

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL:	S.B. 23	DATE:	April 25, 2007
STATUS:	As Introduced	SPONSOR:	Sen. Goodman
LOCAL IMPACT STATEMENT REQUIRED:	No — Minimal cost		
CONTENTS:	Human trafficking		

State Fiscal Highlights

STATE FUND	FY 2007*	FY 2008	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	Potential negligible gain in locally collected state court costs	Potential negligible gain in locally collected state court costs
Expenditures	- 0 -	Potential increase in incarceration costs	Potential increase in incarceration costs
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	- 0 -	Potential negligible gain in locally collected state court costs	Potential negligible gain in locally collected state court costs
Expenditures	- 0 -	Potential increase for certain victim services	Potential increase for certain victim services
Attorney General and Department of Job and Family Services**			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential one-time reporting cost, magnitude uncertain	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.
 * For the purposes of this fiscal analysis, it is assumed that any of the bill's state fiscal effects would occur sometime after FY 2007.
 ** As of this writing, the source of any moneys that either state entity might tap to produce their required reports is uncertain.

- **Incarceration expenditures.** As a result of violations of the bill's prohibitions, there could potentially be a number of additional offenders sentenced to prison as well as a number of offenders sentenced to longer prison terms. Estimating the number of offenders that might be so affected and the related incarceration costs is difficult to calculate at this time. Particularly problematic at this time is that the prohibited conduct is difficult to detect and public awareness of the issue is just starting to grow. That said, absent any clear and convincing evidence to the contrary, LSC fiscal staff is taking the position that the number of felony cases that might be affected or generated by the bill will be relatively small in the context of the overall criminal caseloads handled by any given county criminal justice system. If true, then the resulting number of affected prison-bound offenders would likely be relatively small as well, especially in the context of a prison system currently housing more than 49,000 inmates. This would suggest that the future fiscal effect on DRC would likely be in terms of its marginal cost of incarcerating an offender, which LSC fiscal staff currently estimates at around \$2,800 annually. The annual marginal costs associated with the likely



number of affected offenders, to the degree that such a cost is actually realized, would be no more than minimal. For the purposes of this fiscal analysis, minimal means an estimated expenditure increase of less than \$100,000 per year for the state.

- **Court cost revenues.** As a result of violations of the bill's prohibitions, additional revenue, in the form of state court costs, may be collected locally and forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). If, as assumed, the number of cases in which individuals are charged with involuntary servitude, sexual servitude of a minor, and trafficking in persons for forced labor or services and successfully prosecuted is relatively small, then any additional state court cost revenues collected will likely be negligible. For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 for either state fund per year.
- **Required reports.** As of this writing, LSC fiscal staff has been unable to discern the potential magnitude of the one-time costs that the Office of the Attorney General and the Department of Job and Family Services may incur to produce the required reports within the one-year deadline.

Local Fiscal Highlights

LOCAL GOVERNMENT		FY 2007*	FY 2008	FUTURE YEARS
Counties, Municipalities, and Townships				
Revenues	Potential gain in court costs and fines, likely to be minimal at most		Potential gain in court costs and fines, likely to be minimal at most	Potential gain in court costs and fines, likely to be minimal at most
Expenditures	Potential increase in criminal justice system operating costs, likely to be no more than minimal		Potential increase in criminal justice system operating costs, likely to be no more than minimal	Potential increase in criminal justice system operating costs, likely to be no more than minimal

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

* For the purposes of this fiscal analysis, it is assumed that any of the bill's state fiscal effects would occur sometime after FY 2007.

- **Local criminal justice expenditures.** It appears unlikely that the bill will create a large number of new felony cases for any given county criminal justice systems to process. That said, any new criminal case that is created as a result of violating the bill's prohibition, theoretically at least, carries the potential to increase related county criminal justice system costs, for example, expenses related to investigating, prosecuting, adjudicating, and sanctioning the offender, as well as paying for defense counsel if the offender is indigent. If, as assumed, the number of cases in any given county criminal justice system is relatively small in the context of the overall criminal caseload, then any resulting increase in a county's annual criminal justice system expenditures is likely to be no more than minimal. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated annual cost of no more than \$5,000 for any affected county. As of this writing, it is also assumed that any costs incurred by municipal or township criminal justice entities will be no more than minimal on an ongoing basis as well.
- **Local criminal justice revenues.** The bill could also increase the amount of court cost and fine revenues collected by counties from offenders. According to experts in the human trafficking field, the number of cases in which an offender is charged with a violation of the bill's prohibitions is likely to be relatively small. Therefore, the amount of additional court cost and fine revenues that counties may actually collect annually is likely to be no more

than minimal. For the purposes of this fiscal analysis, a minimal revenue increase means an estimated gain of no more than \$5,000 for any affected county per year.

Detailed Fiscal Analysis

For the purposes of this fiscal analysis, the bill most notably:

- Creates the offense of "involuntary servitude," a violation of which is either a felony of the first, second, third, or fifth degree.
- Creates the offense of "sexual servitude of a minor," a violation of which is a felony of the first degree.
- Creates the offense of "trafficking in persons for forced labor or services," a violation of which is a felony of the first degree.
- Provides that a court sentencing an offender convicted of any of those new offenses, in addition to the restitution sanction imposed under existing Felony Sentencing Law, must impose upon the offender restitution reflecting the value of the victim's labor or services.
- Requires the Attorney General and the Department of Job and Family Services to each issue a report on certain matters not later than one year after the bill's effective date.

