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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

H.B. 109
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 109's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Abrams and Carruthers

Local Impact Statement Procedure Required: No

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Highlights

- For any given common pleas, municipal, or county court, the bill is expected to result in, at most, a relatively small increase in civil actions filed. Any increase in a court's annual operating costs are likely to be minimal at most and potentially offset to some degree by revenue collected in the form of fees and costs.
- The bill's criminal offense and penalty modification provisions are not expected to have a significant ongoing fiscal effect on county and municipal justice systems.
- Certain local criminal justice systems and the Department of Rehabilitation and Correction may experience a minimal increase in expenditures annually to incarcerate or supervise certain offenders for a longer period than otherwise may have been the case under existing law.

Detailed Analysis

The bill: (1) increases the penalties for riot and aggravated riot, (2) modifies certain other existing offenses to include persons engaging in riot or aggravated riot, (3) creates new riot-related offenses, and (4) allows peace officers to bring civil suits against persons participating in a riot.

New offenses and offense modifications

The bill enacts new criminal offenses and modifies the prohibitions or penalties of several existing offenses regarding conduct committed because a person is or is perceived to be a first responder, as well as conduct that is riot-related or is directed against certain government activities. The table located at the end of this document, provides a complete list of the offenses that the bill creates or modifies the prohibition or penalty.

Based on LBO conversations with the Ohio Prosecuting Attorneys Association and the Ohio Judicial Conference, the bill's effect on county and municipal justice systems is not likely to exceed minimal. This is because the bill is not expected to generate a large number of additional cases, as at least some of the bill's prohibited conduct can generally be charged under existing law. The exception to this would be if the state of Ohio were to experience an increase in riots, such as the ones experienced in the summer of 2020, in which case the bill may result in a significant number of new cases and charges, thereby having a greater impact on county and municipal justice systems. Assuming such occurrences are relatively rare, the bill is unlikely to have a discernible impact on any given local criminal justice system on an ongoing basis.

Incarceration

In the event that offenders are convicted under the bill, the likely effect may be increased time incarcerated. As a result, local correctional facilities, e.g., jails and community-based correctional facilities, and the Department of Rehabilitation and Correction may experience an increase in expenditures to incarcerate certain offenders for a longer period than otherwise may have been the case under existing law. Such an increase is likely to be no more than minimal annually.

As a result of the bill's newly created offenses, it is possible that a small number of additional offenders may be sentenced to serve a period of incarceration that they may not have otherwise been subject to under existing law. Since the bill's newly created offenses and enhanced penalties for existing offenses are mostly felony-level offenses (as detailed in the bill analysis), an offender sentenced for a violation of one or more of the bill's provisions would likely be sentenced to a prison term under the jurisdiction of the Department of Rehabilitation and Correction. If an offender were sentenced to serve a period of incarceration for a violation of the bill's newly created offense of "harassment in a place of public accommodation," that offender would be sentenced to a term of local incarceration, presumably a jail or community-based correctional facility.

As previously mentioned, absent more frequent rioting, the bill is not likely to result in an ongoing discernible increase in annual incarceration and supervision costs for the state or any county or municipality.

Civil action for peace officers

The bill provides a specific civil action for any peace officer who suffers injury, death, or loss to person or property due to an act of riot or aggravated riot, an abridgment of the officer's civil rights arising out of the performance of official duties, or the filing of a false complaint against the officer.

Under the bill, a civil action may be filed against the responsible party and any organization that provided material support or resources to the responsible party. If an organization that provides material support or resources for use to prepare for, carry out, or aid an act of riot or aggravated riot, the bill specifies that the organization is responsible for the resulting conduct and is liable to the peace officer for up to three times the amount of damages sustained because of that conduct.

Under current law, common pleas, municipal, and county courts have subject matter jurisdiction in these civil actions, with municipal and county courts limited to cases in which the amount of money in dispute does not exceed \$15,000. For any given court, the bill is expected to

result in, at most, a relatively small increase in civil case filings. Any increase in a court's annual operating costs are likely to be minimal, at most, and potentially offset to some degree by revenue collected in the form of fees and costs.

H.B. 109 – Criminal Offenses

New criminal offenses

Riot assault: Fifth degree felony generally, fourth degree felony if the victim is an on-duty peace officer, and third degree felony if the victim is an on-duty peace officer who suffers serious physical harm.

Riot vandalism: Fifth degree felony.

Harassment in a place of public accommodation: First degree misdemeanor.

Bias motivated intimidation: Third degree felony. If the offender has previously been convicted of or pleaded guilty in multiple separate proceedings to multiple instances of robbery, burglary, or aggravated robbery or burglary, the court must sentence the offender to a definite prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months. Each violation is a separate offense and may not merge with any other offense.

Existing criminal offense penalty modifications and enhancements

Riot	Generally a first degree misdemeanor. The bill increases the penalty to a fourth degree felony when the offender causes damage to property or another person.
Aggravated riot	Generally a fifth degree felony, but may be a fourth or third degree felony depending on whether an offense of violence was involved or whether the offense was committed in a detention facility. The bill increases the penalty to a third degree felony if the person, when committing aggravated riot, causes damage to property or injury to another person.
Disorderly conduct	Generally a minor misdemeanor, but may be more serious when certain aggravating circumstances are present. The bill increases the penalty to a third degree felony if the violation occurs during a riot or aggravated riot, or during a protest or demonstration for which no permit was issued or for which the scope of any issued permit was exceeded.
Corrupt activity	The bill adds (1) providing material support or resources with the purpose that they be used to plan, prepare, carry out, or aid in conduct that is an "aggravated riot" or "riot," or (2) organizing persons or calling persons to gather to engage in conduct that is an "aggravated riot" or "riot" to the Corrupt Activity Law. Under current law, unchanged by the bill, "engaging in a pattern of corrupt activity" generally is a second degree felony.
Vandalism	Under existing law, unchanged by the bill, vandalism is generally a fifth degree felony punishable by a fine of up to \$2,500 in addition to the penalties specified for a fifth degree felony. Depending on the value of the property or the amount of physical harm involved, it can be a fourth or third degree felony. The bill lowers the required mental state for this prohibition from "knowingly" to "recklessly."