



Ohio Legislative Service Commission

Garrett Crane

Fiscal Note & Local Impact Statement

Bill: Am. H.B. 355 of the 130th G.A.

Date: June 3, 2014

Status: As Reported by House Judiciary

Sponsor: Reps. Driehaus and Blair

Local Impact Statement Procedure Required: No

Contents: Transit system employee assaults and fare evasion

State Fiscal Highlights

- The bill's penalty enhancements will have no discernible effect on the state's incarceration expenditures and court cost revenues collected from felony offenders.

Local Fiscal Highlights

- The bill's penalty enhancements will affect a relatively small number of misdemeanor and felony cases, with minimal changes in the annual revenues and expenditures of county and municipal criminal justice systems.

Detailed Fiscal Analysis

Transit system employee assault

In relation to assaulting an employee of a transit system, the bill: (1) increases the penalty from a first degree misdemeanor to a fifth degree felony or fourth degree felony depending on the circumstances, and (2) in the case of the fifth degree felony, increases the maximum fine from \$2,500 to \$5,000. Correspondence with transit system security officials indicates that assaults are infrequent, although different jurisdictions record these incidences differently.

Under current law, the sentences and fines for a first degree misdemeanor and felonies of the fifth and fourth degree can be described as follows:

- For a first degree misdemeanor, the court is permitted to impose a jail stay of not more than 180 days, a fine of not more than \$1,000, or both.
- For a fifth degree felony, the court is permitted to impose a definite prison term of 6-12 months, a fine of not more than \$2,500, or both.
- For a fourth degree felony, the court is permitted to impose a definite prison term of 6 to 18 months, a fine of not more than \$5,000, or both.

The bill will effectively shift a relatively small number of misdemeanor assault cases from the subject matter jurisdiction of a municipal or county court to the felony jurisdiction of a court of common pleas. Any case processing and adjudication cost savings for municipalities and related cost increase for counties will be minimal annually. The fine and court cost revenue that municipalities may lose and counties may gain will also be minimal annually.

As a result of this penalty enhancement, it is also possible that there may be fiscal effects for the state. By elevating the assault offense to a felony, the court could sentence an offender to a term in prison, and the state court cost assessed a felon (\$60) is slightly higher than that for a misdemeanor (\$29). The number of offenders likely to be affected in this manner is going to be so small that any increase in state incarceration costs and revenues will not be discernible.

Fare evasion

The bill increases the penalty for evading the payment of the known fares of a public transportation system from a fourth degree misdemeanor to a second degree misdemeanor. There will be no increase in the misdemeanor cases under the subject matter jurisdiction of a municipal or county court, but the offender will face the possibility of more serious sanctions.

According to information entered into the Ohio Incident-Based Reporting System, from 2008 through 2011, there were, on average, less than one hundred incidences per year statewide.

Under current law, unchanged by the bill, the sentences and fines for a misdemeanor can be described as follows:

- For a fourth degree misdemeanor, the court is permitted to impose a jail stay of not more than 30 days, a fine of not more than \$250, or both.
- For a second degree misdemeanor, the court is permitted to impose a jail stay of not more than 90 days, a fine of not more than \$750, or both.

Thus, under the bill, the judge of a municipal or county court could impose a longer jail stay and higher fine amount. Current practice indicates, however, that it is highly unlikely that the judge, in a fare evasion case, would impose the maximum jail stay and fine amount. It is also not unusual for fines to go uncollected, as some offenders are unwilling and/or unable to pay. Taken together, all of this information suggests that, in any given local jurisdiction, the number of misdemeanor cases that will be affected by the bill's penalty enhancement will be relatively few in number and that any resulting increase in costs to process and sanction offenders will be minimal annually and any related gain in fine revenue will be minimal as well.