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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 16  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

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

**Version:** As Introduced

**Primary Sponsor:** Sen. Schaffer

**Local Impact Statement Procedure Required:** No

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### Highlights

- For any given common pleas, municipal, or county court, the bill is expected to result in, at most, a relatively small increase in civil actions filed. Any increase in a court's annual operating costs are likely to be minimal at most and potentially offset to some degree by revenue collected in the form of fees and costs.
- The bill's criminal offense and penalty modification provisions are not expected to have a significant ongoing fiscal effect on county and municipal justice systems.
- Certain locally operated jails and the Department of Rehabilitation and Correction may experience a minimal increase in expenditures annually to incarcerate or supervise certain offenders for a longer period than otherwise may have been the case under existing law.

### Detailed Analysis

The bill provides a specific civil action for any emergency service responder<sup>1</sup> (ESR) based on a civil rights abridgement or false complaint against an ESR, and makes changes to the law as it relates to specified conduct committed against an ESR or other specified individuals and conduct that is riot-related or is directed against certain government activities. The bill also: (1) increases penalties associated with certain assault offenses, (2) modifies the offense of

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<sup>1</sup> "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.

menacing, vandalism, inciting to violence, intimidation, and obstructing official business, and (3) creates several new offenses described in further detail below.

### **Civil action – emergency service responders**

The bill provides a specific civil action for any ESR who suffers injury, death, or loss to person or property due to an abridgment of an ESR’s civil rights arising out of the performance of official duties, or due to the filing of a false complaint against the ESR. The civil action would be filed against any person, group of persons, organization, corporation, or head of an organization or corporation that abridged the ESR’s civil rights or filed the known false complaint. The ESR may recover in the action full compensatory damages, including damages for emotional distress, and may recover punitive or exemplary damages, court costs, other reasonable expenses incurred in maintaining the action, and reasonable attorney’s fees incurred in maintaining the action.

Under current law, common pleas, municipal, and county courts have subject matter jurisdiction in these civil actions, with municipal and county courts limited to cases in which the amount of money in dispute does not exceed \$15,000. For any given court, the bill is expected to result in, at most, a relatively small increase in civil case filings. Any increase in a court’s annual operating costs are likely to be minimal, at most, and potentially offset to some degree by revenue collected in the form of fees and costs.

### **New offenses and offense modifications**

The bill enacts new criminal offenses and modifies the prohibitions or penalties of several existing offenses regarding conduct committed because a person is or is perceived to be an ESR, public servant, family member, or co-worker or conduct that is riot-related or is directed against certain government activities. The table in the “**Appendix**” provides a complete list of the offenses that the bill creates or modifies the prohibition or penalty.

Based on LBO conversations with the Ohio Prosecuting Attorneys Association and the Ohio Judicial Conference, the impact of the bill’s creation of new offenses and penalty modifications on county and municipal 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 to this would be if the state were to experience an increase in riots, such as the ones experienced in the summer of 2020, in which case the bill may result in a significant number of new cases and charges, thereby having a greater impact on county and municipal 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.

### **Incarceration**

In the event that offenders are convicted under the bill instead of under existing law, the likely effect would be an increase in jail or prison time received by certain offenders, as the bill enhances the penalties for certain offenses and requires that certain sentences be served consecutively. As a result, locally operated jails 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.

As a result of the bill's newly created offenses, it is possible that a small number of additional offenders may be sentenced to serve a period of incarceration that they may not have otherwise been subject to under existing law. Since the bill's newly created offenses are generally first degree misdemeanors (as detailed in the bill analysis), those offenders would likely serve any imposed incarceration in a locally operated jail. However, two of the bill's newly created offenses (unlawfully impeding public passage and harassing an emergency service responder or family member), while generally a first degree misdemeanor, may elevate to a fifth or fourth degree felony based on certain circumstances. In those cases, and if convicted of the felony charge (i.e., not convicted of a reduced charge that is a misdemeanor), the offender may be sentenced to a term that would fall under the supervision of the Department of Rehabilitation and Correction.

