

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 111**

DATE: **April 29, 2008**

STATUS: **As Reported by House Juvenile and Family Law** SPONSOR: **Rep. Combs**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Expands definition of "neglected child"**

State Fiscal Highlights

| STATE FUND | FY 2009 – FUTURE YEARS |
|---|---|
| General Revenue Fund (GRF) | |
| Revenues | Potential gain in locally collected state court costs, annual magnitude uncertain |
| Expenditures | - 0 - |
| Victims of Crime/Reparations Fund (Fund 402) | |
| Revenues | Potential gain in locally collected state court costs, annual magnitude uncertain |
| Expenditures | - 0 - |

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- **Court cost revenues.** Given the uncertainty regarding the number of new child neglect cases per year that may be generated as a result of the bill, as well as the uncertainty regarding the number of additional individuals that may be arrested and prosecuted for violating the offense of endangering children, it is difficult to estimate the additional court cost revenue that might be collected and deposited to the credit of either the GRF or the Victims of Crime/Reparations Fund (Fund 402).
- **State expenditures.** As of this writing, it does not appear that the bill will have an immediate and direct effect on state expenditures. This is because: (1) the amount of moneys allocated by the Ohio Department of Job and Family Services for disbursement to county public children services agencies (PCSAs) are drawn from a fixed pool of funds, and (2) the likelihood of additional offenders being sentenced to prison for violating the felony prohibitions in relation to the offense of endangering children is relatively small.

Local Fiscal Highlights

| LOCAL GOVERNMENT | FY 2008 – FUTURE YEARS |
|---|--|
| County Public Children Services Agencies (PCSAs) | |
| Revenues | - 0 - |
| Expenditures | Likely increase to investigate additional neglected child cases, annual cost could exceed minimal in certain counties |
| Juvenile Courts | |
| Revenues | - 0 - |
| Expenditures | Potential increase to dispose of additional neglected child cases, annual magnitude uncertain |
| County and Municipal Criminal Justice Systems | |
| Revenues | Potential annual gain in court costs and fines |
| Expenditures | Potential increase to prosecute and sanction additional misdemeanants, annual 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.

- **County public children services agencies (PCSAs).** While LSC fiscal staff is not able to estimate the exact number of additional reports, or how many additional referrals, PCSAs will receive as a result of the bill, each report or referral will likely trigger some investigative action and related costs. The cost of an investigation is paid almost entirely from local, and a fixed pool of state, funds. Therefore, any increase in the number of investigations and the costs associated with them are likely to be covered almost exclusively by local funding sources (children's services levies and/or county general funds). From LSC fiscal staff's perspective, based on PSCA estimates, a handful of additional investigation could easily generate additional annual costs for an affected PCSA in excess of minimal. For the purposes of this fiscal analysis, minimal means an estimated cost of more than \$5,000 per year for any given county.
- **Juvenile courts.** The bill will in all likelihood result in some increase in the number of child neglect cases requiring the involvement of the juvenile court. After completing an investigation, the PCSA in many cases would most likely be required to present its findings to the juvenile court and seek an appropriate legal remedy relative to the home situation of the affected child or children. The magnitude of the potential impact on the caseload, and related operating expenses, of any given juvenile court is, as of this writing, uncertain.
- **County and municipal criminal justice systems.** Given the uncertainty regarding the number of new child neglect cases per year that may be generated as a result of the bill, as well as the uncertainty regarding the number of additional individuals that may be arrested and prosecuted for violating the offense of endangering children, it is rather difficult to assess the potential fiscal implications for any given county or municipal criminal justice system. Presumably, if additional individuals are charged with a misdemeanor of the first degree, then there is a possibility of a related increase in the local costs to prosecute, adjudicate, defend (if the offender is indigent), and subsequently sanction any individuals so charged. Whether those costs, if quantifiable, will exceed minimal in any given county or municipal criminal justice system is difficult to reliably discern at this time.
- **Court cost and fine revenues.** Given the uncertainty regarding the number of new child neglect cases per year that may be generated as a result of the bill, as well as the uncertainty regarding the number of additional individuals that may be arrested and prosecuted for violating the offense of endangering children,

it is difficult to estimate the additional court cost and fine revenues that might be collected and deposited to the credit of the general fund of any affected county or municipality.

