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H.B. 44
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Reps. Roemer and J. Miller

Local Impact Statement Procedure Required: No

Jessica Murphy, Budget Analyst

Highlights

- The bill's felony penalty enhancement may result in minimal annual increases in: (1) GRF institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services, and (2) state court cost revenue apportioned between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).
- The bill may have a minimal net annual fiscal effect on the revenues and expenditures of local criminal and juvenile justice systems.

Detailed Analysis

Sports official assault

Under continuing law, the offense of assault is committed if a person either recklessly or knowingly causes or attempts to cause physical harm to another or to another's unborn. Unless otherwise provided, assault committed by an adult is 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.

The bill retains the charging level provided under current law, but requires a mandatory fine of \$1,500 and the imposition of 40 hours of community service. Upon a second or subsequent conviction for assault of a sports official, the bill increases the penalty to a fifth degree felony, and makes felony assault a "qualifying offense" that requires the court to sentence an offender convicted of the offense to community control. However, regardless of the requirement, there is a presumption generally in favor of community control rather than the imposition of a prison term for fifth degree felonies under current sentencing guidelines.

Under certain circumstances specified in continuing law, such as a prior felony or misdemeanor offense of violence conviction, or if the offender caused serious physical harm, the court may impose a prison term for qualifying assault offenses. For a fifth degree felony

committed by an adult, the court generally is authorized to impose a definite prison term of 6, 7, 8, 9, 10, 11, or 12 months, a fine of not more than \$2,500, or both.

Local criminal and juvenile justice systems

The bill will not create new criminal cases, but (1) likely shift certain existing misdemeanor assault cases from the subject matter jurisdiction of a municipal or county court to the felony jurisdiction of a court of common pleas, and (2) elevate the penalty for an assault committed by a child that is already under the jurisdiction of the juvenile court. Any case processing and adjudication cost savings for municipalities and related cost increases for counties will be minimal annually. The fine and court cost and fee revenue that municipalities may lose and counties may gain will be minimal annually.

Felony offenses

Because of the bill, certain offenders who would have been sentenced locally for a shorter misdemeanor term may be sentenced locally to a longer term felony sentence of community control. The result is likely to be some increase in sanctioning costs for local criminal justice systems.

Misdemeanor offenses

The bill's mandatory \$1,500 misdemeanor fine, instead of the up to \$1,000 fine authorized under current law, may generate additional revenue credited to the county treasury. Additional work is created for municipal and county probation departments, depending on who has jurisdiction over the misdemeanant, as probation officers will need to supervise an offender's compliance with the bill's mandatory 40 hours of community service.

State fiscal effects

Because of the bill's felony penalty enhancement, some number of additional offenders may be sentenced to a state prison or juvenile correctional facility. In the context of the size of the state's prison population (approximately 44,000) and the number of offenders sentenced to prison annually (typically ranging between 17,000 and 20,000), the number of offenders that could be sentenced to prison is likely to be relatively small and the associated incarceration costs minimal. The annual marginal cost for the Department of Rehabilitation and Correction to incarcerate a few additional offenders is between \$3,000 and \$4,000 per offender. In calendar year 2019, the average time served for a fifth degree felony assault was 0.74 years, or 270 days.

The Department of Youth Services' (DYS) average daily facility population is around 400. The marginal cost to add a juvenile to that population is around \$33 per day, or about \$12,045 per year. This suggests that adding a relatively small number of juveniles to that population in any given year will result in no more than a minimal increase in DHS's annual institutional care and custody costs.

Additional felony convictions stemming from the bill may generate a minimal at most annual gain in state court cost revenue that is collected locally and apportioned between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The state court costs total \$60 for a felony and \$29 for a misdemeanor. The \$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020. The \$29 misdemeanor amount is divided as follows: \$20 to Fund 5DY0 and \$9 to Fund 4020. It is also

important to note that collecting court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unable or unwilling to pay.