Ohio Legislative Service Commission

Maggie Wolniewicz

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 129 of the 130th G.A. **Date**: December 11, 2013

Status: As Reported by House Judiciary **Sponsor**: Rep. Stautberg

Local Impact Statement Procedure Required: No

Contents: Protection orders and criminal prohibitions in stalking cases

State Fiscal Highlights

- **Incarceration expenditures**. There could be a small number of additional offenders/juveniles sentenced to a state prison/juvenile correctional facility for a felony menacing violation, which may result in a no more than minimal annual increase in the institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services.
- **Court cost revenues**. There may be a minimal at most annual gain in the amount of the locally collected court cost that is credited to the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0), as a few additional adult and juvenile offenders may be found to have committed a menacing-related offense.

Local Fiscal Highlights

- **County criminal justice systems**. There may be a minimal increase in annual operating costs related to resolving new felony menacing cases and protection order violations. There may also be a minimal annual gain in the revenue collected from court costs, fees, and fines.
- **Municipal criminal justice systems**. There may be a minimal change in annual operating costs reflecting the net fiscal effect of certain cases elevating out of its jurisdiction and the creation of new misdemeanor menacing cases and protection order violations requiring resolution. Any change in the annual revenue from court costs, fees, and fines is likely to be minimal as well.
- **Protection order requests**. Courts of common pleas may experience a slight increase in caseloads to hear and determine additional protection order requests sought by corporations, associations, or other organizations that may not have been sought under current law. Any additional workload and costs would likely be absorbed using existing resources.

Detailed Fiscal Analysis

The bill expands the criminal aggravated menacing, menacing by stalking, and menacing prohibitions to include words or conduct that are directed at or identify a corporation, association, or other organization that employs the victim or to which the victim belongs, and permits the corporation, association, or organization under certain circumstances to seek a protection order for a violation of any of these prohibitions.

The bill further increases the penalty for aggravated menacing and menacing by stalking from a misdemeanor to a felony in certain cases where there are four or more victims. The penalty for menacing is also enhanced when there are at least four victims generally from a misdemeanor of the fourth degree to a misdemeanor of the first degree.

As a result of the bill, certain divisions of the courts of common pleas may see a slight rise in requests to issue a protection order and felony menacing-related cases requiring adjudication, while municipal and county courts may see a related slight reduction in misdemeanor menacing-related cases. In the event that violations of a court-issued protection order occur, local criminal justice systems (law enforcement, prosecutors, and courts) will need to expend additional time and effort in disposing of such matters. It is also possible that a few additional offenders and/or juveniles may be sentenced to incarceration in a state correctional facility for felonious conduct that might have been classified as a misdemeanor under current law.

Protection orders

Court caseload

Courts of common pleas may experience an increase in their caseloads as a result of permitting a corporation, association, or other organization to request the issuance of a protection order. Current law does not prohibit a corporation, association, or other organization from requesting the issuance of a protection order, but does not clearly authorize the court to grant a protection order in such circumstances. Any increase in protection order requests and required hearings is expected to be relatively small in the context of the court's overall caseload, with any additional costs to be absorbed within existing staff levels and operating budgets.

Menacing prohibitions

Local revenues and expenditures

The possible ways in which the bill's criminal provisions may affect counties and municipalities are as follows:

- **New cases**. It is possible that an individual may be arrested and prosecuted for conduct that might not have been prohibited under current law's menacing-related prohibitions.

- **Felony enhancements**. It is possible that an individual may have their case elevated from the misdemeanor jurisdiction of a municipal or county court to the felony jurisdiction of a court of common pleas.
- **Protection order violations**. It is possible that, with the issuance of additional protection orders, violations of those orders will occur, and the violators will be subject to arrest and prosecution.

In the context of any given local criminal justice system, these possibilities are likely to affect a relatively small number of cases. For a municipal criminal justice system, there may be a minimal change in annual operating costs reflecting the net fiscal effect of certain cases elevating out of its jurisdiction and the creation of new misdemeanor menacing cases and protection order violations requiring resolution. Any change in the annual revenue from court costs, fees, and fines is likely to be minimal as well. For a county criminal justice system, there may be a minimal increase in annual operating costs related to resolving new felony menacing cases and protection order violations. There may also be a minimal annual gain in the revenue collected from court costs, fees, and fines.

State incarceration costs

As a result of the bill's penalty enhancement, there could be a small number of additional offenders/juveniles sentenced to a state prison/juvenile correctional facility, the results of which may be a no more than minimal annual increase in the institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services.[1]

State court costs

With each additional misdemeanor or felony conviction, the state might gain revenue in the form of locally collected state court costs that are forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The amount that might be generated per year is likely to be minimal at most.

In the case of a misdemeanor, the court is generally required to impose state court costs totaling $29, divided as follows: $20 to Fund 5DY0 and $9 to Fund 4020. In the case of a felony, the court is generally required to impose state court costs totaling $60, divided as follows: $30 to Fund 5DY0 and $30 to Fund 4020.

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[1] The average annual cost for the Department of Rehabilitation and Correction to incarcerate an offender in prison is currently around $22,836 (or $62.57 per day), with the marginal annual cost of adding an offender estimated at $3,600. The average annual cost of incarcerating a juvenile in a Department of Youth Services facility is currently around $202,502 (or $554.80 per day), with the marginal annual cost of adding a juvenile estimated at $10,000.