



OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: H.B. 228 of the 132nd G.A.

Status: As Introduced

Sponsor: Reps. Johnson and LaTourette **Local Impact Statement Procedure Required:** No

Subject: Self-defense and concealed handguns

State Fiscal Highlights

- There may be some reduction in: (1) the number of persons convicted of a felony offense of violence in self-defense cases, and (2) certain felony level violations relative to the concealed handgun law, which could yield, all other conditions remaining the same, some marginal decline in the size of the state prison population and a corresponding reduction in GRF incarceration-related expenditures.
- As a result of the potential reduction in certain criminal convictions in relation to the bill's various provisions, there could also be a corresponding reduction in state court cost revenues. If, as expected, the bill affects a relatively small number of criminal cases annually statewide, then any potential loss in court cost revenues that would otherwise have been collected and forwarded to the state treasury will likely be minimal.

Local Fiscal Highlights

- The most likely effect of the bill's various provisions may be to reduce criminal cases involving claims of self-defense and other potential charges concerning violations of the concealed handgun law, which could create some level of savings in county and municipal criminal case processing and sanctioning costs, and a related loss in court cost, fee, and fine revenues that might otherwise have been collected. These potential changes in the magnitude of annual revenues and expenditures appear unlikely to exceed minimal for any given county or municipality.

Detailed Fiscal Analysis

Self-defense

Burden of proof

Under current law, if an accused person asserts the affirmative defense of self-defense, the burden is on the accused to establish by preponderance of the evidence that the accused acted in self-defense. The bill shifts to the state the burden to prove beyond a reasonable doubt that a person charged with an offense that involved the use of force

against another did not use that force in self-defense, defense of another, or defense of that person's residence.

This change will likely reduce convictions to some degree, as it would be more difficult for prosecutors to prove beyond a reasonable doubt that a person did not use deadly force in self-defense. Prosecutors may have more incentive to plea such cases down or forego the filing of certain criminal cases altogether if the new burden of proof cannot be met.

Duty to retreat

The bill expands circumstances under which a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person's residence. This change will likely reduce to some degree the number of cases in which a person is charged with, and subsequently convicted of, a castle doctrine-related shooting that occurred either in the person's residence or in a place in which the person has a lawful right to be, when they had some means of escape or retreat.

Concealed handgun law

Penalty reduction

The bill reduces certain concealed handgun offenses to minor misdemeanors in circumstances where the offender does not commit a separate offense while carrying the concealed handgun. If the offender commits a separate offense, the reduction does not apply and the offender is subject to the same misdemeanor or felony penalties as would apply under current law for the offenses. The bill also reduces to a minor misdemeanor the penalty for a number of offenses related to carrying firearms in motor vehicles. Although, in general, the number of violations involving the concealed handgun law is relatively small, determining the net effect of these provisions on criminal cases in any given jurisdiction is very difficult to estimate. That said, one would expect the number of cases affected in any given local jurisdiction will be relatively small.

State fiscal effects

The bill's changes to the burden of proof and the duty to retreat in self-defense related shootings may reduce the number of persons that would likely have been convicted, under current law, on homicide or assault charges when such an individual claimed the use of force was necessary and justified as an act of self-defense. Similarly, the penalty reductions related to various provisions in the concealed handgun law will reduce, to a minor misdemeanor, convictions that under current law may be a first degree misdemeanor or a felony. To the extent that such reductions in convictions occur as a function of the bill's self-defense provisions, or the shifting of certain felony cases to a minor misdemeanor, there would likely be a corresponding reduction, of uncertain magnitude, in the number of individuals sentenced to prison for committing certain specified felony offenses. Given the current state prison population in excess of 50,000 inmates, the magnitude of any reduction in offenders sent to prison as a result of the bill

will likely be comparatively small, and the overall annual incarceration cost savings likely no more than minimal.

As a result of the potential reduction in certain criminal convictions in relation to the bill's various provisions, there could also be a corresponding reduction in state court cost revenues, which are collected locally and forwarded for deposit in the state treasury to the credit of the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0). The state court cost imposed for a felony offense is \$60, of which \$30 is credited to both Fund 4020 and Fund 5DY0. The state court cost imposed for a misdemeanor offense is \$29, of which \$9 is credited to Fund 4020 and \$20 to Fund 5DY0. If the bill affects a relatively small number of criminal cases annually statewide, then any potential loss in court cost revenues that would otherwise have been collected and forwarded to the state treasury will likely be minimal.

Local fiscal effects

The provisions in the bill regarding self-defense, the use of force, and the concealed handgun law will likely create some reduction in the number of persons prosecuted and sanctioned for an act of violence used in their own defense or the defense of another, or for various offenses related to the concealed handgun law. Such an outcome could create some level of savings in county and municipal criminal case processing and sanctioning costs and a related loss in court cost, fee, and fine revenues that might otherwise have been collected. The magnitude of the potential changes in county and municipal criminal justice system revenues and expenditures is uncertain, but may be no more than minimal annually in many jurisdictions.

Posting of prohibited carry signs

The bill eliminates a requirement that specified persons, boards, and entities post in a conspicuous place on the premises a sign with a statement prohibiting the carrying of concealed handguns. This provision would appear to authorize the removal of required signs in places where carrying a concealed weapon has recently been authorized and would not likely have any state or local fiscal effects.