# *Fiscal Note & Local Impact Statement*

*127 th General Assembly of Ohio*

Ohio Legislative Service Commission
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BILL: **Sub. S.B. 145** DATE: **April 2, 2008**

STATUS: **As Passed by the Senate** SPONSOR: **Sen. Stivers**

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

CONTENTS: **Fleeing from a law enforcement officer**

## *State Fiscal Highlights*

| STATE FUND | FY 2009 | FY 2010 | FUTURE YEARS |
|---|---|---|---|
| **General Revenue Fund (GRF)** | | | |
| Revenues | Potential negligible gain in locally collected court cost revenues | Potential negligible gain in locally collected court cost revenues | Potential negligible gain in locally collected court cost revenues |
| Expenditures | Potential, likely to be no more than minimal, increase in incarceration costs | Potential, likely to be no more than minimal, increase in incarceration costs | Potential, likely to be no more than minimal, increase in incarceration costs |
| **Victims of Crime/Reparations Fund (Fund 402)** | | | |
| Revenues | Potential negligible gain in locally collected court cost revenues | Potential negligible gain in locally collected court cost revenues | Potential negligible gain in locally collected 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 violations of the bill's prohibition that: (1) additional adult offenders could be sentenced to prison, which would increase the Department of Rehabilitation and Correction's (DRC) annual incarceration costs, and (2) additional juvenile offenders could be committed to the state, which would increase 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 violations of the bill's prohibition. Assuming that were true, then any related potential increase in DRC's annual GRF incarceration costs or DYS' annual GRF care and custody costs would be no more than minimal. For the purposes of this fiscal analysis, in the context of state GRF expenditures, minimal means an annual cost increase estimated at less than $100,000.

- ***Court cost revenues.*** The bill will create conditions in which additional court cost moneys may be collected and forwarded to the state treasury. Any resulting gain in moneys deposited to the credit of the GRF and Fund 402 is likely, however, to be negligible. For the purposes of this fiscal analysis, negligible means an estimated revenue gain 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 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 |

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 bill could, theoretically at least, increase the annual operating costs of a local criminal and/or juvenile justice system, as additional moneys may need to be expended to investigate, adjudicate, prosecute, defend (if indigent), and sanction offenders whose conduct included fleeing from a law enforcement officer. If, as it appears, the number of persons and related criminal and juvenile cases affected by the bill's prohibition in any given local jurisdiction is not large, relative to that jurisdiction's criminal and/or juvenile justice caseload, then any associated costs, to the degree that such costs are measurable, may be no more than minimal annually. For the purposes of this fiscal analysis, a minimal cost means an increase in expenditures estimated at no more than $5,000 per year for any affected local jurisdiction.

- ***Local court cost and fine revenues generally.*** If, as a result of violations of the bill's prohibition, additional and/or enhanced convictions and/or adjudications are secured, then local jurisdictions may collect additional revenues in the form of court costs and fines assessed by the court against the offenders. Assuming that the number of such instances in any given local jurisdiction is not large, then the potential gain in revenues may be no more than minimal on an ongoing basis. For the purposes of this fiscal analysis, a minimal revenue gain means an increase estimated at no more than $5,000 per year for any affected county or municipality.

# *Detailed Fiscal Analysis*

***Overview of the bill***

The bill prohibits a person from fleeing a law enforcement officer who gives a lawful order to stop, a violation of which is generally a misdemeanor of the second degree and elevates to a felony of the fourth or third degree under certain circumstances.

Under current law, the existing offense of fleeing a law enforcement officer clearly applies in the context of a person who is operating a motor vehicle, but appears to be ambiguous relative to its applicability in the context of a person who is not operating a motor vehicle. The penalty for failure to comply with this prohibition, depending upon the circumstances of the violation, is either a misdemeanor of the second degree, a misdemeanor of the first degree, a felony of the fourth degree, or a felony of the third degree.

