



OHIO LEGISLATIVE SERVICE COMMISSION

Jessica Murphy

Fiscal Note & Local Impact Statement

Bill: H.B. 276 of the 132nd G.A.
(L_132_1158-5)

Status: In House Criminal Justice

Sponsor: Reps. Rezabek and
Greenspan

Local Impact Statement Procedure Required: No

Subject: Aggravated menacing penalty

State Fiscal Highlights

- As the result of a small potential statewide increase in the number of felony aggravated menacing convictions, there may be a minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures.
- There may be a negligible annual increase in locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- Under the bill, certain aggravated menacing cases that may have been charged as a misdemeanor will be charged as a felony. This outcome shifts such cases from a municipal or county court to a common pleas court. This means that the associated costs and revenues shift as well. Given the small number of cases that would be subject to the bill's penalty enhancement, the magnitude of the local costs and revenue shift is likely to be minimal annually.

Detailed Fiscal Analysis

The bill expands the offense of aggravated menacing to prohibit threatening a utility worker, cable operator worker, or broadband worker with intent to obstruct the operation of a utility, provides that a violation of the prohibition is generally a first degree misdemeanor, and provides that, if the offender previously has been convicted of or pleaded guilty to aggravated menacing, a violation of the prohibition is a fifth degree felony.

The bill is unlikely to generate new criminal cases, as the prohibited conduct is arguably illegal under current law. Its primary effect may be to elevate, in certain circumstances, the charge(s) that an offender may face from a misdemeanor to a felony. In the context of any given local jurisdiction's criminal justice system caseload, the number of cases that may be affected in this manner will be relatively small.

State fiscal effects

An analysis of the bill performed by the Department of Rehabilitation and Correction (DRC) indicates that the likely small number of new felony convictions stemming from the penalty enhancement may result in a five to ten bed increase within three years after the bill's effective date. The fiscal effect of a relatively small increase in an existing prison population of 50,000-plus will not generate a significant increase in DRC's annual incarceration expenditures. This is because, although DRC's average annual cost per inmate is currently \$26,365, the marginal cost of adding a small number of offenders is lower. The annual cost for small increases in the inmate population is around \$4,000 per inmate, which covers the basic additional costs for food, clothing, medical care, and so forth. The average time served in prison for aggravated menacing is around 1.5 years.

A few additional felony convictions may generate a negligible annual amount of state court cost revenue that is collected locally and forwarded for crediting to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The state 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. However, it is 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.

County and municipal criminal justice systems

As a result of the bill's felony penalty enhancement, a small number of aggravated menacing cases that might have been charged as a first degree misdemeanor would be charged as a fifth degree felony. This outcome shifts such cases out of the municipal criminal justice system and into the felony jurisdiction of a county criminal justice system. This means that the associated costs (law enforcement, prosecution, adjudication, and sanctioning if there is a conviction) and revenues (fine, court costs, and fees) shift as well. Given the infrequency that the circumstances for a felony enhancement would apply to a case, the magnitude of the local cost and revenue shift is likely to be minimal annually.

Sentences and fines for certain offenses generally

The table below summarizes current law's sentences and fines generally for a felony of the fifth degree and a misdemeanor of the first degree.

Sentences and Fines for Certain Offenses Generally		
Offense Level	Fine	Possible Term of Incarceration
5th Degree Felony	Up to \$2,500	6, 7, 8, 9, 10, 11, 12-month prison term
1st Degree Misdemeanor	Up to \$1,000	Not more than 180-day jail term

Synopsis of Fiscal Effect Changes

The differences in the fiscal effects between the bill's As Introduced version and the adopted substitute version (L_132_1158-5) can be summarized as follows:

- Under the substitute version, fewer aggravated menacing cases will elevate from a misdemeanor to a felony. This means that the shift in annual costs and revenues from municipal to county criminal justice systems will be lower than likely would have been the case under the As Introduced version.
- Under the substitute version, there will be somewhat fewer offenders convicted of a felony and subsequently sentenced to a prison term. This means that any potential increase in DRC's annual incarceration costs will be lower than likely would have been the case under the As Introduced version.