Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 128 of the 128th G.A. **Date**: May 12, 2009

Status: As Introduced **Sponsor**: Rep. R. Hagan

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Mandatory fines, license suspensions, and points assessments for certain traffic offenses that result in serious physical harm or death

State Fiscal Highlights

STATE FUND	FY 2010 – FUTURE YEARS
Highway Safety Education Fund (New Fund)	
Revenues	Potential gain of up to $5,000 from certain traffic offense fines
Expenditures	Increase, up to available revenues
State Bureau of Motor Vehicles Fund (Fund 4W40)	
Revenues	Potential gain of up to $3,000 in license reinstatement fees
Expenditures	Likely negligible cost to process additional license suspensions

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- **Highway Safety Education Fund.** If, as assumed in this analysis, the bill's penalty provisions could affect up to 100 traffic offense-related cases annually statewide, and all of those sanctioned offenders pay the mandatory fine amount, then the annual revenue stream for the Highway Safety Education Fund could be up to between $2,500 and $5,000, depending on the mix of circumstances involving serious physical harm versus the death of another in any given year.

- **State Bureau of Motor Vehicles Fund (Fund 4W40).** Presumably, no more than one year after the imposition of a license suspension pursuant to the bill's mandatory penalty increases, the sanctioned offenders would apply to the Bureau of Motor Vehicles for the reinstatement of their driving privileges. Although the timing of these license reinstatements is rather problematic to predict, it seems reasonable to conclude that the number of offenders paying the $30 license reinstatement fee would be around 100 or so per year. If true, then the additional revenue generated annually for deposit in Fund 4W40 would be up to around $3,000 or so. It seems likely that the bill's license suspension provisions would create little to no readily discernible ongoing costs to the state, in particular the Bureau of Motor Vehicles.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 – FUTURE YEARS
Counties	
Revenues	Potential gain in fine moneys of up to between $47,500 and $95,000 statewide
Expenditures	Little to no readily discernible additional costs
Municipalities	
Revenues	- 0 -
Expenditures	Little to no readily discernible additional costs

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Local fine revenues.** For the purposes of this analysis, LSC fiscal staff has estimated that perhaps up to 100 traffic offense-related cases could be affected annually statewide, presumably resulting in an equivalent number of convictions in which the bill's mandatory fine amounts must be imposed by the court. It is not clear, however, the frequency with which the court will impose the maximum amount, nor is it clear how many of the convictions will involve circumstances of serious physical harm versus the death of another or how many offenders may be unwilling and/or financially unable to pay fines imposed by the court. Those caveats aside, if one assumes: (1) up to 100 convictions per year for circumstances involving serious physical harm or death of another, and (2) the court imposes and collects the maximum mandatory fine in each of those circumstances, then the amount of fine revenue that could be generated annually for deposit in county treasuries statewide would be up to between $47,500 ($475 x 100 serious physical harm convictions) and $95,000 ($950 x 100 death of another convictions) per year.

- **Local criminal justice system expenditures.** Subsequent to its enactment, it appears that the bill would affect a relatively small subset of traffic offense-related cases that are currently handled by county and municipal criminal justice systems. If true, then the bill's penalty increase provisions will likely generate little to no readily discernible additional costs for local criminal justice systems to resolve certain traffic offense cases that result in serious physical harm or the death of another.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the bill most notably:

- Requires the sentencing court to impose specified fines, license suspensions, and points assessments for certain traffic offenses that result in serious physical harm or the death of another.
- Establishes in the state treasury the Highway Safety Education Fund, consisting of portions of the fines identified in the preceding dot point and specifies that the Department of Public Safety is to use the money only to pay for educational activities that relate to highway safety.

