

Fiscal Note & Local Impact Statement

126th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL:	Sub. H.B. 29	DATE:	May 10, 2005
STATUS:	As Enacted – Effective August 26, 2005	SPONSOR:	Rep. Raussen
LOCAL IMPACT STATEMENT REQUIRED:	Yes		Corrected after initial review; local cost was in As Introduced version; substitute version has minimal local cost
CONTENTS:	Requires a person who is charged with an offense of violence involving a victim who is a family or household member and to whom any of a list of specified circumstances applies to appear before the court before the court sets bail for that person and requires the court to consider certain factors before setting bail for that person if the court is aware of certain specified information		

State Fiscal Highlights

- The bill is not expected to have any direct fiscal impact on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2005	FY 2006	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential gain, likely to be no more than minimal	Potential gain, likely to be no more than minimal	Potential gain, likely to be no more than minimal
Expenditures	Potential increase, likely to be minimal at most	Potential increase, likely to be minimal at most	Potential increase, likely to be minimal at most

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

- **Court expenditures.** At this time, it is the view of the Judicial Conference of Ohio and the Association of Municipal/County Judges of Ohio that the bill allows enough flexibility that it should not have a significant impact on court operations and related expenditures. Thus, from LSC fiscal staff's perspective, those viewpoints would suggest that the magnitude of the potential costs for any affected court would be minimal at most. For the purposes of this fiscal analysis, a minimal cost would be an increase in court expenditures estimated at no more than \$5,000 per year.
- **County sheriff expenditures.** The bill may increase the expenditures of the sheriff in any county that is not already requiring a court appearance for certain persons charged with an offense of violence against a family or household member before the setting of bail. These expenditures will largely fall into the categories of: (1) incarceration costs incurred as certain persons remain confined for longer periods of time, and (2) transportation and staff costs incurred in moving certain persons between the jail and the courthouse. As of this writing, it appears that the potential magnitude of those costs in any affected local jurisdiction would be minimal at most.
- **Bond revenues.** If the bill results in an increase in the amount certain persons must pay to secure their release from jail from what that amount might otherwise have been under current law and practice, then, theoretically at least, counties and municipalities could potentially gain revenue. Unless, as a result of the bill, bail amounts noticeably increase, it seems unlikely that the gain in local revenues will be more than minimal. For the purposes of this fiscal analysis, a minimal gain would be an increase in revenue estimated at no more than \$5,000 per year.

Detailed Fiscal Analysis

Fiscally notable provisions

For the purposes of this fiscal analysis, the bill contains the following notable provisions related to the setting of bail:

- Requires, to the extent that certain information is available, the court to consider certain factors before setting bail for a person charged with an offense of violence against a family or household member.
- Requires the person to appear before the court before the court sets bail for that person when certain factors apply.

State fiscal effects

The bill is not expected to have any direct fiscal impact on the state.

Local fiscal effects: expenditures

Setting bail

Under current law, a set of risk factors is considered when setting bail for a person charged with a domestic violence offense only when that person: (1) is already the subject of a domestic violence protection order, or (2) has a previous conviction for certain domestic violence offenses or the violation of a domestic violence protection order. Under the bill, this set of risk factors will be considered before setting bail for "any person" charged with an offense of violence against a family or household member.

Ascertaining the possible local effects of this bail setting provision can perhaps best be posed in the form of the following questions:

- (1) How much will the consideration of these factors affect the amount of bail an arrestee is required to post?
- (2) If, as a result of the bill, the amount of bail that certain arrestees must post in order to obtain pre-trial release increases, how many of these arrestees will be unable to pay that amount and remain locally incarcerated for a longer period of time than might otherwise have been the case under current law and practice?

If a large number of arrestees are unable to make the necessary bail, or it takes longer to arrange their bail, and, as a result, these arrestees remain locally incarcerated for a longer period of time than might otherwise have been the case under current law and practice, local incarceration expenditures would in all likelihood increase.

