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Office of Research and Drafting

Legislative Budget Office

H.B. 249
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Reps. King and Williams

Local Impact Statement Procedure Required: No

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Highlights

- County and municipal criminal justice systems may experience some increase in their annual operating costs if additional persons are arrested, prosecuted, and sanctioned for adult cabaret-related offenses. These costs may be offset somewhat by a related gain in court costs, fees, and fines collected. The net annual fiscal effect of the expenditure increase and related revenue gain for any given local jurisdiction is likely to be negligible.
- The Department of Rehabilitation and Correction (DRC) may see a relatively small increase in the number of persons sentenced to a term of incarceration in a state prison for a criminal violation resulting in a correspondingly minimal annual operating cost increase.
- The state will see a negligible gain in court cost revenue collected from felony offenders deposited to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Detailed Analysis

The bill prohibits adult cabaret performances outside of an adult cabaret. A person who recklessly violates the bill's prohibition is guilty of unlawful adult cabaret performance which is generally a first degree misdemeanor if the performance occurs in the presence of a person under the age of 18. The offense elevates to a fifth degree felony if the performance is obscene, and to a fourth degree felony if the performance is obscene and performed in the presence of a person under the age of 13.

The bill also amends the public indecency offense by (1) modifying the term "private parts" to "private area" and (2) creating an exception that allows a person to expose a private area if that person is a woman who is breastfeeding and the private area that is exposed is the woman's breast. The current law penalty for the violation of public indecency is generally a first

degree misdemeanor, unchanged by the bill. The impact of these changes to future charging behavior under this statute is uncertain.

The impact of the bill on local and state criminal justice systems is expected to be minimal as the conduct, in some circumstances, may be prosecuted under current law prohibitions against pandering obscenity and disseminating matter harmful to minors and prosecutions under the current law prohibitions and are likely infrequent.[1] As such, the bill could be viewed as giving law enforcement and local prosecutors an additional avenue to pursue a case.

The table below shows the potential sanctions for first degree misdemeanor and fourth and fifth degree felony violations under continuing law, unchanged by the bill.

Felony and Misdemeanor Sentences and Fines for Offenses, Generally		
Offense Level	**Fine**	**Term of Incarceration**
Felony 4th degree*	Up to $5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term
Felony 5th degree*	Up to $2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term
Misdemeanor 1st degree	Up to $1,000	Jail, not more than 180 days

*Sentencing guidelines authorize certain community control sanctions for both fourth and fifth degree felonies in addition to the denoted prison terms and financial penalties.

If there are additional criminal charges after the bill's effective date, the following fiscal impacts would result:

- An increase in operating expenses for county and municipal criminal justice systems because of having additional persons to arrest, prosecute, defend (if indigent), and sanction for adult cabaret-related offenses. There will also be a related gain in court costs, fees, and fines collected from persons convicted of such offenses. The net annual fiscal effect of the expenditure increase and related revenue gain for any given local jurisdiction is likely to be negligible.
- A relatively small increase in the number of persons subsequently sentenced to a term of incarceration in state prison as described above. The associated annual operating cost increase for the Department of Rehabilitation and Correction (DRC) are expected to be minimal at most. The marginal cost for DRC to add a relatively small number of offenders to its total inmate population is estimated at around $5,000 per offender per year.
- A gain of a negligible amount of court cost revenue collected from certain misdemeanor or felony offenders and forwarded for deposit in the state treasury to the credit of the

[1] An offense of pandering obscenity is generally a fourth or fifth degree felony, and an offense of disseminating matter harmful to minors is generally a first degree misdemeanor, but may elevate up to a fourth or fifth degree felony depending on the circumstances of the violation.

Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).[2]

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[2] The court is generally required to impose state court costs totaling $60 for a felony divided as follows: $30 to Fund 5DY0 and $30 to Fund 4020.