

- **County criminal justice system revenues and expenditures.** The bill's criminal offense provisions could increase a given county criminal justice system's costs related to investigating, prosecuting, adjudicating, defending (if the offender is indigent), and subsequent sanctioning of certain offenders, as such offenders may work harder to avoid the imposition of a term, or a longer term, of incarceration in jail or prison. As the number of criminal cases likely to be affected by the bill appears to be relatively small, then any potential increase in any given county criminal justice system's expenditures and related gain in court cost and fine revenues seems unlikely to exceed minimal on an ongoing basis. For the purposes of this fiscal analysis, for any affected county criminal justice system, a minimal expenditure increase means an estimated cost of no more than \$5,000 per year and a minimal revenue gain means an increase in revenues estimated at no more than \$5,000 per year.
- **Municipal criminal justice system revenues and expenditures.** Arguably, from the perspective of municipal criminal justice systems, the bill's criminal offense provisions may: (1) shift criminal cases that would have been handled as misdemeanors under existing law to courts of common pleas, and (2) create additional misdemeanor impersonation cases. Theoretically at least, the former produces a potential cost savings (and related potential loss of court and fine revenues), while the latter produces a potential cost increase (and related potential gain of court cost and fine revenues). The number of cases, however, that could be affected in either manner in any given municipal criminal justice system annually appears likely to be relatively small. Assuming that were true, then any change in the annual operating costs or revenues of any given municipal criminal justice system seems unlikely to exceed minimal. For the purposes of this fiscal analysis, a minimal change means that, although its direction is uncertain, the magnitude is estimated at no more than \$5,000 for any affected municipal criminal justice system per year.
- **Testing costs.** As a result of the bill's expanded prohibitions, additional persons may be charged with the offense of harassment with a bodily substance and be required to submit to, and pay for, the appropriate test(s). As of this writing, however, LSC fiscal staff has not collected any information suggesting that there will be a noticeable increase in the number of additional persons that might be charged, tested, and determined to be unable to pay the testing costs in any given local criminal justice system. Assuming that were true, then any affected county or municipal criminal justice system appears unlikely to experience a problematic increase in testing costs.

Detailed Fiscal Analysis

Overview of the bill

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

- Renames the offense "harassment by an inmate" as "harassment with a bodily substance."
- Expands the renamed offense to additionally prohibit: (1) a person from causing or attempting to cause a "law enforcement officer" to come into contact with a bodily substance, a violation of which is a felony of the fifth degree under current law, and (2) a person with knowledge of certain health conditions from causing or attempting to cause "any person" to come into contact with a bodily substance, a violation of which is a felony of the third degree under current law.
- Prohibits the impersonation of a federal law enforcement officer, which under current law's impersonation prohibition is either a misdemeanor of the fourth degree, a misdemeanor of the first degree, a felony of the fourth degree, or a felony of the third degree.

Harassment with a bodily substance charges

Based on LSC fiscal staff's research, it seems most likely that a violation of the renamed and expanded harassment offense would most likely occur under a circumstance in which an individual was already facing arrest and prosecution. Such circumstances that jump readily to mind would be emotionally charged environments tied to disorderly conduct, resisting arrest, domestic violence, assault, or operating a motor vehicle while under the influence. Thus, rather than creating new criminal cases, arguably, the bill's expanded prohibitions will primarily permit a prosecuting attorney to stack more charges against an individual and possibly secure a more serious punishment than might otherwise have occurred under current law.

Local fiscal effects

Criminal cases generally. The bill's harassment provisions may affect county and municipal criminal justice systems in at least two ways. First, some persons whose criminal conduct would have been processed as a misdemeanor may face the possibility that a similar case in the future could be elevated to a felony. Second, some offenders who would likely have been prosecuted and sanctioned under existing law for a felony offense could face a potentially more serious punishment. As of this writing, it appears that the number of criminal cases that could be affected in either manner in any given local criminal justice system annually is likely to be relatively small.

Criminal justice system expenditures. One notable local effect of the bill's harassment provisions may be to shift a criminal case that would have been handled by a municipal court or a county court as a misdemeanor under existing law to a court of common pleas where such a case would be handled as a felony and the offender could be subjected to more serious sanctions. As a result, municipalities may shed some of their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning certain 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.

The number of offenders, however, that could be affected in this manner in any given county or municipal criminal justice system annually appears likely to be relatively small. Assuming that were true, then any decrease in the annual operating costs of any given municipal criminal justice system and any related increase in the annual operating costs of any given county criminal justice system seems unlikely to exceed minimal. For the purposes of this fiscal analysis, a minimal expenditure increase or decrease means an estimated cost increase or reduction of no more than \$5,000 for any affected county or municipal criminal justice system per year.

Court cost and fine revenues. As noted, one effect of the bill's harassment provisions may be to shift certain cases handled by county courts and municipal courts (which handle misdemeanors) into courts of common pleas (which handle felonies), creating 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 offenders may be convicted of a more serious felony offense and subsequently fined higher amounts than might otherwise have been the case under current law and sentencing practices. As the number of affected criminal cases appears likely to be relatively small, the amount of annual court cost and fine revenue that municipalities might lose and counties might gain appears likely to be no more than minimal. For the purposes of this fiscal analysis, minimal in the context of revenues means an estimated monetary gain or loss of no more than \$5,000 per year for any affected local jurisdiction.