Based on LSC fiscal staff's research to date, including conversations with representatives of the Ohio Prosecuting Attorneys Association and the Ohio Association of Chiefs of Police, it appears that a person failing to comply with an order, direction, or signal of any law enforcement officer in a situation that does not involve the operation of a motor vehicle can typically be charged with violating an offense associated with the public peace or justice and public administration. The likely list of possible offenses, includes, but is not limited to, disorderly conduct, obstructing official business, obstructing justice, and resisting arrest. The penalties for violating these offenses vary, but as a group range from a minor misdemeanor up to a felony of the first degree. The severity of the offense is generally a function of whether the violation occurred in the context of actual, or a substantial risk of, physical harm to persons or property.

At this point in time, LSC fiscal staff has not uncovered any evidence to suggest that the bill's prohibition will affect a large number of persons and related criminal and juvenile cases in any given local jurisdiction. This assumes that the enactment of the bill's prohibition will not dramatically change the manner in which law enforcement respond to, and subsequently charge, a person or persons who may be viewed as intending to elude or flee an officer. However, if, as a result of the bill's prohibition, certain law enforcement agencies opt to fundamentally change the manner in which certain conduct is handled, for example, charging a person with a misdemeanor of the second degree fleeing offense rather than a minor misdemeanor disorderly conduct offense as might otherwise have been their practice under current law in certain situations, then the workload and fiscal implications for the affected local criminal justice system could be more significant.

***Expenditures generally***

***Local expenditures***

At least two outcomes are possible relative to the effect of the bill's prohibition on the operations of local criminal and juvenile justice systems: (1) persons, who would likely have been charged and prosecuted under current law and practice, may face an additional and possibly more serious charge than might otherwise have been the case, and (2) persons, who might not have been charged and prosecuted in situations where current law may not be applicable in an

easy and relative straightforward manner, may now be charged and prosecuted for disobeying a lawful order or direction to stop. Either outcome could increase the annual operating costs of a local criminal and/or juvenile justice system, as additional moneys may need to be expended to investigate, adjudicate, prosecute, defend (if indigent), and sanction offenders whose conduct included fleeing from a law enforcement officer.

If, as noted above, the number of persons and related criminal and juvenile cases affected by the bill's prohibition in any given local jurisdiction is not large, relative to that jurisdiction's criminal and/or juvenile justice caseload, then any associated costs, to the degree that such costs are measurable, may be no more than minimal annually. For the purposes of this fiscal analysis, a minimal cost means an increase in expenditures estimated at no more than $5,000 per year for any affected local jurisdiction.

***State expenditures***

It is also possible as a result of violations of the bill's prohibition that: (1) additional adult offenders could be sentenced to prison, which would increase the Department of Rehabilitation and Correction's (DRC) annual incarceration costs, and (2) additional juvenile offenders could be committed to the state, which would increase 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 violations of the bill's prohibition. Assuming that were true, then any related potential increase in DRC's annual GRF incarceration costs or DYS' annual GRF care and custody costs would be no more than minimal. For the purposes of this fiscal analysis, in the context of state GRF expenditures, minimal means an annual cost increase estimated at less than $100,000.

***Revenues generally***

***Local revenues***

If, as a result of violations of the bill's prohibition, additional and/or enhanced convictions and/or adjudications are secured, then local jurisdictions may collect additional revenues in the form of court costs and fines assessed by the court against the offenders. Assuming that the number of such instances in any given local jurisdiction is not, relatively speaking large, then the potential gain in revenues may be no more than minimal on an ongoing basis. For the purposes of this fiscal analysis, a minimal revenue gain means an increase estimated at no more than $5,000 per year for any affected county or municipality.

***State revenues***

In addition to any local fines and court costs, offenders can be ordered to pay locally collected state court costs. State court costs for a felony conviction total $45, with $30 of that amount being credited to the Victims of Crime/Reparations Fund (Fund 402) and the remainder, or $15, being credited to the GRF. State court costs for a misdemeanor conviction total $24, with $9 of that amount being credited to Fund 402 and the remainder, or $15, being credited to the GRF.

The bill will create conditions in which additional court cost moneys may be collected and forwarded to the state treasury. Any resulting gain in moneys deposited to the credit of the GRF and Fund 402 is likely, however, to be negligible. For the purposes of this fiscal analysis, negligible means an estimated revenue gain of less than $1,000 for either state fund per year. It is also important to note that collecting court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unwilling or unable to pay.

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