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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 41  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for S.B. 41's Bill Analysis](#)

**Version:** As Introduced

**Primary Sponsor:** Sen. Schaffer

**Local Impact Statement Procedure Required:** No

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### Highlights

- The bill may shift restitution cases, and related adjudication costs, for victims of inciting riot, aggravated riot, riot and certain cases of vandalism, from the civil justice system to the criminal justice system.
- By requiring a judge to order financial sanctions and restitution for economic loss for a person or governmental entity, the sentencing phase may take longer, and additional hearings may be required if the amounts are disputed.
- Clerks of courts may experience an increase in administrative costs in order to process payments of restitution. Some of these costs may be offset if the court orders the offender to pay a surcharge of not more than 5% of the restitution.
- The bill's provisions for determining restitution with regard to a public safety response by a government entity may increase administrative costs for those entities seeking restitution for costs related to a public safety response. In order for a court to consider restitution, an additional hearing must be held before a defendant is sentenced and itemized cost statements must be submitted. The frequency with which this process will be used is unknown, thus making the potential fiscal impact not readily quantifiable.

## Detailed Analysis

### Restitution for vandalism, inciting to violence, and rioting

The bill requires restitution or reimbursement for acts of vandalism, inciting to violence, aggravated rioting, and rioting. A court is required to impose a financial sanction for economic loss incurred by a person or government entity in such a circumstance, including any costs of cleaning or restoration of any property involved in the violation, to be paid to the person or governmental entity as the victim.

Currently in Ohio, restitution may already be sought by a victim, and a hearing is required to determine such restitution if the judge did not already consider it when originally sanctioning the offender. In situations where restitution is adjudicated through the civil justice system, the bill may shift some of these cases to the criminal justice system where they would be resolved before a defendant is sentenced. While this new restitution requirement would add an additional hearing step, it seems unlikely these provisions of the bill will have any significant impact on the courts.

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### Restitution process for government entities

The bill creates a process for determining restitution for a government entity. Under the bill, a government entity seeking offender restitution for the costs they incurred in a public safety response are required to file with the court an itemized statement of those costs. The court must set a date for a hearing on all the itemized statements filed with it and given to the offender or the offender's attorney. The hearing must be held prior to, but may be held on the same day as, the offender's sentencing. Based on conversations LBO had with the Ohio Judicial Conference, it is possible that this will be a burdensome process for the courts, and the frequency with which it may be used is unknown. The associated costs for courts are not readily quantifiable.

The bill also specifies that in any case in which a government entity makes a public safety response to a potential serious threat to public safety, the affected public agency, the government entity served by the agency, or personnel of that agency or entity may remove and take possession of any property left behind after the end of the potential threat. The property is to be disposed of in any manner authorized by law, including, to the extent applicable, under the existing Forfeiture Law, as lost property, abandoned property, or contraband. To the extent that such property comes into the possession of a government entity as described in the bill, additional revenue may be generated if items are later auctioned.

### Offense adjustments

The bill expands the scope of the offense of "conspiracy" to also include "vandalism" when committed in violation of either of the two vandalism prohibitions in the bill under current law. Vandalism, when committed under the circumstances defined by the bill that would now include a charge of "conspiracy," is a third, fourth, or fifth degree felony.

The bill largely addresses conduct that is already prohibited under current law. However, the adjustments under the bill may impact existing cases, leading to additional offenders being

sentenced to prison who otherwise might not have been. It could also impact successful prosecutions as charges such as these may be utilized in the bargaining phase. 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 about \$4,000 per offender.