Testing costs. Relative to the offense of harassment with a bodily substance, a person can be required to submit to, and pay for, the appropriate test(s) under current law. If the person is unable to pay, then the jurisdiction with custody of the person is charged for the cost of the test(s). Thus, as a result of the bill's expanded prohibitions, additional persons may be charged with the offense of harassment with a bodily substance and be required to submit to, and pay for, the appropriate test(s). As of this writing, however, LSC fiscal staff has not collected any information suggesting that there will be a noticeable increase in the number of additional persons that might be charged, tested, and determined to be unable to pay the testing costs in any given local criminal justice system. Assuming that were true, then any affected county or municipal criminal justice system appears unlikely to experience a problematic increase in testing costs.

State fiscal effects

Incarceration expenditures. It is also possible as a result of the bill's harassment provisions that, in the future: (1) offenders that might not otherwise have been prison-bound under current law and sentencing practices may be sentenced to a prison term, and (2) offenders that would have been prison-bound under current law and sentencing practices may be sentenced to a longer prison term. Assuming all other conditions remain the same, either outcome theoretically at least increases the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. As the number of offenders that might be affected in either manner annually appears likely to be relatively small, any related increase in DRC's annual incarceration costs would be minimal at most. For the purposes of this fiscal analysis, minimal means an estimated cost of less than \$100,000 per year for the state.

Court cost revenues. If, as a result of a violation of the bill's harassment provisions, an offender is convicted of a felony offense rather than a misdemeanor offense, then the state may gain locally collected court cost revenues that are deposited to the credit of the Victims of Crime/Reparations Fund (Fund 402). As the number of offenders that could be affected in this manner appears likely to be relatively small, the amount of court cost money that Fund 402 may gain annually appears likely to be negligible. For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 per year. 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.

Sentences and fines generally

Table 1 below summarizes the existing sentences and fines, unchanged by the bill, for violating misdemeanor and felony offense levels generally. Under current law, depending upon the circumstances, a violation of the existing "harassment by an inmate" prohibitions is either a felony of the third or fifth degree. Under the bill, depending upon the circumstances, a violation of the renamed "harassment with a bodily substance" prohibition is either a felony of the third or fifth degree.

Offense Level	Fine	Term of Incarceration
Felony of the 1st degree	Up to \$20,000	3, 4, 5, 6, 7, 8, 9 or 10 years definite prison term
Felony of the 2nd degree	Up to \$15,000	2, 3, 4, 5, 6, 7, or 8 years definite prison term
Felony of the 3rd degree	Up to \$10,000	1, 2, 3, 4, or 5 years definite prison term
Felony of the 4th degree	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 months definite prison term
Felony of the 5th degree	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term
Misdemeanor of the 1st degree	Up to \$1,000	Not more than 6 month jail term
Misdemeanor of the 2nd degree	Up to \$750	No more than 90 day jail term
Misdemeanor of the 3rd degree	Up to \$500	Not more than 60 day jail term
Misdemeanor of the 4th degree	Up to \$250	Not more than 30 day jail term
Minor misdemeanor	Up to \$150	None

Impersonating a federal law enforcement officer

Under current law, the offense of impersonating a peace officer carries penalties ranging from a misdemeanor of the fourth degree to a felony of the third degree depending on the conduct of the offender while impersonating the peace officer. By including federal law enforcement officers in this prohibition, additional misdemeanor and felony cases could be generated.

State fiscal effects

It is possible that, as a result of the bill's criminal offense provision prohibiting the impersonation of a federal law enforcement officer, additional offenders could end up being sentenced to prison or sentenced to prison for a longer stay than might otherwise have been the case under current law. It would appear, however, that the number of offenders that could be affected annually by these changes in the bill should be relatively small, and that any resulting increase in DRC's annual incarceration costs appears unlikely to exceed minimal.

The possibility that a few additional misdemeanor and potentially enhanced felony convictions for the offense of impersonating a federal law enforcement officer could result from the bill means that additional state court cost revenues might be collected and deposited into the GRF and the Victims of Crime/Reparations Fund (Fund 402). Given the number of additional or enhanced convictions expected appears to be relatively small, any potential annual revenue gain to the GRF or Fund 402 would be at most negligible.

County and municipal criminal justice system expenditures

Any local fiscal effects created by the bill's impersonation prohibition are likely to impact counties, which are largely responsible for funding the operation of the felony portion of the state's local criminal justice system, as well as municipalities that would process misdemeanor criminal cases. The bill's impersonation prohibition will likely create few, if any, additional criminal cases to be processed locally, but could possibly alter the manner in which certain cases are resolved. It is possible that the threat of a more serious sanction may affect individual criminal cases by speeding some through the bargaining process (potentially saving expenditures). Other cases may slow down, by increasing an offender's desire to pursue a criminal trial to avoid having to face a more serious sanction (potentially increasing expenditures). As these potential expenditure savings and increases may offset one another and the number of cases that might be affected in either manner in any given local jurisdiction is likely to be fairly small, it appears that the net fiscal effect would be, in the worst case scenario, at most a minimal increase in the annual operating costs of a given county or municipal criminal justice system. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated annual cost of no more than \$5,000 for any affected county or municipal criminal justice system.

County and municipal revenues

As a result of violations of the bill's impersonation prohibition, it is possible that counties and municipalities may collect more in court cost and fine revenues than might otherwise have been the case under current law and practice. That said, the relatively small number of criminal matters that would likely be affected in any given local jurisdiction suggests that the amount of revenues that any given local jurisdiction might collect is likely to be minimal at most. For the purposes of this fiscal analysis, minimal means a revenue gain estimated at no more than \$5,000 for any affected local jurisdiction per year.

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