Detailed Fiscal Analysis

Overview

The bill expands the definition of neglected child to include parents, guardians, or custodians who knowingly allow certain sexually oriented offenders or child-victim offenders to reside in the same residence as the child.

For the purposes of this analysis, LSC fiscal staff has identified three notable effects that potentially result from the bill:

- (1) The number of cases in which county public children services agencies (PCSAs) have to investigate and subsequently provide care for a child or children will likely increase.
- (2) The number of cases in which juvenile courts will need to make disposition decisions will likely increase.
- (3) The number of cases processed by county and municipal criminal justice systems will likely increase, as parents, guardians, and custodians may be criminally liable for child endangerment, which is generally a misdemeanor of the first degree.

Sexually oriented offenders and child-victim offenders in Ohio

Legislative Service Commission fiscal staff, through contact with the Department of Rehabilitation and Correction (DRC) and other law enforcement agencies, has gathered enough information to paint a general picture as to the number of sexually oriented offenders and child-victim offenders residing in Ohio.

According to the Office of the Attorney General's web site, the number of offenders registered with Ohio's Electronic Sex Offender Registration and Notification (eSORN) is currently 16,751. This number represents a starting point for estimating the number of sexually oriented offenders and child-victim offenders in Ohio. According to data provided by DRC, the number of inmates released in calendar year 2007 from state prison for committing a sexually oriented offense or child-victim offense was 4,724. And according to data provided by DRC, as of April 2008, there were 9,800 inmates identified as sexually oriented or child-victim offenders incarcerated in Ohio's state prison system.

Within this previously noted pool of sexually oriented offenders and child-victim offenders registered with eSORN, the bill would prohibit approximately 20% from residing with a child at any time. The remaining offenders will not be permitted to reside with a child during any period of time in which the offender is under a community control sanction or a period of parole or post-release control. This information does not tell the complete story regarding the number of sexually oriented offenders or child-victim offenders in Ohio, but it does suggest that the potential size of this pool of individuals is relatively large.

Additionally, it is difficult to estimate the number of parents, guardians, and custodians currently living with a child or children in which certain sexually oriented offenders or child-victim offenders also reside. Such offenders who are parents are particularly likely to find themselves settled into living arrangements that the bill will prohibit. At this time, estimating the number of these cases and determining how many offenders could or would take the steps necessary to remain in compliance with this prohibition is rather difficult.

Local fiscal effects

County PCSAs

One result of the bill is likely to be an increase in the number of reports of child abuse and neglect received by PCSAs and/or local law enforcement officers. Similarly, the bill is likely to increase the number of referrals of child abuse and neglect made to PCSAs. While LSC fiscal staff is not able to estimate the exact number of additional reports, or how many additional referrals PCSAs will receive as a result of the bill, each report or referral will likely trigger some investigative action and related costs.

The Public Children Services Association of Ohio (PCSAO) estimates in its County Child Protection Workload Analysis that intake assessments and interviews take an average of 14.38 hours. The average cost for investigation activities is \$98.65 per hour. Total cost for investigation activities is \$1,418.59 (\$98.65/ hr x 14.38 hours). (The average cost for report screening and intake only is \$110.17 (\$95.80/ hr x 1.15 hours). The cost of an investigation is paid almost entirely from local, and a fixed pool of state, funds. Therefore, any increase in the number of investigations and the costs associated with them are likely to be covered almost exclusively by local funding sources (children's services levies and/or county general funds).

From LSC fiscal staff's perspective, a handful of additional investigation could easily generate additional annual costs for an affected PCSA in excess of minimal. For the purposes of this fiscal analysis, in excess of minimal means an estimated cost of more than \$5,000 per year for any given county.

Once a PCSA has completed its investigation into the treatment of a child or children and a determination has been made regarding the status of that child or children, current law requires the court to take one of the following actions.

- Place the child in protective supervision.
- Commit the child to the temporary custody of a public children services agency, a private child placing agency, either parent, a relative residing within or outside the state, or a probation officer for placement in a certified foster home, or in any other home approved by the court.
- Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody of the child or is identified as a proposed legal custodian in a complaint or motion filed prior to the dispositional hearing by any party to the proceedings.
- Commit the child to the permanent custody of a public children services agency or private child placing agency.

