



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 90 of the 129th G.A.

**Date:** March 29, 2011

**Status:** As Introduced

**Sponsor:** Rep. Driehaus

**Local Impact Statement Procedure Required:** No

**Contents:** Increases the penalty for assaulting a uniformed law enforcement volunteer

### State Fiscal Highlights

STATE FUND	FY 2012 – FUTURE YEARS
<b>General Revenue Fund (GRF)</b>	
Revenues	- 0 -
Expenditures	Potential, likely no more than minimal, annual incarceration cost increase
<b>Victims of Crime/Reparations Fund (Fund 4020)</b>	
Revenues	Potential, likely negligible, annual gain in court cost revenues
Expenditures	- 0 -
<b>Indigent Defense Support Fund (Fund 5DY0)</b>	
Revenues	Potential, likely negligible, annual gain in court cost revenues
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2012 is July 1, 2011 – June 30, 2012.

- **Incarceration expenditures.** As a result of the bill's penalty enhancement, there could be a small number of additional offenders/juveniles sentenced to a state prison/juvenile correctional facility and offenders serving longer prison terms, the results of which may be a no more than minimal annual increase in the institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services.
- **Court cost revenues.** There may be a negligible annual gain in the amount of the locally collected court cost that is credited to the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0), as a few additional adult and juvenile offenders may be found to have committed felony assault rather than misdemeanor assault.

# Local Fiscal Highlights

**LOCAL GOVERNMENT**

**FY 2011 – FUTURE YEARS**

**Counties**

Revenues	Potential gain in court costs and fines, likely to be no more than minimal annually
Expenditures	Potential increase in criminal and/or juvenile justice system operating costs, likely to be no more than minimal annually

**Municipalities**

Revenues	Potential loss in court costs and fines, likely to be no more than minimal annually
Expenditures	Potential decrease in criminal justice system operating costs, likely to be no more than minimal annually

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

- **Local expenditures generally.** The bill will shift a relatively small number of misdemeanor assault cases from a municipal court or a county court to a court of common pleas. As a result, municipalities may experience a minimal reduction in the amount of their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders. Conversely, counties could experience a minimal increase in their annual criminal and juvenile justice system expenditures, as felonies are typically more time consuming and expensive to resolve and the local sanctioning costs can be higher as well.
- **Local court cost and fine revenues generally.** As the result of the enhancement of a relatively small number of assault cases from a misdemeanor to a felony, municipalities may lose a minimal amount of court cost and fine revenue that might otherwise have been collected and counties may gain a minimal amount of court cost and fine revenue from cases that might otherwise not have been under their subject matter jurisdiction.

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## Detailed Fiscal Analysis

### Overview

The bill increases the penalty for committing felonious assault, aggravated assault, or assault against a uniformed law enforcement volunteer to mirror the assault penalties when the victim is a peace officer or a Bureau of Criminal Identification and Investigation investigator. The assumptions guiding the fiscal effect of this penalty enhancement are as follows:

- Existing prohibitions are already applicable to the conduct addressed by the bill, which means the effect will be to increase the seriousness of the potential penalty;
- The number of cases that might be affected in any given local criminal justice system is likely to be relatively small given the rather specific application of the assault statutes in the bill;
- Certain cases will shift from the jurisdiction of a municipal or county court to the jurisdiction of a court of common pleas; and
- Certain offenders/juveniles will receive a more serious sanction, including a term in a state prison or juvenile correctional facility or a longer term than might otherwise have been imposed.

### Degree of offense

#### Assault penalty enhancements

Felonious assault and aggravated assault are felonies under current law; the bill increases the degree of offense to the next higher degree if the victim is a uniformed law enforcement volunteer. In the case of assault, the bill increases the degree of offense from a misdemeanor to a felony. Table 1 below compares current law to the bill's proposed penalty enhancements.

Table 1. Penalties When Victim is Citizen on Patrol		
Offense	Degree of Offense	
	Current Law	The Bill
Felonious assault	Felony 2nd degree	Felony 1st degree*
Aggravated assault	Felony 4th degree	Felony 3rd degree*
Assault	Misdemeanor 1st degree	Felony 4th degree*

\*Mandatory prison term if serious physical harm.

