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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 109
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 109's Bill Analysis](#)

Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Abrams and Carruthers

Local Impact Statement Procedure Required: No

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Highlights

- For any given common pleas, municipal, or county court, the bill's civil action provision 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 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 criminal and juvenile justice systems.
- Local criminal and juvenile justice systems and the departments of Rehabilitation and Correction and Youth Services may experience a minimal annual expenditure increase to incarcerate or supervise offenders.

Detailed Analysis

The bill: (1) increases the penalties for riot and aggravated riot, (2) modifies certain other existing offenses to include persons engaging in riot or aggravated riot, (3) creates new riot-related offenses, and (4) gives an on-duty peace officer, who suffers harm or an abridgement of their civil rights injury in certain specified circumstances, a cause of action against the responsible party and any organization that knowingly provides material support or resources.

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 a first responder, as well as conduct that is riot-related or is directed against certain government

activities. The table located at the end of this document, provides a complete list of the offenses that the bill creates or modifies.

Based on LBO conversations with the Ohio Prosecuting Attorneys Association and the Ohio Judicial Conference, the bill's effect 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 of Ohio 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 local criminal and juvenile justice system on an ongoing basis.

Incarceration and community supervision

Because of the bill's criminal offense provisions, local facilities, e.g., jails and community-based correctional/detention facilities, and the departments of Rehabilitation and Correction and Youth Services may experience an increase in expenditures to incarcerate certain offenders for a longer period than otherwise may have been the case under existing law. It is possible that offenders may be sentenced to serve a period of incarceration that they may not have otherwise been subject to under existing law. There may also be a resulting increase in the number of offenders under community supervision, as well as the length of time spent under such supervision. As previously mentioned, absent more frequent rioting, the bill is not likely to result in an ongoing discernible increase in annual incarceration and supervision costs for the state or any county or municipality.

Civil action for peace officers

The bill provides a specific civil action for any peace officer who suffers injury, death, or loss to person or property due to an act of riot or aggravated riot, an abridgment of the officer's civil rights arising out of the performance of official duties, or the filing of a false complaint against the officer.

Under the bill, a civil action may be filed against the responsible party who committed the prohibited act and any organization that knowingly directs, authorizes, facilitates, or encourages the responsible party or that knowingly provides material support or resources to the responsible party. If an organization that provides material support or resources for use to prepare for, carry out, or aid an act of riot or aggravated riot, the bill specifies that the organization is responsible for the resulting conduct and is liable to the peace officer for up to three times the amount of damages sustained because of that conduct.

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.

H.B. 109 – Criminal Offenses

New criminal offenses

Riot assault: Fifth degree felony generally, fourth degree felony if the victim is an on-duty peace officer, and third degree felony if the victim is an on-duty peace officer who suffers serious physical harm.

Riot vandalism: Fifth degree felony.

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

Bias motivated intimidation: Third degree felony. If the offender has previously been convicted of or pleaded guilty in multiple separate proceedings to multiple instances of robbery, burglary, or aggravated robbery or burglary, the court must sentence the offender to a definite prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months. Each violation is a separate offense and may not merge with any other offense.

Existing criminal offense penalty modifications and enhancements

Riot	Generally a first degree misdemeanor. The bill increases the penalty to a fourth degree felony when the offender causes damage to property or injury to another person.
Aggravated riot	Generally a fifth degree felony, but may be a fourth or third degree felony depending on whether an offense of violence was involved or whether the offense was committed in a detention facility. The bill increases the penalty to a third degree felony if the person, when committing aggravated riot, causes damage to property or injury to another person.
Disorderly conduct	Generally a minor misdemeanor, but may elevate to a fourth degree misdemeanor when aggravating circumstances are present. The bill increases the latter penalty to a first degree misdemeanor and adds to aggravating circumstances when the offense occurs during a riot or aggravated riot, or during a protest or demonstration for which no permit was issued or for which the scope of any issued permit was exceeded.
Corrupt activity	The bill adds (1) knowingly 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.
Vandalism	Under existing law, unchanged by the bill, vandalism is generally a fifth degree felony punishable by a fine of up to \$2,500 in addition to the penalties specified for a fifth degree felony. Depending on the value of the property or the amount of physical harm involved, it can be a fourth or third degree felony. The bill lowers the required mental state for this prohibition from “knowingly” to “recklessly.”