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H.B. 56
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Plummer and White

Local Impact Statement Procedure Required: No

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Highlights

- The bill's penalty enhancement for eluding or fleeing a police officer may shift some misdemeanor cases from the jurisdiction of a municipal or county court to the jurisdiction of a court of common pleas to be tried as a felony, thus shifting workload and related adjudication and local sanctioning costs for those cases. There may also be a relatively small number of offenders who, if convicted of a felony, could be sentenced to, or serve longer periods of, incarceration/supervision in a state correctional facility.
- Local law enforcement entities that do not currently have a motor vehicle pursuit policy in effect that meets the bill's criteria may incur one-time additional administrative costs to implement a new policy and to provide training for law enforcement.
- The bill's hooning-related prohibitions may generate a minimal number of additional cases for local criminal justice systems to adjudicate and sanction annually, and may elevate the offense level and penalties, including possible jail time, for hooning cases charged under the bill instead of under existing law. The impact on any given local criminal justice system is not expected to exceed minimal annually.

Detailed Analysis

The bill: (1) increases the penalties for fleeing from law enforcement, (2) requires law enforcement entities to have a specified policy governing the pursuit of a motor vehicle, and (3) prohibits hooning and being a spectator at a hooning event.

Fleeing law enforcement

The bill increases the general penalty for a violation of willfully eluding or fleeing a police officer from a first degree misdemeanor to a fourth degree felony.¹ If the flight was immediately after the commission of a felony, the bill increases the penalty from a fourth degree felony to a third degree felony. As a result, the bill may shift some misdemeanor cases from the jurisdiction of a municipal or county court to the jurisdiction of a court of common pleas, the court with jurisdiction over felony-level cases. This means that municipal and county courts may experience a minimal reduction in their annual criminal justice expenditures related to investigating, prosecuting, defending (if indigent), adjudicating, and sanctioning certain offenders. Conversely, county courts of common pleas may experience an increase in their annual criminal justice expenditures from those shifted cases, as felonies tend to be more time consuming and costly to dispose of. Local sanctioning costs may be higher for those cases as well.

Based on conversations with statewide associations that represent local criminal justice systems, the number of these type of cases varies significantly by court, with urban and suburban courts seeing them more frequently than more rural areas. It should be noted that cases involving fleeing from law enforcement typically involve other charges, frequently other traffic offenses, which are generally misdemeanors, but may also include felonies. This effectively means that the number of cases that may be transferred from a municipal or county court under the bill to a court of common pleas may be reduced to some degree depending on the other charges against an individual. For example, if an individual were charged with fleeing law enforcement as well as with theft of a motor vehicle, or drug possession/trafficking, which are felonies, that case is likely to end up in a court of common pleas, regardless of the bill's penalty enhancement.

Data obtained from the Ohio State Highway Patrol from 2017 through 2021 indicates that troopers were involved in a total of 2,308 cases that involved charges for fleeing law enforcement. Of those, 1,561, or 67.6%, were charged as felonies. It is unclear how many of the remaining 747 charges may have also involved the commission of a separate felony. Based on that data, while these charges are not uncommon, it appears that the number of cases that may be impacted by the bill (specifically those elevating from a misdemeanor to felony) is likely to be relatively small within the context of any given court's overall caseload. Any resulting impact is not likely to exceed minimal.

Penalty enhancement

As a result of the bill's penalty enhancement, a relatively small number of offenders may be sentenced to a state prison or juvenile correctional facility, or may be required to serve a longer term of incarceration, than would have otherwise been the case under existing law. This may result in increased annual incarceration/supervision expenditures for the Department of Rehabilitation and Correction and care and custody costs for the Department of Youth Services. Under current law, in the case of fourth and fifth degree felonies, there is a presumption generally in favor of a community control rather than the imposition of a prison term. The table

¹ The bill also increases the license suspension that is currently imposed for fleeing a police officer with a motor vehicle from a class 5 to a class 2 suspension. Presumably this will not impact the Bureau of Motor Vehicles (BMV), as the license reinstatement process is the same, regardless of the length of the suspension.

below shows the existing penalties for fleeing law enforcement as well as the penalty enhancements under the bill.

Offense Level	Fine	Term of Incarceration
Felony, 3 rd degree	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
		12, 18, 24, 30, 36, 42, 48, 54, or 60 months definite 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

*The longer sentence range applies to aggravated vehicular homicides and assaults, sexual battery, gross sexual imposition, sex with a minor, and robbery or burglary with two or more separate aggravated or nonaggravated robberies or burglaries.

Fines, court costs, and fees

As a result of shifting some misdemeanor cases to felony cases, municipalities may lose some amount of court cost, fine, and fee revenue that may otherwise have been collected and counties may gain court cost, fine, and fee revenue from cases that may not otherwise have been under their jurisdiction. The amount of state court costs collected for those cases shifted from a misdemeanor to a felony will increase as well. The table below lists the financial penalties imposed for convictions generally, as well as the recipients of that revenue.

