

Fiscal Note & Local Impact Statement

126th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 290** DATE: **May 24, 2006**

STATUS: **As Reported by Senate Judiciary--Criminal Justice** SPONSOR: **Sen. Schuring**

LOCAL IMPACT STATEMENT REQUIRED: **No — Permissive**

CONTENTS: **Petty theft**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2006	FY 2007	FUTURE YEARS
Counties and Municipalities			
Revenues	No fiscal effect	No fiscal effect	No fiscal effect
Expenditures	Potential jail expenditure increase, magnitude uncertain	Potential jail expenditure increase, magnitude uncertain	Potential jail expenditure increase, magnitude uncertain

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

- **Jail expenditures.** The key fiscal impact the bill could have on counties and municipalities involves the potential increase in jail costs stemming from the sentencing of certain repeat petty theft offenders to longer terms of local incarceration. Whether the bill's penalty enhancement could potentially affect a few, hundreds, or even thousands of petty theft cases annually statewide is uncertain. That said, it is important to note that the permissive nature of the bill allows judges to consider potential costs, as well as issues of jail capacity and crowding, in their sentencing decisions. In the final analysis, any accurate or reliable estimation of the potential effect on annual jail expenditures is exceedingly difficult given the variables and absence of readily available data.
- **Court costs and fines.** It does not appear that the bill will have a direct fiscal impact on local revenues, in particular court cost and fines imposed and collected from an offender convicted of, or pleading guilty to, a petty theft offense.

Detailed Fiscal Analysis

Overview

Theft offenses generally

Under current law, unchanged by the bill, the penalties for the offense of theft vary based on factors including, but not limited to, the value of the property or services stolen, the type of victim, and the type of property or services stolen. Depending upon the nature of the theft offense, a violation is either a misdemeanor of the first degree or a felony of the fifth, fourth, third, second, or first degree.

Petty theft

Under current law, unchanged by the bill, the offense of petty theft involves stolen property or services valued at less than \$500, a violation of which is a misdemeanor of the first degree. The potential penalty for a violation of the offense includes a definite jail term of not more than 180 days and/or a fine of up to \$1,000.

The bill provides that, if an offender commits a "petty theft" violation and that offender within five years of the offense previously has been convicted of or pleaded guilty to two or more violations of that prohibition, the offense remains a misdemeanor of the first degree; however, the court may sentence the petty theft offender to a definite jail term of not more than one year.

Table 1 below displays the jail terms generally for a first-degree misdemeanor offense, and the bill's revised petty theft penalty that would

apply in certain circumstances.

Status	Offense	Penalty
Petty theft generally (under current law)	1st degree misdemeanor	Potential definite jail term of not more than 180 days
Petty theft under certain circumstances (as proposed in the bill)	1st degree misdemeanor	Potential definite jail term of not more than 1 year

Local fiscal effects

Criminal justice expenditures

The bill will not create any additional criminal cases for county and municipal criminal justice systems to process and resolve. The key fiscal impact the bill could have on counties and municipalities involves the potential increase in jail costs stemming from the sentencing of certain repeat petty theft offenders to longer terms of local incarceration. Petty theft is a very common property crime with tens of thousands of charges being filed in local criminal justice systems annually statewide.

As of this writing, LSC fiscal staff has not been able to determine, from any known data sources, how many individuals are charged with petty theft in any given year and within five years of the offense have two or more prior petty theft convictions. Thus, whether the bill's penalty enhancement could potentially affect a few, hundreds, or even thousands of cases annually statewide is uncertain.

To further complicate any attempt to estimate the potential fiscal impact of the bill on jail expenditures, the imposition of the penalty enhancement is permissive. A judge is not required to sentence repeat petty theft offenders to the longer jail term. As it is unclear as to the frequency with which judges might opt to impose the longer jail term, it becomes extremely difficult to calculate any precise fiscal impact.

Suffice it to say that, if there are hundreds or even thousands of petty theft offenders convicted with two or more priors in a five-year window, and judges were generally disposed to impose the longer jail term, the additional jail costs faced by an affected county or municipality could, theoretically at least, easily be in the tens of thousands of dollars annually.

That said, it is important to note that the permissive nature of the bill allows judges to consider such potential costs, as well as issues of jail capacity and overcrowding, in their sentencing decisions. In the final analysis, any accurate or reliable estimation of local costs generated by this bill is exceedingly difficult given the variables and absence of readily available data.

Court cost and fine revenues

It does not appear that the bill will have a direct fiscal impact on local revenues, in particular court costs and fines imposed and collected from an offender convicted of, or pleading guilty to, a petty theft offense.

State fiscal effects

It does not appear that the bill will have any direct fiscal impact on state revenues or expenditures.

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