Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 20 of the 129th G.A. **Date**: March 1, 2011

Status: As Introduced **Sponsor**: Reps. Burke and Letson

Local Impact Statement Procedure Required: No

Contents: Offense of intimidation

State Fiscal Highlights

- **Incarceration expenditures**. There may be a minimal annual increase in the GRF-funded institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services, as a few additional offenders/juveniles could be convicted of felony intimidation and subsequently sentenced to a stay in a state prison or juvenile correctional facility.
- **Court cost revenues.** A relatively small number of additional offenders/juveniles statewide may be successfully charged and prosecuted for committing a felony or misdemeanor intimidation offense and required by the court generally to pay locally collected state court costs. The result will be a negligible annual gain in the amount of the court costs that are credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- The fiscal impact on local criminal and juvenile justice systems in terms of any additional cost to investigate, prosecute, adjudicate, defend (if indigent), and sanction offenders will be no more than minimal annually. This is because the number of additional intimidation cases generated for any county or municipality to process per year will be relatively small. It also means that any related local court cost and fine revenues imposed by the court and collected from offenders will be no more than minimal annually.

Detailed Fiscal Analysis

The bill expands the offense of "intimidation of an attorney, victim, or witness in a criminal case" by: (1) eliminating the requirement that the witness be involved in a criminal action or proceeding for the prohibition to apply and (2) specifying the prohibition applies equally in juvenile delinquency cases.

State expenditures

As a result of the bill's expanded felony intimidation offense: (1) additional adult offenders could be sentenced to prison, which in theory increases the Department of Rehabilitation and Correction's annual incarceration costs and (2) additional juvenile offenders could be committed to the state, which in theory increases the Department of Youth Services's annual care and custody costs. Any resulting increase in either department's GRF-funded institutional operating expenses would be no more than minimal annually. This is because the number of additional adult or juvenile offenders that could be sentenced to prison or committed to the state is likely to be relatively small in comparison to the existing number of offenders in state prisons (around 50,400) and juvenile correctional facilities (around 790).

Local expenditures

The number of additional criminal or juvenile cases that will be created as a result of the bill's expanded intimidation prohibition is likely to be relatively small, especially in the context of a local jurisdiction's total criminal and juvenile caseload. Therefore, the fiscal impact on local criminal and juvenile justice systems in terms of any additional cost to investigate, prosecute, adjudicate, defend (if indigent), and sanction violators will likely be no more than minimal.

State and local revenues

Courts are generally required to order an offender convicted of a criminal offense to pay a mix of state and local court costs and fines. A court is permitted to waive their collection if the offender is determined to be indigent, which many are.

Any increase in criminal or juvenile cases and subsequent convictions may lead to a gain in related state and local revenues. The state revenues would be in the form of locally collected state court costs that are forwarded for deposit to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). Counties and municipalities may gain revenues in the form of local court costs and fines. The amount of money that either of these state funds may gain annually, however, is likely to be negligible, as the number of affected criminal and juvenile cases will be relatively small. The annual gain in court costs and fines for any given county or municipality will be minimal.

"State court costs" are statutorily specified amounts collected by local courts and forwarded for deposit in the state treasury. For a nonmoving traffic violation, the court

is generally required to impose state court costs totaling $29 for a misdemeanor and $60 for a felony. The $29 misdemeanor amount is divided as follows: $20 to the Indigent Defense Support Fund (Fund 5DYO) and $9 to the Victims of Crime/Reparations Fund (Fund 4020). The $60 felony amount is divided as follows: $30 to Fund 5DYO and $30 to Fund 4020.

"Local court costs" are imposed by courts for the purpose of defraying their operating costs. Statutory provisions specify or otherwise control regular court costs in connection with criminal cases. The General Assembly has also imposed additional court costs (sometime denoted as "fees") in order to provide funding for specified programs or operations of the court. The total amount of these local court costs that may be collected varies widely from jurisdiction to jurisdiction.

"Fines" follow a general rule for distribution as follows: fines coming from an offender convicted under the Revised Code go to the county in which the trial court is located and fines coming from an offender convicted under a local ordinance go to the jurisdiction whose ordinance was violated. It should also be noted that courts rarely, if ever, impose the maximum permissible fine, and that many offenders are unwilling or financially unable to pay.

Sentences and fines for certain offenses generally

Depending upon the specific circumstances of the alleged act of intimidation, under current law and unchanged by the bill, a violation of the intimidation prohibition constitutes either a misdemeanor of the first degree or a felony of the third degree. Table 1 below summarizes current law's sentences and fines generally for a felony of the third degree and a misdemeanor of the first degree.

Table 1. Sentences and Fines for Certain Offenses Generally

Offense Level	Fine	Term of Incarceration
Felony 3rd degree	Up to $10,000	1, 2, 3, 4, 5 years definite prison term
Misdemeanor 1st degree	Up to $1,000	Not more than 6-month jail stay

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