As previously mentioned, absent an increase in riots, the bill is not likely to result in an ongoing discernible increase in incarceration/supervision costs for the state or any county or municipality.

## Appendix

### S.B. 16 – Criminal Offenses

#### New criminal offenses

**Harassment in a place of public accommodation:** First degree misdemeanor.

**Unlawfully impeding public passage:** Depending on the circumstances, a violation is a first degree misdemeanor, a fifth degree felony, or a fourth degree felony.

**Harassing an emergency service responder or family member:** First degree misdemeanor generally, and fourth degree felony if causes physical harm.

**Interfering with an emergency service provider by use of a laser:** First degree misdemeanor.

#### Existing penalty modifications and enhancements

Assault	Generally a first degree misdemeanor. Bill modifies so that, in addition to the current circumstances in which it is a third degree felony, it also is a third degree felony if the victim is a peace officer or Bureau of Criminal Investigation (BCI) investigator (regardless of whether the victim is in the performance of official duties) or if the offender committed the violation in an attempt to intimidate, harass, or terrorize another person because the other person is or is perceived to be an ESR or public servant or because the other person is a family or household member or co-worker of such a person.
Felonious assault	Generally a second degree felony under current law. Bill modifies so that, in addition to the current circumstances in which it is a first degree felony, it also is a first degree felony if the violation caused serious physical harm and the offender committed the violation in an attempt to intimidate, harass, or terrorize another person because the other person is or is perceived to be an ESR or public servant or because the other person is a family or household member or co-worker of such a person.
Menacing	Generally a fourth degree misdemeanor under current law. 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 fourth degree felony.
Disrupting public services	Bill prohibits a person from knowingly causing damage or destruction to, removal of, or tampering with the operation of, any equipment or apparatus of an ESR with the intent to prevent the useful operation of the equipment or apparatus. Under current law, unchanged by the bill, a “disrupting public services” violation is a fourth degree felony.
Vandalism	Bill prohibits a person from knowingly causing serious physical harm to an entrance or curtilage to or fixture on property owned, leased, or controlled by a governmental entity; and expands the definition of governmental entity to also include the U.S. government and its departments, agencies, and instrumentalities. Under current law, unchanged by the bill, a “vandalism” violation is a fifth, fourth, or third degree felony depending on the value of the property or the amount of physical harm involved.

## S.B. 16 – Criminal Offenses

### Existing penalty modifications and enhancements

Inciting to violence	Bill adds a new third degree felony penalty for “inciting to violence” when the offender’s conduct was designed to urge or incite another to commit an offense of violence against an ESR or a family or household member of an ESR. Under current law, an “inciting to violence” violation is a first degree misdemeanor or third degree felony depending on whether the intended conduct is a misdemeanor or felony offense of violence.
Intimidation	Bill expands the existing prohibition to also apply when a person engages in the specified conduct in an attempt to influence, intimidate, or hinder an ESR in the discharge of the emergency service duties and also prohibits a person from attempting to intimidate a person who is or is perceived to be an ESR or public servant or who is a family or household member or co-worker of such a person, by causing damage to or destroying any property of another person when specified criteria apply. Under current law, unchanged by the bill, a violation of a third degree felony.
Obstructing official business	Bill provides for certain penalty enhancements if the violation involves the use or threatened use of force by the offender against an ESR or involves the conduct described above and creates a risk of physical harm to any person or causes physical harm to the property of an ESR that is used in the ESR’s official duties. Depending on the circumstances present, a violation is a first degree misdemeanor or a fifth degree felony.
Corrupt activity	Bill adds (1) providing material support or resources with the purpose that they be used to plan, prepare, carry out, or aid in conduct that is an “aggravated riot” or “riot,” or (2) organizing persons or calling persons to gather to engage in conduct that is an “aggravated riot” or “riot” to the Corrupt Activity Law. Under current law, unchanged by the bill, “engaging in a pattern of corrupt activity” generally is a second degree felony.
Arson and aggravated arson	Provides for the running of consecutive prison or jail terms if an attempt to intimidate a person who is or is perceived to be an ESR, public servant, family or household member, or co-worker.