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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 22  
(I\_134\_0151-1 with  
AM1087)  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 22's Bill Analysis](#)

**Version:** In House Criminal Justice

**Primary Sponsors:** Reps. LaRe and Wilkin

**Local Impact Statement Procedure Required:** No

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### Highlights

- The expansion and related new penalties for the offense of obstructing justice may increase the annual costs that a county or municipal criminal justice system incurs to process cases, specifically the costs associated with prosecution and indigent defense or incarceration if sentenced to a jail term. Any increase is likely to be minimal annually.
- The bill may increase the number of offenders being sentenced to prison and may lengthen some prison terms. The Department of Rehabilitation and Correction's marginal annual incarceration cost for a small number of additional offenders is \$3,000 to \$4,000 per offender.

### Detailed Analysis

The bill expands the offense of obstructing justice to include failure to follow a lawful order from a law enforcement officer or diverting or obstructing a law enforcement officer's attention (which may include using or threatening the immediate use of force, throwing an object, or otherwise interfering or obstructing a law enforcement officer). The bill generally sets penalties for the new obstructing justice offenses at a second degree misdemeanor, or a fifth degree felony if the violation causes physical harm to any person. The bill however retains existing law penalties similarly structured based on the underlying criminal conduct the offender is aiding.

The bill largely addresses conduct prohibited under current law. According to conversations with the Ohio Prosecuting Attorneys Association, the bill may make certain behavior more prosecutable. The bill provides, under certain specified circumstances involving a person's conduct and the performance of a law enforcement officer's duties, the standard of "recklessly," as compared to current law requiring the culpable mental state of "knowingly"

causing or attempting to cause “physical harm.” The result potentially increases the number of cases where charges could be brought and/or a more serious sanction of the offender than otherwise may have occurred under current law. It could also affect successful prosecutions, as charges such as these may be utilized in the bargaining phase. Since a charge of “obstructing justice” would likely accompany other charges, it is unlikely that many new criminal cases will be created because of the bill. The additional case processing and offender sanctioning costs incurred by a county or municipal criminal justice system generally will be minimal at most, with the possibility of collecting additional revenue in the form of court costs and fees and fines.

To the extent that additional offenders may be convicted of a felony, the result may be a marginal increase in the size of the prison population that the Department of Rehabilitation and Correction (DRC) will likely absorb by utilizing existing staff and resources. The annual marginal cost for adding an additional offender to the prison system is \$3,000 to \$4,000 per offender. The expansion of the offense of obstructing justice may also increase the annual costs that a county criminal justice system incurs to process cases, specifically the costs associated with prosecution and indigent defense, or incarceration if sentenced to a jail term.

## **Synopsis of Fiscal Effect Changes**

For the purposes herein, the notable substantive difference between the substitute bill (I\_134\_0151-1) as amended (AM1087) and the As Introduced version can be summarized as follows:

- The substitute bill generally sets penalties for the new obstructing justice offenses at a second degree misdemeanor, or a fifth degree felony if the violation causes physical harm to any person.
- The As Introduced version did not create new penalties for the new obstructing justice offenses, but instead structured penalties as under continuing law based on the underlying criminal conduct the offender is aiding. Generally, if the underlying crime is a misdemeanor, obstructing justice is a misdemeanor of the same degree as the underlying criminal conduct, and if the underlying criminal conduct is a third, fourth, or fifth degree felony, obstructing justice is a fifth degree felony.

That said, the fiscal effects of the two versions of the bill are substantively more or less the same.