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Office

H.B. 462
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 462's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsors: Reps. K. Miller and Carfagna

Local Impact Statement Procedure Required: No

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Highlights

- The bill may shift a very small number of cases from the misdemeanor jurisdiction of a county or municipal court to the felony jurisdiction of a court of common pleas. As a result, there may be a negligible increase in county adjudication costs, a potential shift in incarceration expenditures from secure local facilities to state-run facilities, and a negligible revenue increase in the form of fines and court costs and fees.
- Court-ordered reimbursements may generate money for a law enforcement agency or emergency services provider involved in the emergency response to an act of swatting. The timing and magnitude of such reimbursements is unpredictable.
- Regarding exempt employee pay ranges and pay ranges for certain Ohio State Highway Patrol (OSHP) officers, the resulting impact on the Department of Public Safety, which houses OSHP, will depend on the rules adopted by the Department of Administrative Services and the number of individuals in OSHP who would be impacted, their years of service (where they currently fall in the pay scale), and other factors related to various personnel costs (i.e., retirement, payroll processing, etc.).

Detailed Analysis

Swatting

The bill creates the offense of “swatting” that prohibits a person by means of a telecommunications device or service from reporting or causing to be reported false or misleading information to a law enforcement agency, emergency services provider, or public safety answering point, if the person knows the information to be false or misleading, acts with reckless disregard as to whether the report may cause bodily harm to any individual as a direct result of an emergency response to the report, and the report is filed under circumstances where

it is reasonably likely to cause an emergency response from a law enforcement agency, emergency service provider, or public safety answering point and the report does cause an emergency response.

A violation of the prohibition is a fourth degree felony, unless the violation results in serious physical harm, then a violation is a second degree felony. The practical effect of the new offense is that it will likely serve as a penalty enhancement by creating felony status for conduct that is already prohibited in the Revised Code. Currently, conduct that would be classified as “swatting” under the bill would most likely be charged as “making false alarms” (R.C. 2917.32) or “falsification” (R.C. 2921.13). A violation of either is generally a first degree misdemeanor and under the subject matter jurisdiction of county or municipal courts.¹

The following table shows the fine and term of incarceration applicable under current law for making false alarms, falsification, and the new offense of “swatting.”

Felony and Misdemeanor Sentences and Fines Generally		
Offense Level	Fine	Term of Incarceration
Felony 2 nd degree*	Up to \$15,000	2, 3, 4, 5, 6, 7, or 8 years prison term
Felony 4 th Degree	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term
Misdemeanor 1 st degree	Up to \$1,000	Jail, not more than 180 days

*In the case of a second degree felony, a judge imposes both a minimum and maximum prison term. Release is presumed at the expiration of the minimum prison term. The judge selects a minimum prison term from the range; the maximum prison term is generally calculated as the minimum prison term plus 50% of itself.

Expenditures

By creating the felony offense of “swatting,” the bill would shift what is likely to be a very small number of cases from the misdemeanor jurisdiction of a county or municipal court to the felony jurisdiction of a court of common pleas. Generally, felony cases tend to be more time consuming and expensive to adjudicate however, conversations with the Ohio Judicial Conference suggest that cases involving “swatting” are rarely seen. That said, any cost shifting that may occur from municipal to county criminal justice systems because of the bill is likely to be negligible.

Additionally, if an offender is sentenced for “swatting” under the bill, that offender could be sentenced to a term of incarceration in a state-run prison or juvenile correctional facility instead of local confinement in a jail, detention center, or community-based corrections facility. This means that the departments of Rehabilitation and Correction and Youth Services could incur minimal additional costs to incarcerate a very small number of additional offenders and those

¹ While the penalty for violations of R.C. 2917.32 and 2921.13 can elevate to a fifth, fourth, or third degree felony depending on the circumstances of the violation, the penalty for conduct prohibited by the bill under current law would most likely be a first degree misdemeanor.

local confinement facilities may experience a corresponding decrease in costs. The magnitude of any increase or decrease in incarceration expenditures is expected to be negligible, as very few cases are expected to be impacted.

Revenues

Depending on the amount that an offender is fined and whether or not they pay that amount, it is possible that certain counties where there is a “swatting” conviction could experience an increase in fine revenue. There may also be a negligible increase in the amount of court costs and fees assessed, as those amounts are generally higher for felonies than for misdemeanors.

“Swatting” as an offense of violence

The bill also specifies that “swatting” is an offense of violence. While the term “offense of violence” is used in a variety of contexts and manners, it generally means that certain penalty enhancements, restrictions, limitations, procedures, or other outcomes or events may apply, or be triggered by the occurrence of the offense or conviction that may not otherwise apply or occur. As a result, the bill may alter the way in which such cases are adjudicated in local criminal justice systems and any resulting sentencing. This may result in minimal costs for state and local criminal justice systems which will ultimately vary based on the elements of each offense.

Reimbursement for emergency response costs

The bill provides that the court may order an offender to reimburse a law enforcement agency or emergency services provider involved in an emergency response to an act of swatting for all or a portion of the costs incurred by the agency or provider. The timing and magnitude of such reimbursements is unpredictable.

Ohio State Highway Patrol pay scale

Beginning July 1, 2023, the bill places Ohio State Highway Patrol (OSHP) lieutenants, staff lieutenants, captains, majors, and lieutenant colonels in specific pay ranges in Schedule E-1 of the exempt employee salary schedule. The bill also requires the Director of Administrative Services (DAS) to adopt rules establishing: (1) pay range 19 in the schedule of exempt employee pay ranges specified in continuing law to begin July 1, 2023, and (2) step value 7 in existing pay range 17 of the schedule of exempt employee pay ranges, to begin July 1, 2023. DAS may incur one-time minimal additional costs to adopt the bill’s required rules. The resulting impact on the Department of Public Safety, which houses OSHP, will depend on the rules adopted by DAS and the number of individuals in OSHP who would be impacted, their years of service (where they currently fall in the pay scale), and other factors related to various personnel costs (i.e., retirement, payroll processing, etc.).