Penalty increases for certain traffic offenses

The bill requires the court to impose increased penalties if a person is convicted of, or pleads guilty to, a violation of failing to maintain an assured clear distance or any of several variations of failure to yield when the violation resulted in serious physical harm to, or the death of, another person as follows:

- If the violation results in serious physical harm to a person, then in addition to any other penalty imposed for the offense, the court is required to impose: (1) a mandatory fine not to exceed $500, (2) a mandatory suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under a Class 8 suspension, which is not to exceed six months, and (3) a mandatory assessment of at least two points, with discretion to assess an increased amount of points, up to a total of four, against the offender's license, permit, or privilege.
- If the violation results in the death of another, then in addition to any other penalty imposed for the offense, the court is required to impose: (1) a mandatory fine not to exceed $1,000, (2) a mandatory suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under a Class 7 suspension, which is not to exceed one year, and (3) a mandatory assessment of at least two points, with discretion to assess an increased amount of points, up to a total of six, against the offender's license, permit, or privilege.

Impact on caseloads

The increased penalties provided by the bill will be in addition to whatever other penalties the sentencing would impose in a particular case under current law and sentencing practices. If an offender fails to maintain an assured clear distance or fails to yield the right of way, and serious physical harm or death to another occurs as a result of the offense, in most cases that individual would face a more serious charge than the

existing minor misdemeanor "assured clear distance" or "failure to yield" traffic offenses. It seems more likely that such an offender would be charged with vehicular homicide, vehicular manslaughter, or vehicular assault, depending on the circumstances present.

Traffic offense conviction data from the Department of Public Safety indicates that, in 2006, there were more than 165,000 convictions statewide for minor misdemeanor traffic offenses involving failure to maintain an assured clear distance, or some form of failure to yield the right of way. Most of these did not involve serious physical harm to, or the death of, another person, which is suggested by the fact that the same data indicates that there were between 350 and 400 convictions statewide involving the offenses of vehicular assault, vehicular manslaughter, and vehicular homicide, circumstances where serious physical harm or death of another person would have resulted. Based on LSC fiscal staff's research, it seems likely that some subset, but not all, of these convictions for serious traffic-related offenses would also have involved the bill's penalty increases for failure to maintain an assured clear distance or failure to yield the right of way.

For the purposes of this analysis, LSC fiscal staff has assumed that up to one-quarter, or 25%, of these 350 to 400 serious traffic-related offense convictions reported in 2006 also involved failure to maintain an assured clear distance or failure to yield the right of way. If true, and future traffic offense convictions more or less mirror Public Safety's 2006 data, then, subsequent to the bill's enactment, perhaps up to 100 traffic offense-related cases could be affected annually statewide (400 serious traffic-related offense convictions x 25%). LSC fiscal staff does not have the data at hand to render a more precise estimate of the number of traffic offense-related cases that could potentially be affected per year.

Additionally, there is the possibility that certain courts adjudicating such matters may determine that the homicide or assault offenses and the traffic offenses as specified in the bill would constitute allied offenses of similar import and only allow the penalty for either the homicide or assault offense or the assured clear distance or failure to yield offenses as specified in the bill to be imposed, but not both. To the extent that courts make such a ruling, even fewer cases than estimated herein would likely be affected by the bill's penalty increases. It is also not clear that all courts would so decide with respect to the similarity of these offenses.

State fiscal effects

State revenues

Highway Safety Education Fund. The bill establishes in the state treasury the Highway Safety Education Fund, consisting of the first $25 of the mandatory fine of not more than $500 for a violation that resulted in serious physical harm to another and the first $50 of the mandatory fine of not more than $1,000 for a violation that resulted in

the death of another. The bill requires the Department of Public Safety to use the money in the fund only to pay for educational activities that relate to highway safety.

If, as assumed in this analysis, the bill's penalty provisions could affect up to 100 traffic offense-related cases annually statewide, and all of those sanctioned offenders pay the mandatory fine amount, then the annual revenue stream for the Highway Safety Education Fund could be in the range of up to between $2,500 and $5,000, depending on the mix of circumstances involving serious physical harm versus the death of another in any given year.

