

Fiscal Note & Local Impact Statement

126th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL:	H.B. 214	DATE:	June 2, 2005
STATUS:	As Introduced	SPONSOR:	Rep. Hughes
LOCAL IMPACT STATEMENT REQUIRED:	No —	Minimal cost	
CONTENTS:	Removes clerks of court from the procedures regarding the filing by private persons of affidavits alleging that a person committed a criminal offense		

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2005	FY 2006	FUTURE YEARS
Counties and Municipalities			
Revenues	No fiscal effect	No fiscal effect	No fiscal effect
Expenditures	Minimal effect	Minimal effect	Minimal effect

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

- ***Local effects generally.*** There are at least two potential workload-related effects that the bill's provisions could trigger for local government expenditures, in particular for counties and municipalities. First, if affidavits that might otherwise have been filed with a clerk of court or a magistrate are instead filed with the appropriate judge or prosecuting attorney, then the workload and any associated costs theoretically at least shift from the former to the latter. Second, if, as a result of the bill's enactment, fewer affidavits are filed in some local jurisdictions than might otherwise have been the case under current law and practice, then some reduction in workload and related costs for the affected local jurisdictions is at least theoretically possible.
- ***Local expenditures.*** As of this writing, the magnitude of the shift in affidavit filings that might occur as a result of the bill in any affected local jurisdiction is uncertain. That said, based on somewhat anecdotal information, it appears that the net fiscal effect on the annual operating costs of any affected local jurisdiction will generally be minimal. For the purposes of this fiscal analysis, "minimal effect" means that whether the bill results in net increase or decrease in the amount of time and money expended by any affected local jurisdiction on such matters is uncertain, but the magnitude of that change, whatever its direction, would be no more than minimal. In this case, "minimal" means an estimated cost or savings of no more than \$5,000 per year for any affected county or municipal criminal justice systems. Also notable is that these potential consequences may manifest themselves more in terms of the efficiencies of a given affected local criminal justice system than quantifiable costs or savings.
- ***Local revenues.*** As there is no fee charged for the filing of such affidavits, the bill's provisions have no readily discernible implications for local government revenues.

Detailed Fiscal Analysis

Fiscally notable provisions

For the purposes of this fiscal analysis, relative to the filing of an accusation by affidavit to cause arrest or prosecution, the bill most notably:

- Eliminates a private citizen's authority to file an affidavit charging an offense with the clerk of a court of record or a magistrate.
- Retains the authority of a private citizen to file such an affidavit with the judge of a court of record or an attorney charged by law with prosecuting offenses but specifies that the purpose of the filing is for review to determine if the prosecutor should file a complaint.

Filing certain affidavits under current law and practice

Current law permits a peace officer or a private citizen, in order to cause the arrest or prosecution of a person, to: (1) file an affidavit with

the judge or clerk of a court of record or with a magistrate charging the person with committing an offense, or (2) file an affidavit with the appropriate prosecuting attorney for the purpose of having a complaint filed by said prosecuting attorney.

Relative to the role of a clerk of court in these matters, based on LSC fiscal staff's research, it appears that, although a clerk apparently has the legal authority to determine whether the claims in the affidavit have merit, many do not typically have the legal training to make such a decision. According to a member of the Ohio Clerk of Courts Association, with a few possible exceptions, clerks of courts are not making such decisions. In large counties, such as Hamilton, Cuyahoga and Franklin, the clerk of courts is open twenty-four hours a day to accept filings by private citizens. In these counties, it is likely that the clerk of courts would simply verify that the affidavit has been completed appropriately, including use of the correct statutory citations, and subject to the occasional exception, make no other determination relative to merits of the affidavit.

Filing certain affidavits under the bill

As noted, the bill removes the clerk of court and a magistrate from the list of persons with whom a private person may file an affidavit to cause the arrest or prosecution of another person and requires such an affidavit to be filed with the appropriate judge or prosecuting attorney. At least two plausible practical effects could result from this change in the manner in which such affidavits are filed. First, the number of affidavits filed in any given affected local jurisdiction may decrease from the number that might otherwise have been filed absent the bill's enactment, as the legally available filing avenues are reduced. Second, in some local jurisdictions, the appropriate judge or prosecuting attorney may instead perform work that might otherwise have been performed by the clerk of court or a magistrate.

Local fiscal effects

Local expenditures

There are at least two potential workload-related effects that the bill's provisions could trigger for local government expenditures, in particular for counties and municipalities. First, if affidavits that might otherwise have been filed with a clerk of court or a magistrate are instead filed with the appropriate judge or prosecuting attorney, then the workload and any associated costs theoretically at least shift from the former to the latter. Conversations between LSC fiscal staff and a few clerks of courts suggests that, from the perspective of clerks of courts in general, there would be little or no real savings. An official associated with the Ohio Prosecuting Attorneys Association also expressed no concern that local prosecuting attorneys would suddenly be swamped with a large number of affidavits to be reviewed.

Second, if, as a result of the bill's enactment, fewer affidavits are filed in some local jurisdictions than might otherwise have been the case under current law and practice, then some reduction in workload and related costs for the affected local jurisdictions is at least theoretically possible.

As of this writing, LSC fiscal staff has not been able to acquire data on the frequency with which such affidavits are filed and with whom they are filed. Thus, the magnitude of the shift in affidavit filings that might occur as a result of the bill in any affected local jurisdiction is uncertain. That said, based on somewhat anecdotal information, it appears that the net fiscal effect on the annual operating costs of any affected local jurisdiction will generally be minimal. For the purposes of this fiscal analysis, "minimal effect" means that whether the bill results in net increase or decrease in the amount of time and money expended by any affected local jurisdiction on such matters is uncertain, but the magnitude of that change, whatever its direction, would be no more than minimal. In this case, "minimal" means an estimated cost or savings of no more than \$5,000 per year for any affected county or municipal criminal justice systems. Also notable is that these potential consequences may manifest themselves more in terms of the efficiencies of a given affected local criminal justice system than quantifiable costs or savings.

Local revenues

As there is no fee charged for the filing of such affidavits, the bill's provisions have no readily discernible implications for local government revenues.

State fiscal effects

The bill's provisions related to the filing of certain affidavits with certain local officials have no readily discernible fiscal implications for state revenues and expenditures.