



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 111 of the 129th G.A.

Date: May 10, 2011

Status: As Introduced

Sponsor: Sen. Oelslager

Local Impact Statement Procedure Required: Yes

Contents: Increases the penalty for assaulting a health care professional, health care worker, or security officer of a hospital

State Fiscal Highlights

STATE FUND	FY 2012 – FUTURE YEARS
General Revenue Fund (GRF)	
Revenues	- 0 -
Expenditures	Potential incarceration cost increase, possibly exceeding minimal annually
Indigent Defense Support Fund (Fund 5DY0)	
Revenues	Potential minimal annual gain in locally collected state court costs
Expenditures	- 0 -
Victims of Crime/Reparations Fund (Fund 4020)	
Revenues	Potential minimal annual gain in locally collected state court costs
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2012 is July 1, 2011 – June 30, 2012.

- **Incarceration expenditures.** As a result of the bill's penalty enhancement, a number of additional offenders/juveniles could be sentenced to a state prison/juvenile correctional facility. Any resulting increase in state incarceration costs may be more than minimal annually. A more precise estimate is problematic, however, as the number of additional offenders that could be incarcerated and their lengths of stay are uncertain.
- **Court cost revenues.** As additional offenders/juveniles are found to have committed a felony rather than a misdemeanor assault offense, the amount of locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020) will increase. As many offenders are financially unable or unwilling to pay court costs and fines, the amount of money that either state fund may gain annually is likely to be minimal at most.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2011 – FUTURE YEARS

Counties

Revenues

Potential gain in court costs and fines

Expenditures

Potential increase in criminal and/or juvenile justice system operating costs, possibly exceeding minimal annually

Municipalities

Revenues

Potential loss in court costs and fines

Expenditures

Potential decrease in criminal justice system operating costs, possibly exceeding minimal annually

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.** A reasonably precise estimate of the annual magnitude of the bill on local expenditures is problematic, as we do not know how many cases could be affected by the bill's penalty enhancement in any given local jurisdiction. The bill will: (1) shift misdemeanor assault cases from a municipal court or a county court to a court of common pleas, and (2) raise the possibility of more serious sanctions being imposed on juvenile offenders. As a result of the former effect, municipalities will shed some of their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders. Conversely, counties will experience an increase in their annual criminal and juvenile justice system expenditures, as felonies are typically more time consuming and expensive to resolve and the local sanctioning costs can be higher as well.
- **Local court cost and fine revenues generally.** The penalty enhancement will cause municipalities to lose some court cost and fine revenue that might otherwise have been collected while counties may gain court cost and fine revenue from cases that might otherwise not have been under their subject matter jurisdiction. The annual magnitude of this revenue shift is difficult to estimate, as many offenders are unwilling, or indigent and unable, to pay court costs.

Detailed Fiscal Analysis

Overview

The bill increases, from a misdemeanor of the first degree to a felony of the fourth degree, the penalty for assault when the victim is a health care professional, health care worker, or security officer of a hospital who is engaged in the performance of the individual's duties. The assumptions guiding the fiscal analysis of this penalty enhancement are as follows:

- Existing prohibitions are already applicable to the conduct addressed by the bill, which means the likely affect may be to increase the seriousness of the potential penalty.
- The number of potential cases affected in any given local criminal or juvenile justice system may be more than minimal, especially in areas with large medical communities.
- Certain cases will shift from the jurisdiction of a municipal or county court to the jurisdiction of a court of common pleas.
- Certain offenders (adults and juveniles) will receive a more serious sanction, including a term in a state prison or juvenile correctional facility or a longer term than might otherwise have been imposed.

Workplace violence involving health service workers

In 2007, Oregon passed a law requiring all assaults committed against employees on the premises of a health care employer to be reported to the state's health and safety agency. In 2008, the first year of the program, 1,061 assaults were reported. For comparative purposes, Oregon's healthcare system is about one-fourth the size of Ohio's and their population is about one-third. Further examination of the assault data from Oregon reveals that 99% of the assaults occurred in a hospital setting, and 50% occurred in a behavioral health/psychiatric unit.

Using that study as a reference point, we estimate that the number of assaults in Ohio's health care community could total up to 3,000 to 4,000 or more annually. However, at this point, we have not found any Ohio-specific arrest and disposition data that would permit us to estimate, from that potential range of assaults, the number of subsequent charges, prosecutions, and convictions. Thus, the potential magnitude of the fiscal effects on local criminal and juvenile justice system operating costs and state incarceration costs is uncertain.

State expenditures

As a result of the bill's penalty enhancement: (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, increasing the Department of Youth Services' (DYS)

annual care and custody costs. Any resulting increase in DRC's incarceration costs or DYS's care and custody costs may be more than minimal annually. A more precise estimate is problematic, as the number of additional offenders that could be incarcerated and their lengths of stay are uncertain.

Local expenditures

As noted in more detail below, the bill will, in theory, generate a cost savings for certain municipal criminal justice systems and a related expenditure increase in county criminal and juvenile justice operating costs, as cases shift systems and potential sanctions elevate. A reasonably precise estimate of the annual magnitude of this cost shifting is problematic, as we do not know how many cases could be affected by the bill's penalty enhancement in any given local jurisdiction.

The bill's penalty enhancement will affect local expenditures on certain criminal and juvenile cases in two ways. First, certain criminal cases that would have been handled by a municipal court or a county court as misdemeanors under existing law will shift 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. 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 cases and appropriately sanction the offending juvenile may rise.

State and local revenues

As the penalty enhancements could shift certain 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. Because the number of affected criminal and juvenile cases could be up to a few thousand or more statewide, the amount of annual court cost and fine revenue that municipalities might lose and counties might gain could be more than minimal.

The state may also gain some locally collected court cost revenue for the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). This is because the total amount of state court costs imposed on an offender/juvenile and deposited to the credit of Fund 5DY0 and Fund 4020 is slightly

higher for a felony (\$60) than it is for a misdemeanor (\$29). As many offenders are financially unable or unwilling to pay court costs and fines, the amount of money that either state fund may gain annually is likely to be minimal at most.

Sentences and fines for certain offenses generally

The table below summarizes current law's sentences and fines generally for a felony of the fourth degree and a misdemeanor of the fourth degree.

Sentences and Fines for Certain Offenses Generally		
Offense Level	Fine	Term of Incarceration
4th Degree Felony	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months
1st Degree Misdemeanor	Up to \$1,000	Not more than 6-month jail stay