



## ***Local Fiscal Highlights***

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
<b>Counties and Municipalities</b>			
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 use of force provisions may be to reduce criminal cases involving claims of self-defense, which could, 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. These potential changes in the magnitude of 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 for any affected county or municipality.
  
- **Local civil justice systems generally.** If there is any resulting reduction in the number of civil actions related to instances in which there is some use of force, there could, theoretically at least, be an overall savings realized in certain county or municipal civil justice systems resulting from a decrease in judicial dockets and a reduction in the related workload of other court personnel. It is quite likely that the resulting savings in the 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 related court costs and filing fee revenues that would otherwise have been collected. However, the savings realized by courts 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 law governing the use of force for purposes of self-defense, or defense of another, as follows:

- Creates a rebuttable presumption of self-defense or defense of another, in certain circumstances, if raised as an affirmative defense in a criminal case.
- Provides a criminal defendant who properly establishes the affirmative defense with immunity from civil liability for damages related to acts of self-defense or defense of another.

### **Number of self-defense claims**

LSC fiscal staff has not located any readily available and reliable statewide statistics on the number of criminal cases in which a person, clearly acting in self-defense, has been prosecuted and sanctioned for the commission of an offense of violence. That said, largely anecdotal evidence suggests that: (1) the number of criminal cases in other states involving legitimate claims of self-defense are relatively small, and (2) prosecutors generally will not prosecute a person that has clearly acted in self-defense. This would further suggest that, if Ohio's experience mirrors that anecdotally based picture, then the bill's rebuttable presumption provision will affect an extremely small number of cases involving certain acts of violence that are a portion of a considerably larger criminal caseload.

### **State fiscal effects**

#### **Incarceration costs**

By broadening the scope of justification for the use of force, the bill may reduce the number of persons that would have, or could have, been convicted under current law on homicide or assault charges when such an individual claimed the use of force was necessary and justified as an act of self-defense, yet the circumstances present lent themselves to prosecution and possible conviction. To the extent that such a reduction in convictions occurs as a function of the bill's self-defense provisions, there, theoretically at least, could be a corresponding reduction in the number of individuals sentenced to prison for committing a felony offense of violence.

Research performed by LSC fiscal staff concerning similar legislation in a number of other states revealed no specific data or other discussions concerning the magnitude of the impact, if any, that a bill of this type would have on criminal cases where the circumstances present include an offense of violence and a claim of self-defense or defense of another.

That said, one plausible outcome may be some reduction over time in the number of persons convicted of a felony offense of violence in such circumstances, which could yield, all other conditions remaining the same, some marginal decline in the size of the state prison system's inmate population.

Any corresponding reduction in GRF incarceration expenditures by the Department of Rehabilitation and Correction would not likely exceed minimal. For purposes of this 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 potential reduction in certain criminal convictions, there could also be a 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 imposed for the commission of a felony offense total \$45, of which the GRF receives \$15 and Fund 402 receives \$30. The state court costs imposed for the commission of a misdemeanor offense total \$24, of which the GRF receives \$15 and Fund 402 receives \$9. If, as assumed for the purposes of this fiscal analysis, the bill will affect a relatively small number of criminal cases annually statewide in which a person has raised a claim of self-defense, then any potential loss in court cost revenues that would otherwise have been collected and forwarded to the state treasury will likely be negligible. For the purposes herein, "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 affirmative defense regarding the use of force is the possible reduction in the number of persons prosecuted and sanctioned for an act of violence used in their own defense or the defense of another. Such an outcome could, theoretically at least, create some level of savings in local criminal case processing and sanctioning costs and a related loss in court costs and fine revenues that might otherwise have been collected. These potential changes in the magnitude of 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 municipality.

#### **Local civil justice systems generally**

The bill provides that a person who properly establishes the affirmative defense of self-defense or defense of another in a specified criminal context has immunity from civil liability for damages in a tort action related to the acts 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 could, theoretically at least, be an overall savings realized in certain county or municipal civil justice systems resulting from a decrease in judicial dockets and a reduction in the related workload of other court personnel. It is quite likely that the resulting savings in the 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 related court costs and filing fee revenues that would otherwise have been collected. However, the savings realized by courts in terms of their personnel and related operating costs would likely be greater than any possible revenue loss.

*LSC fiscal staff: Joseph Rogers, Senior Budget Analyst*

*SB0184IN.doc/rh*