Financial Penalty Component	Amount Paid by Violator	Recipient of Amount
Fine	Varies by offense	<ul style="list-style-type: none"> ▪ Retained by county if violation of state law ▪ Retained by municipality if violation of local ordinance ▪ Credited to the state Security, Investigations, and Policing Fund (Fund 8400) if violator is cited by the Ohio State Highway Patrol
Local court costs and fees	Varies by local jurisdiction	Generally retained by the county or municipality with jurisdiction over the violation
State court costs	\$29	<p style="text-align: center;">Misdemeanor</p> <p style="text-align: center;">Deposited in the State Treasury as follows:</p> <ul style="list-style-type: none"> ▪ \$20 to the Indigent Defense Support Fund (Fund 5DY0) ▪ \$9 to the Victims of Crime/Reparations Fund (Fund 4020)

Table 2. Fines, Court Costs, and Fees Generally		
Financial Penalty Component	Amount Paid by Violator	Recipient of Amount
State court costs	\$60	<p style="text-align: center;">Felony</p> <p style="text-align: center;">Deposited in the State Treasury as follows:</p> <ul style="list-style-type: none"> ▪ \$30 to the Indigent Defense Support Fund (Fund 5DY0) ▪ \$30 to the Victims of Crime/Reparations Fund (Fund 4020)

Policies – pursuit of a motor vehicle

The bill requires law enforcement entities to adopt a written policy governing the pursuit of a motor vehicle within 120 days of the bill’s effective date that includes specified minimum standards. These standards essentially mirror to some extent the vehicle pursuit standard adopted by the Ohio Collaborative Community-Police Advisory Board (Ohio Collaborative).² The bill also specifies that: (1) a law enforcement entity that has a policy in effect on the bill’s effective date and that meets the specified criteria is not required to adopt a new policy, and (2) a law enforcement entity that has such a policy is prohibited from ending that policy without first adopting a new one that also includes all of the bill’s definitions, requirements, provisions, descriptions, and specifications.

All law enforcement entities are currently required to have a policy regarding motor vehicle pursuits but existing law does not specify what the policy should contain. According to a 2022 annual report issued by the Ohio Collaborative, around 300 of Ohio’s 877 law enforcement agencies have already either voluntarily adopted the Collaborative vehicle pursuit standard or are in the process of doing so, thus those entities would be exempt from adopting a new policy under the bill. This means that depending on the content of existing policies, there may be more than 500 local law enforcement entities statewide that may experience a one-time increase in administrative costs in order to adopt the required motor vehicle pursuit policy.³ In addition, costs may be incurred to provide training for law enforcement on the new policy as necessary. The costs incurred by any given law enforcement entity to adopt the bill’s new policy are expected to be minimal.

Hooning

The bill prohibits generally the act of hooning and being a spectator at a hooning event. Under the bill, hooning is defined as “operating a motor vehicle in a reckless or dangerous manner to provoke a reaction from spectators by speeding; street racing; performing doughnuts,

² The Collaborative, which is comprised of a multidisciplinary group of Ohioans that include law enforcement, community members, elected officials, academia, and the faith-based community, was created by executive order in 2015 to improve community-police relations and was charged with creating uniform minimum standards for all law enforcement agencies.

³ All seven state law enforcement agencies, including the Ohio State Highway Patrol, have adopted the Collaborative standard.

burnouts, drifting, rapid acceleration, squealing tires, or engine revving; or allowing passengers to ride partially or fully outside of the motor vehicle.” The bill classifies hooning as a first degree misdemeanor and specifies it as a strict liability offense. The bill also specifies that an offender convicted of hooning, is subject to a potential order for restitution if the offender fails to provide proof of insurance, a mandatory class 5 license suspension, and that the vehicle involved is subject to seizure and forfeiture.

Based on conversations with statewide associations that represent local criminal justice systems, including law enforcement, as well as the Ohio State Highway Patrol, hooning behavior can already be charged under existing law. As a result, the bill’s hooning prohibition is not likely to result in the generation of additional cases for courts to adjudicate but may elevate the offense level and possible penalties in certain cases. The table below compares the bill’s hooning offense with the existing offenses for which such behavior has been charged under existing law by offense level. It should be noted that hooning behavior has also been charged under disturbing the peace, a local ordinance, the penalties for which vary by jurisdiction.

Table 3. Penalties for Hooning and Hooning Behavior Under Existing Law, Generally			
Offense Level	Offense	Fine	Incarceration
1 st Degree Misdemeanor	Hooning (created under the bill, H.B. 56)	Up to \$1,000	Jail, not more than 180 days
	Street racing (<i>R.C. 4511.251</i>)		
Minor Misdemeanor	Disorderly conduct* (<i>R.C. 2917.11</i>)	Up to \$150	Citation issued; No jail
	Reckless operation of a motor vehicle* (<i>R.C. 4511.20</i>)		
	Riding outside of a vehicle* (<i>R.C. 4511.51</i>)		

*These offenses, based on circumstances present, can elevate to a fourth or third degree misdemeanor, subject to a fine of up to \$250 or \$500, respectively, and a jail term of not more than 30 or 60 days, respectively.

As seen in the table, the practical effect of creating a specific hooning offense is that under the bill, the penalty for certain offenses could elevate from a minor misdemeanor to a first degree misdemeanor, meaning that instead of a potential fine of up to \$150, an offender convicted under the bill could face a possible jail term in a locally operated jail not to exceed 180 days, a potential fine of up to \$1,000, or both. Street racing, which could also be charged as hooning under the bill is already a first degree misdemeanor, so the bill would have no impact on any possible fine or term of incarceration.

Hooning complicity (“being a spectator at a hooning event”)

Under the bill, a spectator at a hooning event may be charged for hooning complicity and found guilty of an unclassified misdemeanor. The bill specifies that the offender cannot be sentenced to a jail term or community residential sanction for being a spectator of a hooning event, but the offender may be fined up to \$1,000. This means that municipal and county courts may experience some increase in cases to adjudicate if people are charged under the bill as being a spectator at a hooning event. The magnitude of any increase in cases and corresponding

additional workload will vary by court. Since hooning is more prevalent in urban areas, courts that are located in those areas may be more likely to see these types of cases. However, the impact experienced by any given court is not expected to exceed minimal annually.