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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

S.B. 16
(with AM3109, AM3546,
AM3735, AM3745,
and AM3747)

134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 16's Bill Analysis](#)

Version: In House Criminal Justice

Primary Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: No

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Highlights

- The bill's criminal offense and penalty modification provisions are not expected to have a significant ongoing fiscal effect on county and municipal criminal justice systems.
- Local criminal justice systems and the Department of Rehabilitation and Correction may experience a minimal annual expenditure increase to incarcerate or supervise certain offenders for a longer period than otherwise may have been the case under existing law.
- The Attorney General may incur minimal one-time costs to adopt rules governing the training and certification of county correctional officers authorized to carry firearms while on duty. Any subsequent ongoing costs will depend on the number of county correctional officers authorized to carry firearms while on duty.
- Any costs incurred by the state and its political subdivisions related to the integration of individuals with Autism Spectrum Disorder or another developmental disability into existing emergency alert programs are expected to be minimal.

Detailed Analysis

The bill: (1) makes changes to the law as it pertains to specified conduct committed or directed against an emergency service responder¹ (ESR) or a family or household member or co-worker of an ESR, (2) establishes a mandatory prison term for certain "importuning" violations, (3) modifies existing prohibitions against the restraint of a pregnant woman or child,

¹ "Emergency service responder" means any law enforcement officer, first responder, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, firefighter, or volunteer firefighter.

(4) authorizes a county correctional officer to carry firearms while on duty, and (5) authorizes the Statewide Emergency Alert System to be activated to assist in locating individuals with Autism Spectrum Disorder or another developmental disability.

Emergency service responders

New offense and modifications of existing offenses

The bill creates the offense of unlawfully impeding public passage of an ESR, a violation of which is a first degree misdemeanor, and modifies the prohibitions and penalties for the existing offenses of assault and menacing as it relates to certain conduct against or directed at an ESR, or family or household member or co-worker of an ESR.² The following table summarizes the criminal offense created by the bill as well as the bill's modifications to existing prohibitions or penalties when the victim is an ESR, a family or household member, or co-worker of an ESR.

Table 1. S.B. 16 – Criminal Offenses

New criminal offense

Unlawfully impeding public passage of an emergency service responder: First degree misdemeanor subject to a jail stay of not more than 180 days, a fine of up to \$1,000, or both.

Existing penalty modifications and enhancements

Assault	Generally a first degree misdemeanor under current law. The bill modifies the penalty so that in addition to the current circumstances in which assault is already a fourth degree felony, it also is a fourth degree felony if the victim is an ESR, or a family or household member or co-worker of an ESR, and the offender knows or reasonably should know that status of the other person, and it is the offender's specific purpose to commit the offense against the other person because of that status. For a fourth degree felony, the court may impose a 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18-month definite prison term, a fine not to exceed \$5,000, or both.
Menacing	Generally a fourth degree misdemeanor under current law. The bill prohibits a person from knowingly placing or attempting to place another in fear of physical harm or death by displaying a deadly weapon, if the other person is an ESR or a family or household member of an ESR and the offender knows or reasonably should know that status of the other person, and makes a violation a first degree misdemeanor. A subsequent violation is a fourth degree felony.

Based on LBO conversations with the Ohio Prosecuting Attorneys Association and the Ohio Judicial Conference, the impact of the bill's creation of a new offense and penalty modifications on county and municipal criminal 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

² The bill specifies that assault and menacing are allied offenses of similar import, meaning that a person can be charged with both offenses, but can only be convicted of one (R.C. 2941.25(A)).

to this would be if the state were to experience an increase in public disorder or disturbances, such as was experienced in the summer of 2020. If that were to happen, the bill may result in a significant number of new cases and charges, thereby having a greater impact on county and municipal criminal justice systems. Assuming such occurrences are relatively rare, the bill is unlikely to have a discernible impact on any given criminal justice system on an ongoing basis.

In the event that offenders are convicted under the bill instead of under existing law, 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.

Importuning

The bill modifies the existing offense of “importuning” by adding a prohibition against soliciting a person who is under 16 to engage in sexual activity with the offender when the person who is under 16 is substantially impaired because of a mental or physical condition, and specifies that a violation of the prohibition is a third degree felony.

The bill also requires the imposition of a mandatory prison term for violations of “importuning” in the following circumstances: (1) the offender, in addition to soliciting the other person, arranged to meet the other person for the purpose of engaging in sexual activity, (2) the offender is ten or more years older than the other person, or (3) if a law enforcement officer posed as a person 13 or older but less than 16, and the officer is ten or more years older than the officer claimed to be.

Under existing law, unchanged by the bill, “importuning” is generally either a fifth degree or third degree felony, depending on the elements of the offense, and there is currently a presumption that a prison term will be imposed.³ Under the bill, this means that in certain cases, instead of a presumption for prison where the offender may not have otherwise been sentenced to prison, the offender will instead be required to serve a mandatory prison term. This may result in a marginal increase in incarceration costs for the Department of Rehabilitation and Correction for each offender who receives a mandatory prison sentence under the bill when they otherwise may not have under existing law, or if a longer sentence is imposed than otherwise may have been the case under existing law. The annual marginal cost for adding an additional offender to the prison system is around \$4,000 per offender. The penalties, including potential prison terms for fifth degree and third degree felonies, are shown in the table below.

Offense Level	Fine	Term of Incarceration
Felony 3 rd degree	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
Felony 5 th degree	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term

³ Offenders who have previously been convicted of a sexually oriented offense or a child-victim oriented offense are required to serve a mandatory prison term under existing law.

Restraint of a pregnant woman or child

The bill modifies the prohibition against the restraint of a pregnant woman or child who is charged with or has been convicted of an offense by removing leg and ankle restraints from the prohibited types of restraint. The bill also lowers the level of threat required in order to restrain such a woman or child from a serious threat of physical harm or substantial security risk, to a risk of physical harm or a security risk. These provisions are not expected to have a discernible fiscal effect on the state or its political subdivisions.

County correctional officers carrying firearms

The bill authorizes a county correctional officer to carry firearms while on duty in the same manner as a law enforcement officer if the county correctional officer is specifically authorized to carry firearms and has received firearms training. The bill grants such an individual with protection from civil or criminal liability for any conduct occurring while carrying firearms to the same extent as a law enforcement officer. This provision largely affects operations of county sheriffs, the Attorney General, and affiliated Ohio Peace Officer Training Commission (OPOTC).

Attorney General

The bill requires OPOTC to recommend to the Attorney General, and the Attorney General to adopt rules governing the training and certification of county correctional officers authorized to carry firearms while on duty. The one-time rule adoption costs are likely to be minimal. The subsequent ongoing costs for OPOTC will depend on the number of county correctional officers authorized to carry firearms while on duty.

Statewide Emergency Alert System

The bill authorizes the Statewide Emergency Alert System⁴ to be activated to assist in locating individuals with Autism Spectrum Disorder or another developmental disability, in addition to individuals over 65 or with a mental impairment, as under current law. By expanding the situations in which the Statewide Emergency Alert System may be activated, the bill may result in likely no more than minimal costs for the state and its political subdivisions to integrate such individuals into existing emergency alert programs.

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⁴ Per R.C. 5502.522, the Statewide Emergency Alert System is a coordinated effort among the Governor's Office, the Department of Public Safety, the Attorney General, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others as determined necessary by the Governor.