, the bill might have very little impact in those jurisdictions relative to criminal trial-related expenses and revenue collections.

Local civil justice systems generally

The bill provides a person who properly establishes the affirmative defense of self-defense or defense of another with immunity from civil liability or damages in a civil tort action related to an act of self-defense or defense of another. If there is any resulting reduction in the number of civil actions related to instances in which there is some use of force, there would, theoretically at least, be an overall savings realized in any affected local civil justice system resulting from a decrease in its judicial docket and a reduction in the related workload of other court personnel. It is quite likely that the resulting savings in annual operating costs for any given local jurisdiction, to the degree that such savings can be measured, would not exceed minimal. If there is, in fact, some reduction in the number of civil actions filed, courts will likely see a loss in various court costs and filing fee revenues that might otherwise have been collected. However, the savings realized by any affected court in terms of their personnel and related operating costs would likely be greater than any possible revenue loss.

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