- Place the child in a planned permanent living arrangement with a public children services agency or private child placing agency.
- Order the removal from the child's home until further order of the court of the person who committed abuse against the child, who caused or allowed the child to suffer neglect, or who is the parent, guardian, or custodian of a child who is adjudicated a dependent child and order any person not to have contact with the child or the child's siblings.

The costs associated with each of the above dispositional options available to the court vary considerably. Removing an offender from the home can result in a reasonably low cost to the county, whereas placing a child in a foster care setting can lead to substantial local costs. There are several different foster care settings, including family foster care, treatment foster care, and residential and group foster care. Each setting has a different per diem rate. A PCSA may face an increase in placement costs should neglected children have to be removed from their homes. A PCSA may place a child directly in a foster home or the child may be placed through a private agency. Each private agency negotiates its own per diem rate. The average cost for the different settings ranges from \$21.73 for a public agency foster home to \$129.07 for a residential setting. For FY 2006, the average cost per day of foster care was \$57.58. The funding for these types of activities comes from a federal match of local funds. As a result of the bill's prohibition, there may be an increased demand for these types of services as the number of neglected children increases. The fiscal impact of these dispositional options on any given PCSA is unclear due to the difficulty in estimating the number of potential new neglect cases and determining the likely outcomes.

Juvenile courts

The bill will in all likelihood result in some increase in the number of child neglect cases requiring the involvement of the juvenile court. After completing an investigation, in many cases the PCSA would most likely be required to present its findings to the juvenile court and seek an appropriate legal remedy relative to the home situation of the affected child or children. The magnitude of the potential impact on the caseload, and related operating expenses, of any given juvenile court is, as of this writing, uncertain.

County and municipal criminal justice systems

By expanding the definition of "neglected child," the bill creates the possibility that parents, guardians, and custodians may be charged, prosecuted, and sanctioned for violating the offense of "endangering children." A violation of this offense is generally a misdemeanor of the first degree, which is punishable by a jail stay of not more than 180 days and/or a fine of not more than \$1,000.

Given the uncertainty regarding the number of new child neglect cases per year that may be generated as a result of the bill, as well as the uncertainty regarding the number of additional individuals that may be arrested and prosecuted for violating the offense of endangering children, it is rather difficult to assess the potential fiscal implications for any given county or municipal criminal justice system. Presumably, if additional individuals are charged with a misdemeanor of the first degree, then there is a possibility of a related increase in the local costs to prosecute, adjudicate, defend (if the offender is indigent), and subsequently sanction any

individuals so charged. Whether those costs, if quantifiable, will exceed minimal in any given county or municipal criminal justice system is difficult to reliably discern at this time.

Court cost and fine revenues

Given the uncertainty regarding the number of new child neglect cases per year that may be generated as a result of the bill, as well as the uncertainty regarding the number of additional individuals that may be arrested and prosecuted for violating the offense of endangering children, it is difficult to estimate the additional court cost and fine revenues that might be collected and deposited to the credit of the general fund of any affected county or municipality. It should also be noted that: (1) courts rarely impose and collect the maximum fine, and (2) collecting court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unwilling or unable to pay.

State fiscal effects

State expenditures

As of this writing, it does not appear that the bill will have an immediate and direct effect on state expenditures. This is because: (1) the amount of moneys allocated by the Ohio Department of Job and Family Services for disbursement to PCSAs are drawn from a fixed pool of funds, and (2) the likelihood of additional offenders being sentenced to prison for violating the felony prohibitions of the offense of endangering children, is relatively small.

Court cost revenues

The bill may produce a revenue gain to the GRF and the Victims of Crime/Reparations Fund (Fund 402) in state court costs collected from offenders who are exposed to new criminal liability after a judgment that they have neglected a child. Following a declaration of neglect, an individual may be prosecuted for child endangerment, a misdemeanor of the first degree, and if convicted assessed locally collected state court costs totaling \$24 (\$15 for deposit in the GRF and \$9 for deposit in Fund 402).

Given the uncertainty regarding the number of new child neglect cases per year that may be generated as a result of the bill, as well as the uncertainty regarding the number of additional individuals that may be arrested and prosecuted for violating the offense of endangering children, it is difficult to estimate the additional court cost revenue that might be collected and deposited to the credit of either state fund per year. As noted, collecting court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unwilling or unable to pay.

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