OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: S.B. 171 of the 132nd G.A. **Status:** As Passed by the Senate

Sponsor: Sen. Hottinger **Local Impact Statement Procedure Required:** No

Subject: Protection orders

State & Local Fiscal Highlights

- The Department of Rehabilitation and Correction will incur additional GRF incarceration related expenditures of up to $2.1 million each year for offenders sentenced to longer prison terms for violating protection orders.
- The bill shifts responsibility for electronically monitoring protection order violators from a law enforcement agency to a probation agency designated by the court. Most, if not all, of these probation departments currently utilize electronic home monitoring as one of their methods of supervision. Any one-time transitional costs would be no more than minimal in any given jurisdiction.

Detailed Fiscal Analysis

Violation of protection orders

The bill increases the penalty for the offense of "violating a protection order" if the offender has one or more prior convictions of that offense, or of the offense of aggravated menacing, menacing by stalking, menacing, or aggravated trespass. Under current law, violating a protection order generally is a first degree misdemeanor and in specified circumstances elevates to a fifth or third degree felony. The bill amends the latter such that, in specified circumstances, a violation is either a fourth or a third degree felony.

According to the most recently available data from the Department of Rehabilitation and Correction (DRC), between calendar years 2014 and 2016, there were, on average, about 80 offenders sent to state prison each year for the offense of violating a protection order. The table below shows the most recent calendar year (CY) data on the average time served for the offense of violating a protection order.

CY 2015 Time Served for Protection Order Violations

Felony Level	Offenders Released	Average Time Served
F3	27	1.93 years
F4	2	1.13 years
F5	60	0.77 years

Under the bill, certain violations charged as a fifth degree felony under current law will be charged as either a fourth degree felony or third degree felony depending on the circumstances present. The time served data would suggest that a potential maximum of 80 or so offenders committed to prison each year for violating a protection order may face an additional year of prison time under the enhanced penalty structure in the bill. At an annual cost of $26,365 per inmate, a maximum of 80 or so additional beds would cost DRC up to $2.1 million each year in institution related GRF expenditures beginning one to two years after the effective date of the bill. The penalty enhancements in the bill would not necessarily apply to every offender sent to prison for violating a protection order, so the potential increase in cost to DRC would likely be somewhat smaller. For example, the time served data suggests that around 60 or so of the 80 offenders incarcerated for violating a protection order were convicted of a fifth degree felony offense. If just these 60 or so were elevated to the higher felony range, then the additional annual GRF incarceration expenditures would be around $1.6 million.

Electronic monitoring

Under current law, the court may require certain offenders convicted of violating a protection order to be electronically monitored as part of their sentence. If electronic monitoring is ordered, the offenders are monitored by law enforcement agencies designated by the courts. The bill shifts the formal responsibility of administering electronic monitoring from law enforcement agencies to a probation agency designated by the courts. A probation agency can be a county, multi-county department of probation, a municipal court department of probation, or DRC's Adult Parole Authority. Most, if not all, of these probation departments currently utilize electronic home monitoring as one of their methods of supervision.

While this provision of the bill will shift the cost incurred by law enforcement agencies to monitor certain offenders convicted of violating a protection order to various probation departments, the potential magnitude of any increase or decrease in expenditures for electronic monitoring will likely be very small. Any one-time administrative cost related to shifting the monitoring responsibilities would also be no more than minimal in any given jurisdiction. Current law, unchanged by the bill, requires that unless the court determines that the offender is indigent, they must order the offender to pay all costs associated with the monitoring including the installation of the device. If the court finds the offender to be indigent, the cost of the installation of the electronic monitoring device and the cost of monitoring the device, up to a total of $300,000 per year, may be paid from the Attorney General's Reparations Fund (Fund 4020).