



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [Sub. H.B. 74 of the 130th G.A.](#)

**Date:** December 4, 2014

**Status:** As Reported by Senate Criminal Justice

**Sponsor:** Rep. Anielski

**Local Impact Statement Procedure Required:** No

**Contents:** Expands offenses of menacing by stalking and telecommunications harassment and enhances the penalty for certain assaults

### State Fiscal Highlights

- The bill's penalty changes may result in a few additional offenders being sentenced to a state prison or juvenile correctional facility. The fiscal effect would be a no more than minimal increase in the annual GRF institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services.
- There may be a negligible annual gain in the amount of revenue from court costs that is deposited into the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

### Local Fiscal Highlights

- The bill may have a minimal net annual fiscal effect on local criminal and juvenile justice systems. A relatively small number of new cases requiring adjudication may arise or shift jurisdictions. The result may be a small increase or decrease in the annual operating costs and revenues generated by these systems.

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## Detailed Fiscal Analysis

The bill expands the offenses of menacing by stalking and telecommunications harassment by specifying additional prohibited conduct and by extending the possible victims of the prohibited conduct to include a person's family or household member. Under existing law, unchanged by the bill, the offenses of menacing by stalking and telecommunications harassment generally are a misdemeanor of the first degree, and in certain specified circumstances, including prior convictions, the offense may be a felony of the fourth or fifth degree.<sup>1</sup>

By expanding menacing and harassment offenses, certain conduct that may or may not be illegal, or more difficult to prosecute, under current law will become somewhat easier to prosecute. The result could be a small increase in the number of offenders charged, prosecuted, and convicted of menacing or harassment.

The bill also increases the penalty for assault when the victim is a volunteer firefighter from a misdemeanor of the first degree to a felony of the fourth degree.

### State fiscal effects

#### Incarceration expenditures

As a result of the bill's penalty changes additional offenders could be sentenced to a state prison or juvenile correctional facility.

Relative to the size of the state's prison population (approximately 51,000) and the number of offenders sentenced to prison annually (around 20,000), the number of offenders that could be sentenced to prison is likely to be relatively small and the associated incarceration costs minimal. The marginal cost for the Department of Rehabilitation and Correction to incarcerate a few additional offenders is estimated at \$3,600 per year per offender.

The Department of Youth Services' (DYS) average daily population is around 500. The marginal cost to add a juvenile to that population is about \$27.60 per day, or around \$10,000 per year. This suggests that adding a relatively small number of juveniles to that population in any given year will result in no more than a minimal increase in DYS's annual institutional care and custody costs.

#### Court cost revenue

A few additional felony and misdemeanor convictions stemming from the bill may generate a negligible annual amount of state court cost revenue that is collected locally and forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The state court costs total \$60 for a felony and \$29 for a misdemeanor. The

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<sup>1</sup> The offense of telecommunications harassment is a felony of the third degree if the violation results in economic harm of \$150,000 or more.

\$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020. The \$29 misdemeanor amount is divided as follows: \$20 to Fund 5DY0 and \$9 to Fund 4020. It is also important to note that collecting court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unable or unwilling to pay.

## **Local criminal and juvenile justice systems**

### **Menacing and telecommunications harassment**

Any additional annual costs for local criminal and juvenile justice systems to prosecute, adjudicate, and sanction a few additional offenders that might be convicted as a result of the bill's expanded prohibitions are not expected to exceed minimal. Subsequent to a conviction, the court generally imposes local court costs and a fine to be paid by the offender, and if collected, deposited in the county treasury. Given the relatively small number of likely convictions, the amount of additional court cost and fine revenues that counties and municipalities may actually collect annually will be no more than minimal. Also of note is that courts rarely impose the maximum permissible fine.

### **Assaults**

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

The bill's penalty enhancement could affect local expenditures on certain 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 see some small 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 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.

## Sentences and fines for certain offenses generally

The table below summarizes current law's sentences and fines generally for felonies of the fourth and fifth degree and a misdemeanor of the first degree.

<b>Sentences and Fines for Certain Offenses Generally</b>		
<b>Offense Level</b>	<b>Fine</b>	<b>Possible Term of Incarceration</b>
4th Degree Felony	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18-month prison term
5th Degree Felony	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12-month prison term
1st Degree Misdemeanor	Up to \$1,000	Not more than 180-day jail term

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