State Bureau of Motor Vehicles Fund. Relative to license suspensions, the bill:

- Adds a new class of judicial suspensions, a Class 8 suspension, specifies that a Class 8 suspension is to be for a definite period not to exceed six months, and requires the court to impose a Class 8 suspension for certain traffic offenses if the offense results in serious physical harm to another.
- Increases for certain traffic offenses, if the violation results in the death of another, the license suspension that the court must impose to a Class 7 suspension, which exists under current law and is for a definite period not to exceed one year.

Under current law, unchanged by the bill, the fee to reinstate a license suspended under any of the circumstances noted immediately above would be $30. The $30 fee is deposited in the state treasury to the credit of the State Bureau of Motor Vehicles Fund (Fund 4W40).

If, as assumed in this analysis, the bill will result in up to 100 offenders having their licenses suspended that would not otherwise have been suspended under current law and sentencing practices, then presumably no more than one year after the imposition of such a suspension, the affected offenders would apply to the Bureau of Motor Vehicles for the reinstatement of their driving privileges. Although the timing of these license reinstatements is rather problematic to predict, it seems reasonable to conclude that the number of offenders paying the $30 license reinstatement fee would be around 100 or so per year. If true, then the additional revenue generated annually for deposit in Fund 4W40 would be up to around $3,000 or so.

State expenditures

It seems likely that the bill's license suspension provisions would create little to no readily discernible ongoing costs to the state, in particular the Bureau of Motor Vehicles.

Local fiscal effects

Local fine revenues

The bill requires, in certain traffic offense cases, the court impose a mandatory fine of not more than $500 for a violation that resulted in serious physical harm to another and a mandatory fine of not more than $1,000 for a violation that resulted in the

death of another. Of those fine amounts, the first $25 of the former mandatory fine amount ($500) and the first $50 of the latter mandatory fine amount ($1,000) are forwarded to the state treasury. The remaining portions of these fine amounts – which could be as much as $475 and $950, respectively – would presumably be deposited in the treasury of the county in which the trial court is located. This would appear to be the case because the general fine distribution rules applicable in Ohio's criminal actions or proceedings require that, absent exceptions and special crediting provisions, fines collected for violations of the Revised Code generally must be paid into the treasury of the county in which the trial court is located. LSC fiscal staff has not identified any such exceptions or special crediting provisions relative to the handling of the mandatory fine amounts that the bill requires the court to impose. Thus, the general fine distribution rules would apply to the portions of the mandatory fine amounts that are not forwarded to the state treasury.

As previously noted, LSC fiscal staff has estimated that perhaps up to 100 traffic offense-related cases could be affected annually statewide, presumably resulting in an equivalent number of convictions in which the bill's mandatory fine amounts must be imposed by the court. The fines, as specified by the bill, are of an amount not to be exceeded. It is not clear, however, the frequency with which the court will impose the maximum amount, nor is it clear how many of the convictions will involve circumstances of serious physical harm versus the death of another or how many offenders may be unwilling and/or financially unable to pay fines imposed by the court.

Those caveats aside, if one assumes: (1) up to 100 convictions per year for circumstances involving serious physical harm or death of another, and (2) the court imposes and collects the maximum mandatory fine in each of those circumstances, then the amount of fine revenue that could be generated annually for deposit in county treasuries statewide would be in the range of up to between $47,500 ($475 x 100 serious physical harm convictions) and $95,000 ($950 x 100 death of another convictions) per year.

Local criminal justice system expenditures

Subsequent to its enactment, it appears that the bill would affect a relatively small subset of traffic offense-related cases that are currently handled by county and municipal criminal justice systems, but should not create additional or new traffic offense-related cases requiring resolution by either of those local criminal justice systems. If true, then the bill's penalty increase provisions will likely generate little to no readily discernible additional costs for local criminal justice systems to resolve certain traffic offense cases that result in serious physical harm or the death of another.