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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 122
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Reps. Pavliga and A. Miller

Local Impact Statement Procedure Required: No

Jessica Murphy, Budget Analyst

Highlights

- The bill's expansion of existing intimidation offenses to include additional victims (guardian ad litem and court appointed special advocates) and prohibited conduct may result in a relatively small statewide increase in criminal cases handled by county and municipal criminal justice systems. Any additional costs are likely to be minimal at most annually. Revenue in the form of court costs, fees, and fines may offset those costs to some degree.
- There may be a minimal annual increase in incarceration or supervision costs for county and municipal justice systems, and the Department of Rehabilitation and Correction, as a relatively small number of offenders may be sentenced to a term of incarceration or supervision under the bill.

Detailed Analysis

The bill expands the offenses of "intimidation" and "intimidation in a criminal case" by adding guardian ad litem (GALs) and court appointed special advocates (CASAs) to the list of protected victim classes covered by the offenses.¹

The bill does not change the penalty for these offenses against existing victims. "Intimidation" remains a third degree felony, and "intimidation in a criminal case" remains either

¹ GALs are frequently attorneys who represent the best interest of a person who is the subject of a court case; CASAs are volunteers who have been trained to advocate for the best interest of a child. CASA volunteers almost exclusively handle abuse, neglect, and dependency cases. According to the Ohio CASA/GAL Association, there are approximately 5,000 individuals serving in this capacity in Ohio.

a first degree misdemeanor or third degree felony depending on the circumstances present. However, the bill provides that a violation of either offense, in all circumstances, is a first degree misdemeanor when the victim is a GAL or CASA. The penalties, including potential jail or prison terms for misdemeanor and felony intimidation offenses, are shown in the table below.

The bill also expands the conduct prohibited under each offense to include abuse, threats, and harassment against any protected victim classes. In addition, the bill specifies that a violation occurs only if the offender knows or had reason to know that the offense is being committed against a member of a protected victim class. Presumably, most cases of intimidation would involve the circumstance where the offender specifically targeted a person to hinder them from fulfilling the duties associated with their profession or role in a court action or proceeding, or in retaliation for outcomes of those duties.

Sentences and Fines for Intimidation Offenses		
Offense Level	Fine	Term of Incarceration
Misdemeanor 1 st degree	Up to \$1,000	Jail, not more than 180 days
Felony 3 rd degree	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term

Local criminal justice systems

From calendar years (CYs) 2018 through 2022, an average of 14 new cases were filed annually with the Franklin County Municipal Court for “witness intimidation/retaliation.”² This suggests that a corresponding statewide average could be several hundred cases filed annually under current law – a number that may slightly increase under the bill. For comparison, the number of incidents of “intimidation” or “intimidation in a criminal case” as reported by law enforcement to the Ohio Incident-Based Reporting System (OIBRS) in CY 2022 was 67 and 319, respectively, further suggesting a relatively low number of offenses generally statewide.³

Most new cases will involve intimidation of a CASA or GAL and fall under the jurisdiction of a municipal or county court as a misdemeanor offense. However, the bill’s expansion of intimidation offenses to prohibit abuse, threats, or harassment (in addition to any attempt to influence, intimidate, or hinder any of the protected victim classes) may also lead to a few new felony cases, but more likely, it will make some allegations and cases easier to charge and prosecute. Felony violations of newly prohibited conduct against a member of the existing protected victim class would be adjudicated by courts of common pleas.

Any additional costs for county and municipal criminal justice systems to prosecute, adjudicate, and sanction a few additional offenders is likely to be minimal at most annually, and absorbed by utilizing existing staff and resources. Money collected from violators (fines and court costs and fees) may offset those costs to some degree. The state may also gain a minimal at most

² Franklin County Municipal Court, Annual Report (2018 through 2022).

³ These statistics are based upon information voluntarily reported to OIBRS by participating law enforcement agencies, and may not reflect all violations statewide, since not all Ohio law enforcement agencies’ data are available through OIBRS. Not all “incidents” result in an arrest or criminal charges.

amount of court cost revenue annually. State court costs for a felony total \$60, of which the Indigent Defense Support Fund (Fund 5DY0) and Victims of Crime/Reparations Fund (Fund 4020) each receive \$30. Such costs for a misdemeanor total \$29, of which Fund 5DY0 receives \$20 and Fund 4020 receives \$9.

Department of Rehabilitation and Correction

As mentioned, intimidation offenses committed against a GAL or CASA are a first degree misdemeanor, thus, violations will not result in additional offenders being sentenced to a prison term. However, the expansion of these offenses to include intimidation by way of abuse, threats, or harassment may have this effect when committed against a member of the existing protected victim class.

Under the current Felony Sentencing Law, there is no guidance for or against the imposition of a prison term in the case of a third degree felony generally. The court is permitted to impose a definite prison term of 9, 12, 18, 24, 30, or 36 months. Based on recent commitment reports from the Department of Rehabilitation and Correction (DRC) a small number of offenders enter prison each year for a violation of an intimidation offense. From CYs 2018 through 2022, the average number of annual prison commitments for both offenses combined was around 35.

To the extent that additional offenders may be convicted of a felony and sentenced to a prison term, the result may be a marginal increase in the size of the prison population that DRC will likely absorb by utilizing existing staff and resources. The annual marginal cost for adding an additional offender to the prison system is around \$4,000 per offender.

Court-Appointed Special Advocates Appreciation Day

The bill's designation of the first of May as "Court-Appointed Special Advocates Appreciation Day" will have no direct fiscal effect on, nor require any action on the part of the state or local political subdivisions.