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H.B. 20
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Reps. T. Hall and Plummer

Local Impact Statement Procedure Required: No

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Highlights

- The bill's expansion of existing obstruction of official business and menacing offenses may result in a relatively small statewide increase in criminal cases handled by county and municipal criminal justice systems. Any additional costs are likely to be minimal at most annually. Revenue in the form of court costs, fees, and fines may offset those costs to some degree.

Detailed Analysis

Obstructing official business

The bill modifies the current offense of obstructing official business by increasing the penalty from a second degree misdemeanor to a first degree misdemeanor if the following circumstances are met: (1) if the victim is an emergency service responder engaged in the lawful performance of the responder's legal duties, and (2) if the responder issued a command ordering a person to maintain the person's distance, to stay away, to back away, to not interfere, or another similar instruction and the verbal command was communicated in such a manner that a reasonable person would believe they must comply.

Under current law, such conduct may generally be charged as a second degree misdemeanor for which a court may impose a jail term of not more than 90 days, a fine of up to \$750, or both. If the above "commands" are issued, as described in the bill, and still not obeyed by the offender, the penalty may increase to a first degree misdemeanor, for which a court may impose a jail term of not more than 180 days, a fine of up to \$1,000, or both.¹

¹ The current penalty for obstructing official business when the act creates a risk of physical harm to any person is a fifth degree felony, and is unchanged by the bill.

Menacing

Additionally, the bill modifies the current offense of menacing by including a “probation officer” within the definition of “emergency service responder.” As a result, a person is guilty of menacing if they knowingly place or attempt to place another person in reasonable fear of physical harm or death by displaying a deadly weapon, regardless of whether that deadly weapon displayed is operable or inoperable and either of the following applies: (1) the other person is a probation officer, the person knows or reasonably should know that the other person is a probation officer, and it is the person’s specified purpose to engage in the specified conduct against a probation officer, or (2) the other person is a probation officer’s family or household member or co-worker, the person knows or reasonably should know that the other person is a probation officer’s family or household member or co-worker, and it is the person’s specific purpose to engage in the specified conduct against a probation officer’s family or household member or co-worker.

The penalty for menacing under these circumstances is a fourth degree misdemeanor, for which a court may impose a jail term of not more than 30 days, a fine of up to \$250, or both.

Local criminal justice systems

It appears unlikely that the bill will create many new cases for municipal and county criminal justice systems to process.² That said, any new criminal case that is created as a result of violating the bill’s prohibitions carries the potential to increase related local criminal justice system costs, for example, expenses related to investigating, prosecuting, adjudicating, and sanctioning the offender, as well as paying for defense counsel if the offender is indigent.

Also possible is that the bill may (1) guide the charges filed by law enforcement and prosecutors in certain situations, and (2) clarify an element which may factor into the bargaining process between the prosecution and defense counsel. Based on conversations with subject matter experts, such conduct may be charged under other statutes. As such, the bill’s changes may impact, to some degree, the adjudication process for some cases.

These possibilities are not likely to discernibly add to the operating costs of local governments. To the degree that new cases are generated and a county or municipal justice system incurs costs, those costs will likely be minimal annually, as violations are expected to be small relative to existing criminal caseloads. Costs may be offset to some degree by the collection of fines, and court costs and fees imposed by the court. Fines are generally credited to a county’s general fund, while local court costs and fees can be deposited for a mix of general and special purposes. For misdemeanors, state court costs are \$29 and credited as follows: \$20 to the Indigent Defense Support Fund (Fund 5DY0) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020). If additional offenders are sentenced to jail, there may be a marginal annual increase in local incarceration expenditures.

² County and municipal courts have jurisdiction over misdemeanor offenses.