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Fiscal Note & Local Impact Statement

[Click here for H.B. 306's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Jarrells and Williams

Local Impact Statement Procedure Required: No

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Highlights

- The bill's new hate crime offense can be seen as enhancing the penalty of certain offenses of violence that are motivated by race, color, religion, or national origin. This penalty enhancement may result in minimal annual increases in: (1) GRF institutional operating expenses of the departments of Rehabilitation and Correction and Youth Services, and (2) state court cost revenue apportioned between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).
- The above-noted offense will have a minimal net annual fiscal effect on the revenues and expenditures of local criminal and juvenile justice systems. However, some misdemeanor cases may move from the jurisdiction of county or municipal courts to county courts of common pleas who have jurisdiction of felony-level criminal cases.
- The bill provides a civil remedy to a person who was terrorized by intimidation by threat of violence, for certain reasons, or if they were forced to waive a protection provided by the bill. It is expected that the common pleas, municipal, and county courts will be able to absorb any additional filings into their respective caseloads with minimal discernible effect on annual operating expenses.

Detailed Analysis

The bill enacts the Hate Crime Act to address acts of violence and intimidation by threat of violence driven by a victim's specific characteristics or beliefs, as outlined in the [LSC bill analysis](#). It establishes a civil remedy for individuals terrorized due to these protected characteristics, and criminal penalties for violent offenses against victims intentionally selected because of them. Compared to the existing offense of ethnic intimidation, the bill broadens the scope of protected categories and expands the underlying offenses that can trigger a penalty enhancement.

Based on available statistics related to both hate crimes and ethnic intimidation incidents, the number of cases that could be affected by the bill's expanded offense of ethnic intimidation, to include rioting offenses, will likely be small in the context of any given local criminal and/or juvenile justice system's current caseloads. These statistics are summarized below.

Bias Category	Total
Race/Ethnicity/Ancestry	181
Religion	67
Disability	27
Gender	3

Penalties

Under current law, if a person violates the offense of aggravated menacing, menacing, criminal damaging or endangering, criminal mischief, or telecommunications harassment by reason of another's race, color, religion, or national origin, that person is guilty of ethnic intimidation. The bill narrows the existing ethnic intimidation offense, removing aggravated menacing and menacing from its list of underlying offenses. These acts may instead be subject to enhanced penalties under the bill's new hate crime offense, along with other offenses of violence committed under qualifying circumstances.

The bill's new hate crime offense applies to acts of violence committed against a victim intentionally selected due to the offender's belief or perception regarding the victim's race, color, religion, sex, national origin, physical or mental disability, age, political opinion, or the exercise of political rights and privileges. This applies regardless of whether the offender's perception is correct. Mirroring the penalty structure for ethnic intimidation, a new hate crime offense elevates the penalty to the next higher degree for the underlying crime. Table 2 below shows the general penalty structure of the felony and misdemeanor offenses generally.

Offense Level	Fine	Term of Incarceration
Felony 1 st degree	Up to \$20,000	3, 4, 5, 6, 7, 8, 9, 10, or 11 years indefinite prison term
Felony 2 nd degree	Up to \$15,000	2, 3, 4, 5, 6, 7, or 8 years indefinite prison term
Felony 3 rd degree	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
Felony 4 th degree	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term

Table 2. Felony and Misdemeanor Sentences and Fines for Offenses

Offense Level	Fine	Term of Incarceration
Felony 5 th degree	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term
Misdemeanor 1 st degree	Up to \$1,000	Jail, not more than 180 days
Misdemeanor 2 nd degree	Up to \$750	Jail, not more than 90 days
Misdemeanor 3 rd degree	Up to \$500	Jail, not more than 60 days
Misdemeanor 4 th degree	Up to \$250	Jail, not more than 30 days
Minor misdemeanor	Up to \$150	Citation issued; not subject to arrest or jail

