



OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 236
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsors: Reps. T. Smith and Plummer

Local Impact Statement Procedure Required: No

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Highlights

- Any increase in the state's prison population and related incarceration costs will be absorbed by the Department of Rehabilitation and Correction utilizing existing staff and resources.
- The state may gain some revenue in the form of locally collected court costs distributed between the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0).
- The fiscal effect on county and municipal criminal justice systems will not be significant. The annual operating costs and revenues of the former may increase to some degree. Conversely, the annual operating costs and revenues of the latter may decrease to some degree.
- The bill's provisions related to the commercial sale or transfer of firearms will have no direct fiscal effect on the state or political subdivisions.

Detailed Analysis

Penalties for certain assault offenses

The bill increases the penalties for three assault offenses if the victim is a hospital police officer, a special police officer, or a gaming agent of the Casino Control Commission.

The current penalties for the offenses of felonious assault, aggravated assault, and assault depend on circumstances present, including the victim, the mental state of the offender, and the extent of harm. With regard to these assault offenses, the current penalty increases if the victim is a peace officer or a Bureau of Criminal Identification and Investigation (BCII) investigator, which includes a mandatory prison term.

The bill increases the penalties for the three above-noted assault offenses if the victim is a hospital police officer or a special police officer generally as follows: (1) from a first degree misdemeanor to a fourth degree felony (assault), (2) from a fourth degree felony to a third degree felony (aggravated assault), and (3) from a second degree felony to a first degree felony (felonious assault).

The bill also expands the general statutory definition of peace officer to include gaming agents of the Casino Control Commission. The term is used in many criminal law-related provisions in the Revised Code. With respect to the bill's three assault offenses, the definition's expansion makes the penalty increases in current law that apply when the victim is a peace officer to apply when the victim is a gaming agent.

The table below summarizes current law's fines and sentences generally associated with the bill's three assault offenses.

Current Law Fines and Sentences Generally for Certain Offense Classifications		
Offense Level*	Fines	Term of Incarceration
F-1	Up to \$20,000	Indefinite prison term consisting of a minimum term selected by the sentencing judge from the range of terms authorized for a felony of the first degree (3, 4, 5, 6, 7, 8, 9, 10, or 11 years), and a maximum term set by statute and based on the minimum selected
F-2	Up to \$15,000	Indefinite prison term consisting of a minimum term selected by the sentencing judge from the range of terms authorized for a felony of the second degree (2, 3, 4, 5, 6, 7, or 8 years), and a maximum term set by statute and based on the minimum selected
F-3	Up to \$10,000	9, 12, 18, 24, 30, 36, 42, 48, 54, or 60 months definite prison
F-4	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison
F-5	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison
M-1	Up to \$1,000	Not more than 180 days in jail

*"F" and "M" denote a felony and a misdemeanor, respectively.

The bill will have two effects on local criminal justice systems. First, certain misdemeanor assault cases under current law will shift from the jurisdiction of a municipal or county court to the felony jurisdiction of a court of common pleas. Second, the penalty (sentence and fine) that can be imposed in certain felony assault cases will increase. The number of assault cases that could be affected by the bill's penalty enhancement is not readily determinable, but appears likely to be relatively small in the context of the total criminal caseload of any given county or municipal criminal justice system.

The resulting fiscal effect on county and municipal criminal justice systems will not be significant. Prosecution, adjudication, and sanctioning costs of the former may increase to some degree, as may revenues in the form of fines, fees, and court costs. Prosecution, adjudication, and sanctioning costs of the latter may decrease to some degree, as may revenues in the form of fines, fees, and court costs.

The state may also gain some revenue in the form of locally collected court costs distributed between the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0). This is because the state court cost assessed for a felony (\$60) is slightly higher than that for a misdemeanor (\$29).

The bill carries two potential effects for the prison system operated by the Department of Rehabilitation and Correction (DRC). First, offenders sentenced to a prison term for a felony offense under current law may be sentenced to a longer prison term under the bill. Second, offenders that might not be prison bound under current law may be sentenced to a prison term under the bill.

Relative to the size of the state's prison population (roughly 44,000) and the number of offenders sentenced to prison annually (ranging between 17,000 and 20,000), the number of additional offenders that could be sentenced to prison will be relatively small and the associated incarceration costs minimal. The average marginal cost for DRC to incarcerate a few additional offenders is \$3,000 to \$4,000 per offender per year, which DRC can likely absorb by utilizing existing staff and resources.

Prohibiting the commercial sale or transfer of firearms

The bill bars public officials from prohibiting federally licensed firearms dealers in the state or a specified geographic area from the commercial sale or transfer of firearms, firearm components, or ammunition except in specified zoning circumstances, and modifies the definition of federally licensed firearms dealer. These provisions have no direct fiscal effect on the state or political subdivisions.

Currently, no federally licensed firearms dealers are barred from any of the activities outlined in the bill (i.e., executive order, Department of Health order, etc.). In a situation in which sellers could, in the future and absent the bill, be impacted by such a prohibition, there is the potential for GRF revenue retention from the sales and use tax and the commercial activity tax (CAT) that otherwise would have been foregone if the businesses were shut down or prohibited from engaging in commercial activity for a specified period of time.¹

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¹ All revenue from the state sales and use tax is deposited in the GRF. Counties and transit authorities are authorized to levy permissive sales and use taxes, which share the same tax base as the state tax; some counties and transit authorities may therefore retain revenue in the same situation. CAT revenue is split between the GRF (85%), the School District Tangible Property Tax Replacement Fund (13%), and the Local Government Property Tax Replacement Fund (2%).