



OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: H.B. 405 of the 132nd G.A.

Status: As Passed by the House

Sponsor: Rep. Perales

Local Impact Statement Procedure Required: No

Subject: Counterfeiting

State & Local Fiscal Highlights

- The bill does not create any new criminal cases which must be adjudicated by local criminal justice systems, but will likely create some administrative savings for prosecutors and law enforcement agencies by clarifying available charging options.
- The bill is not likely to have any discernible ongoing effect on the state's inmate population and related cost of institutional operations.

Detailed Fiscal Analysis

The bill: (1) creates the criminal offense of counterfeiting, which prohibits certain conduct involving counterfeited currency, other securities, or debit or credit cards, and (2) specifies penalties from a fourth degree felony to a first degree felony based on the value of the counterfeiting involved.

Under current law, counterfeiting is generally charged either as:

- Forgery (penalties ranging from a fifth degree felony to a second degree felony based on the circumstances present);
- Criminal simulation (penalties ranging from a first degree misdemeanor to a third degree felony depending on the circumstances present);
- Theft (penalties ranging from a first degree misdemeanor to a first degree felony depending on the circumstances present).

These existing offenses were not created to specifically handle counterfeiting of currency or credit cards. As a result, it appears that uncertainty frequently arises among law enforcement agencies and prosecutors as to the proper charge when the specific facts of a criminal offense include counterfeiting. The bill clarifies the available charging options when counterfeiting has occurred.

The bill does not create any new criminal cases which must be adjudicated in local criminal justice systems, and will likely create an administrative savings effect by eliminating uncertainty, and reducing the time required to determine the best charge in cases involving counterfeiting.

The charges under the new counterfeiting law begin at the fourth degree felony level, a more serious charge than forgery, which is typically charged as a fifth degree felony. Given this elevation in the charging level, in theory an offender convicted of counterfeiting could be sent to prison for a slightly longer term than under current law. In practice, however, this would appear to be a rare occurrence.

According to knowledgeable experts in the field, counterfeiting rarely occurs as a state level offense in the absence of other more serious criminal activities. In the vast majority of cases, counterfeiting is part of a criminal investigation involving drug offenses and often crimes of violence. The counterfeiting activity would typically be a lesser stack-on charge. Thus, irrespective of the new offense created by the bill, most of these offenders will continue to be sentenced to longer prison terms based on incidents where the primary circumstances present include drugs and offenses of violence, and perhaps secondarily counterfeiting. This suggests that the bill is not likely to have any discernible ongoing effect on the state's inmate population and related cost of institutional operations.