Criminal justice systems

Local fiscal effects

Because the bill primarily increases penalties for existing offenses, there will not be a significant increase in court costs. In some instances, the enhancement will (1) shift misdemeanor cases from municipal or county courts to the felony jurisdiction of a court of common pleas, or (2) elevate the penalty for a rioting offense committed by a juvenile that is already under the jurisdiction of the juvenile court. Any resulting case processing and adjudication cost savings for municipalities, and related cost increases for counties, are expected to be minimal annually. Similarly, any fine and court cost revenue shifts between municipalities and counties will be minimal annually. Fines are generally credited to a county's general fund, while local court costs and fees can be used for a mix of general and special purposes.

To the extent that existing cases are adjudicated as felonies rather than misdemeanors, the bill may shift sanctioning costs for certain adult offenders whose sentence involves a period of incarceration from a local jail to the Ohio Department of Rehabilitation and Correction (DRC).

State fiscal effects

If additional offenders are incarcerated, and if other offenders serve longer terms, there might be a marginal annual increase in state and local incarceration expenditures. However, the number of offenders presumably would be relatively small. For context, in FY 2023 no offenders were committed to DRC with the most serious offense of ethnic intimidation.¹ In FY 2022, only one offender was committed, which is less than 0.01% of the total prison population.

According to DRC, the average marginal cost to house an additional offender in FY 2025 was \$13.47 per day or \$4,917 per year. Marginal costs are those that increase or decrease directly on a per-person basis with changes in prison population. Such costs include medical care, food service, clothing and bedding (for inmates), and mental health services. The average cost per bed for full-service jails is \$93.70. Although the penalty level of the new offense would ultimately

¹ FY 2023 is the most recent year for which commitment data is available.

depend on the underlying offense, it is important to note that for low-level felonies, offenders may be sanctioned to less costly community sanctions rather than institutional incarceration.

The Department of Youth Services' (DYS) average daily facility population for FY 2024 was around 500. The marginal cost to add a juvenile to that population is around \$44.55 per day, or \$16,261 per year. This suggests that adding a relatively small number of juveniles to that population in any given year will result in no more than a minimal increase in DHS's annual institutional care and custody costs. It should be noted that the majority of youth adjudicated by the juvenile justice system for felony-level offenses are served locally through community-based programs instead of being committed to a DHS facility.

In addition, to the extent there are additional felony convictions under the bill, the state may gain locally collected court cost revenue for the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0), as the state court cost imposed on an offender/juvenile and paid to Fund 4020 is higher for a felony than a misdemeanor: \$60 versus \$29. The amount that the fund may gain, however, is likely to be negligible, as the number of affected criminal and juvenile cases is likely to be relatively small.

Civil justice systems

The bill allows a person to sue another person in a court of competent jurisdiction when the other person terrorizes the first person by violence, or by intimidation by threat of violence and includes provisions to prevent the forced waiver of civil remedies for violations of the bill's prohibitions.

If an individual alleging a violation prevails in a civil action, the court must award costs and reasonable attorney's fees to the individual. A court may also award actual damages, punitive damages, and a civil fine not exceeding \$25,000. Individuals can also file complaints with the Attorney General or county prosecutor, who may investigate and bring an action on behalf of the victim. If the Attorney General or county prosecutor prevails, they would be awarded court costs, attorney's fees, and the civil fine, with any actual or punitive damages going to the victim. While the bill does not specify where attorney fees would be credited, for the Attorney General, such revenue would likely be deposited into Fund 1060, General Reimbursement.

Municipal and county courts have limited civil jurisdiction, hearing cases where the amount in dispute does not exceed \$15,000. Common pleas courts hear cases where the amount in dispute is more than \$15,000. The number of new civil cases that may result is uncertain but likely will be minimal for any single jurisdiction and court. While some courts may experience new case filings from individuals or the Attorney General or county prosecutors, the costs related to these new filings will be at least partially offset by collected filing fees.