Misdemeanor domestic violence charges are relatively common. As noted in Table 1 immediately below, in calendar year 2003, the Franklin County Municipal Court reported 5,335 misdemeanor domestic violence charges filed. If, for the purposes of this fiscal analysis, one does a simple population-based extrapolation from the Franklin County Municipal Court's experience, this would mean that roughly 55,290 misdemeanor domestic violence charges were filed annually statewide in calendar year 2003.

Type of Offense	Number of Charges Filed
Domestic violence, misdemeanor	5,335
Domestic violence, felony	392
Violation of protection order	580

For charges related to felony domestic violence or violation of a protection order, the considerations for establishing bail being modified by the bill would already be considered. This is because, under current law, these considerations are already being used for arrestees who: (1) are the subject of a domestic violence protection order, or (2) have a previous conviction for certain domestic violence offenses or the violation of a domestic violence protection order.

At this time, LSC fiscal staff has uncovered no information to indicate that the bill will radically modify the bail requirements for a large number of cases in such a way as to create a significant increase in annual local incarceration expenditures.

Court appearance

The bill creates the requirement that arrestees must appear before a court to have their bail set for an offense of violence against a family or household member if the arresting officer documents one or more of the following factors with regard to the case: (1) there is evidence of physical harm to the victim, (2) there is evidence of the offender being in possession of a deadly weapon or dangerous ordnance, or (3) the offender presents a credible threat of serious physical harm to the victim or any other person if the offender is released on bail before trial. The bill also permits the court to: (1) hold the bail hearing via video conferencing equipment, and (2) waive the bail hearing for a person charged with a misdemeanor if the court believes the appearance before the court to be impracticable.

For jurisdictions not currently requiring court appearances for bail determinations in cases of domestic violence, there are several potential costs associated with the bill. The first of these costs would involve potentially longer stays in jail for the arrestee. This increase in expenditures would impact the county sheriffs who are almost exclusively responsible for the running of full-service jails (i.e., those that can hold offenders for 120 hours). The second cost area also affecting county sheriffs involves transportation and staff costs incurred in moving certain persons between the jail and the courthouse. The third area of cost for these jurisdictions is the costs to the courts. Such costs would be a function of increased backlogs and reduced administrative efficiency, possibly requiring more involvement by judges, bailiffs, court reporters, prosecutors, and public defenders (if the defendant is indigent).

At this time, it is the view of the Judicial Conference of Ohio and the Association of Municipal/County Judges of Ohio that the bill allows enough flexibility that it should not create significant local costs. Thus, from LSC fiscal staff's perspective, those viewpoints would suggest that the magnitude of the potential costs for any affected local jurisdiction would be minimal at most.

Also of note is that the bill contains provisions that provide the court with more discretion or flexibility than would have been permitted under the As Introduced version, which for some local jurisdictions, in all likelihood noticeably lessens the magnitude of the potential impact on the operations and expenditures of certain courts than might otherwise have occurred subsequent to the bill's enactment.

Local fiscal effects: revenues

There are a number of different types of bonds that may be used, but only in the case of appearance bonds do local jurisdictions always retain some portion of collected revenue. In any situation where the person to be bailed is posting an appearance bond, counties and municipalities collect revenue. Appearance bonds require that the person pay 10% of their total bond. If the person makes all of their scheduled court appearances, 90% of that total is refunded.

Table 2 immediately below presents an example of how appearance bonds work. If the bill results in an increase in the amount a person must pay to secure their release from jail from what that amount might otherwise have been under current law and practice, then, theoretically at least, counties and municipalities could gain revenue. Unless, as a result of the bill, bail amounts noticeably increase, it seems unlikely that the gain in local revenues will be more than minimal. For the purposes of this fiscal analysis, a minimal gain would be an increase in revenue estimated at no more than \$5,000 per year.

Bond Component	Amount
Total amount of bond	\$20,000
10% required to obtain release	\$2,000
Amount refunded if all court appearances are made	\$1,800
Amount retained by court	\$200

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