### State expenditures

As a result of the bill's penalty enhancement: (1) additional adult offenders could be sentenced to prison or additional juvenile offenders could be committed to the state, which will increase the annual incarceration costs for the Department of Rehabilitation and Correction (DRC) or the care and custody costs for the Department

of Youth Services (DYS), and (2) some offenders will serve longer sentences than would otherwise be served under current law. To the extent that additional years are served due to felony enhancements, DRC's GRF incarceration related expenses will increase accordingly. Any resulting increase in DRC's incarceration costs or DYS's care and custody costs would be no more than minimal annually. This is because the number of additional adult or juvenile offenders that could be sentenced to prison or committed to the state, as well as the impact of any additional years served in prison, is likely to be relatively small in comparison to the existing number of offenders in state prisons (close to 50,500) and juvenile correctional facilities (around 750).

### **Local expenditures**

As noted, the number of criminal and juvenile cases that will be affected by the bill's penalty enhancement is likely to be relatively small, especially in the context of a local jurisdiction's total criminal caseload. Thus, any potential decrease in municipal criminal justice system expenditures and any potential increase in county criminal and juvenile justice system expenditures would likely be no more than minimal annually.

The bill's penalty enhancement could affect local expenditures on certain criminal and juvenile cases in two ways. First, certain criminal cases that would have been handled by a municipal court or a county court as misdemeanors under existing law will shift to a court of common pleas where they will be handled as felonies and offenders could be subjected to more serious sanctions. As a result, municipalities may lose some of their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders. Conversely, counties could experience an increase in their annual criminal justice system expenditures, as felonies are typically more time consuming and expensive to resolve and the local sanctioning costs can be higher as well. Second, offenders who are young enough to be processed through the juvenile courts would also face the possibility of more serious penalties and sentencing. As a result, the annual costs to county juvenile justice systems to resolve these cases and appropriately sanction the offending juvenile may rise.

### **State and local revenues**

The state may gain locally collected court cost revenue for the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0), as the state court cost imposed on an offender/juvenile and paid to Fund 4020 is higher for a felony than a misdemeanor: \$30 versus \$9. The amount that the fund may gain, however, is likely to be negligible, as the number of affected criminal and juvenile cases is likely to be relatively small.

The following annual revenue effects are possible: (1) municipalities may lose a minimal amount of court cost and fine revenue, (2) counties may gain a minimal amount of court cost and fine revenue, and (3) the state may gain a negligible amount of locally collected state court costs.

As the penalty enhancement could shift certain cases involving adult offenders out of a county court or a municipal court (which handle misdemeanors) and into a court of common pleas (which handle felonies), this creates a potential loss of court cost and fine revenue for municipalities. Conversely, it creates the possibility that counties may gain court cost and fine revenue. It is also possible that juvenile offenders may be fined higher amounts than would otherwise have been the case under current law and sentencing practices. As the number of affected criminal and juvenile cases will likely be relatively small, the amount of annual court cost and fine revenue that municipalities might lose and counties might gain would be no more than minimal.

### **Sentences and fines for certain offenses generally**

Table 2 below summarizes current law's sentences and fines generally for the felony and misdemeanor offense levels affected by the bill.

<b>Table 2. Sentences and Fines for Certain Offenses Generally</b>		
<b>Offense Level</b>	<b>Fine</b>	<b>Maximum Term</b>
Felony 1st degree	Up to \$20,000	3, 4, 5, 6, 7, 8, 9, 10 years' definite prison term
Felony 2nd degree	Up to \$15,000	2, 3, 4, 5, 6, 7, 8 years' definite prison term
Felony 3rd degree	Up to \$10,000	1, 2, 3, 4, 5 years' definite prison term
Felony 4th degree	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 months' definite prison term
Misdemeanor 1st degree	Up to \$1,000	Not more than 6-month jail stay