Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 261 of the 130th G.A. **Date**: July 15, 2014

Status: As Passed by the House **Sponsor**: Sens. Bacon and Manning

Local Impact Statement Procedure Required: No

Contents: Protection orders

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- The bill's penalty provisions are likely to increase to some degree the circumstances in which a person can be charged and successfully prosecuted for a misdemeanor or felony violation of a protection order. Any related county and municipal expenditure and revenue changes will be minimal annually, as the number of new or enhanced violations is expected to be relatively small.

Detailed Fiscal Analysis

The bill: (1) specifies that a person does not need to be served with a protection order or consent agreement to be convicted of violating a protection order if the prosecution proves that the person had actual notice of the order or agreement and that they recklessly violated it, and (2) expressly clarifies the circumstances in which the offense of violating a protection order is classified as a felony of the fifth degree.

Criminal violation of a protection order

Statewide, the number of criminal violations of all types of protection orders and consent agreements appears to range between 2,000 and 3,000 annually. Those violations are not tracked in a manner that permits a reliable or accurate differentiation between a misdemeanor and a felony. Anecdotally however, the bill's protection order penalty provisions are not expected to generate a significant increase in the number of violations that counties and municipalities investigate and prosecute.

Actual notice of the order

The bill's provision specifying that a person may be convicted of violating a protection order without having been served will increase the likelihood that a local prosecutor can successfully prosecute a case that would otherwise be problematic under current law and practice. Under current law, unchanged by the bill, violating a protection order is generally a misdemeanor of the first degree, which falls under the subject matter jurisdiction of a municipal or county court.

Conversations with the Judicial Conference of Ohio indicate that this provision will not have a significant impact on the time and expenses that the court allocates annually to manage its caseload, as the number of situations in which the provision will be applicable is expected to be relatively small. This also suggests that any additional costs that counties and municipalities may incur to investigate, prosecute, and sanction violations will largely be absorbed by existing staff and budgetary resources. Related revenues in the form of fines and court costs collected from offenders will be minimal annually.

Felony penalty enhancement

The bill expressly clarifies that a subsequent violation of a civil domestic violence protection order or a subsequent violation of a consent agreement establishing a juvenile protection order, a criminal stalking protection order, or a civil domestic violence protection order is a felony of the fifth degree. It appears that certain local jurisdictions already interpret these violations as a felony of the fifth degree; it is possible that others may treat these violations as a misdemeanor. In those latter jurisdictions, the practical effect of this provision will likely be to shift certain misdemeanor cases from a municipal court or a county court to the felony jurisdiction of a court of common pleas.

As a result of the case shifting noted in the preceding paragraph, municipalities may experience a reduction in the amount of their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders in such cases. Conversely, counties could 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. The number of cases shifting in this manner is expected to be relatively small, which suggests that the related cost shift will be minimal annually. There would also likely be a minimal annual shift in fine and court cost revenues collected from offenders, with municipalities losing revenues and counties gaining revenues.

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