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S.B. 88
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Sens. Smith and Cirino

Local Impact Statement Procedure Required: No

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Highlights

- As the result of a small potential statewide increase in the number of felony aggravated menacing convictions, there may be a minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures.
- There may be a negligible annual increase in locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).
- Under the bill, certain aggravated menacing cases that may have been charged as a misdemeanor will be charged as a felony. This outcome shifts such cases from a municipal or county court to a common pleas court. This means that the associated costs and revenues shift as well. Given the small number of cases that would be subject to the bill's penalty enhancement, the magnitude of the local cost and revenue shift is likely to be minimal annually.

Detailed Analysis

The bill expands the offense of aggravated menacing to prohibit knowingly causing a utility worker, cable operator worker, or broadband worker to believe that the offender will cause serious physical harm in order to obstruct the operation of a utility, cable, or broadband service. A violation is generally a first degree misdemeanor, and provides that, if the offender previously has been convicted of or pleaded guilty to aggravated menacing, a violation of the prohibition is a fifth degree felony.

The bill is unlikely to generate new criminal cases, as the prohibited conduct is arguably illegal under current law. Its primary effect may be to elevate, in certain circumstances, the charge(s) that an offender may face from a misdemeanor to a felony. In the context of any given

local jurisdiction's criminal justice system caseload, the number of cases that may be affected in this manner, including the number of cases moving from the jurisdiction of a county or municipal court (misdemeanor cases) to that of a court of common pleas (felony cases) will be relatively small.

State fiscal effects

It is likely that a small number of new felony convictions may result from the bill's penalty enhancement. The fiscal effect of a relatively small increase in an existing prison population of approximately 43,500 will not generate a significant increase in DRC's annual incarceration expenditures. The marginal cost for DRC to add a relatively small number of offenders to its total inmate population is estimated at around \$4,000 per offender per year. This suggests that any increase in DRC's GRF-funded incarceration costs is likely to be no more than minimal annually.

A few additional felony convictions may generate a negligible annual amount of state court cost revenue that is collected locally and forwarded for crediting to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The state costs total \$60 for a felony and \$29 for a misdemeanor. The \$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020. The \$29 misdemeanor amount is divided as follows: \$20 to Fund 5DY0 and \$9 to Fund 4020. However, it is 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.

County and municipal criminal justice systems

As a result of the bill's felony penalty enhancement, a small number of aggravated menacing cases that might have been charged as a first degree misdemeanor would be charged as a fifth degree felony. This outcome shifts such cases out of the municipal criminal justice system and into the felony jurisdiction of a county criminal justice system. This means that the associated costs (law enforcement, prosecution, adjudication, and sanctioning if there is a conviction) and revenues (fine, court costs, and fees) would shift as well. The magnitude of the local cost and revenue shift is likely to be minimal annually.

Sentences and fines for certain offenses

The table below summarizes current law's sentences and fines generally for a felony of the fifth degree and a misdemeanor of the first degree.

Sentences and Fines		
Offense Level	Fine	Term of Incarceration
5 th degree felony	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term
1 st degree misdemeanor	Up to \$1,000	Jail, not more than 180 days