Human trafficking in Ohio

Calculating the number of human trafficking victims and offenders in Ohio is extremely difficult. According to the federal Bureau of Justice Statistics, the number of suspects for federal human trafficking violations between 2001 and 2005 in the United States was 555. Statistics broken down on a statewide basis are more difficult to find, but expert opinion supports the idea that human trafficking is a growing problem in Ohio. The issue appears to be of particular note in our border cities such as Toledo and Cleveland where easy access to the nation's highway systems have made them convenient gateways for human traffickers.

The difficulty in quantifying the number of human trafficking offenders and victims is similar to the problems faced when addressing drug trafficking. The number of cases prosecuted is only a portion of the number of potential cases related to the problem. Human trafficking victims are typically manipulated and/or threatened by others and may themselves be afraid of prosecution, and are therefore unlikely to seek out help. The difficulty in recognizing situations where human trafficking is taking place compounds the problem of estimating the number of potential offenders. As law enforcement and the general public become more familiar with the issue, and their ability to identify situations where human trafficking is, or may be, taking place increases, the number of individuals investigated, arrested, successfully prosecuted, and sanctioned will likely increase as well.

The federal government has established laws regarding human trafficking in the United States. Because human trafficking is by its nature an offense where the victim and offender are often moving across political boundaries, it is necessary to have federal laws with a wide-ranging jurisdiction.

However, the federal government has been pushing for the adoption of state laws against human trafficking and 27 states have adopted such measures. According to human trafficking experts, the reason for this push to enact analogous state laws is the potential size of the problem and the varying nature of the offenders. The federal government with its limited resources is likely to continue its prosecution of human trafficking offenders engaged in relatively large operations even with the adoption of analogous state criminal laws. The latter will allow state and county prosecutors to prosecute offenders engaged in relatively small operations that might otherwise elude, for whatever reason(s), federal investigation and prosecution. Generally speaking, this division of labor is likely to reduce the fiscal impact of the passage of state human trafficking laws because many of these human trafficking cases are likely to still garner federal attention.

Thus, for the purposes of this fiscal analysis, absent any clear and convincing evidence to the contrary, LSC fiscal staff is taking the position that the number of felony cases that might be affected or generated by the bill will be relatively small in the context of the overall criminal caseloads handled by any given county criminal justice system.

State fiscal effects

Incarceration expenditures

As a result of violations of the bill's prohibitions, (1) offenders may be sentenced to a prison term that might, absent its enactment, not have been arrested, successfully prosecuted, and so sentenced, and (2) offenders that may have been sentenced to a prison term for similar conduct under current law and practice could receive a longer prison term. Either outcome theoretically increases the Department of Rehabilitation and Correction's GRF-funded incarceration costs.

If, as assumed, the number of violations of the bill's prohibitions that result in investigations and successful prosecutions will be relatively small, then the resulting number of affected prison-bound offenders would likely be relatively small as well, especially in the context of a prison system currently housing more than 49,000 inmates. This would suggest that the future fiscal effect on DRC would likely be in terms of its marginal cost of incarcerating an offender, which LSC fiscal staff currently estimates at around \$2,800 annually. The annual marginal costs associated with the likely number of affected offenders, to the degree that such a cost is actually realized, would be no more than minimal. For the purposes of this fiscal analysis, minimal means an estimated expenditure increase of less than \$100,000 per year for the state.

As of this writing, LSC fiscal staff and DRC personnel have not had an opportunity to adequately discuss the bill's potential impact on the size of their inmate population and the related incarceration costs.

Court cost revenues

As a result of violations of the bill's prohibitions, additional revenue, in the form of state court costs, may be collected locally and forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). The state court costs for a felony offense total

\$45, of which the GRF receives \$15 and Fund 402 receives \$30. If, as assumed, the number of cases in which individuals are charged with involuntary servitude, sexual servitude of a minor, and trafficking in persons for forced labor or services and successfully prosecuted is relatively small, then any additional state court cost revenues collected will likely be negligible. For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 for either state fund per year. It is also 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.

Required reports

The bill requires: (1) the Office of the Attorney General, in consultation with the Department of Job and Family Services and not later than one year from its effective date, to issue a report outlining how existing victim protection laws and regulations respond to the needs of victims of the bill's prohibitions and suggesting areas of improvement and modification of existing victim protection laws, and (2) the Department of Job and Family Services, in consultation with the Attorney General's Office and not later than one year from its effective date, to issue a report outlining how existing social service programs respond or fail to respond to the needs of victims of the bill's prohibitions, the interplay of existing social service programs with federally funded victim service programs, and areas of improvement and modification of existing social service programs.

As of this writing, LSC fiscal staff has contacted the Office of the Attorney General and the Department of Job and Family Services to discuss the fiscal impact of the provisions requiring these state entities to issue reports. The latter state entity subsequently indicated that the required information is not currently being collected and therefore the requirement for them to do so within one year may be problematic, and that the one-time costs to produce the report were difficult to project. Thus, as of this writing, from LSC fiscal staff's perspective, the magnitude of the one-time costs for either state entity to produce the required reports within the one-year deadline are uncertain.

Local fiscal effects

Criminal justice system expenditures

As noted, it appears unlikely that the bill will create a large number of new felony cases for any given county criminal justice systems to process. That said, any new criminal case that is created as a result of violating the bill's prohibition, theoretically at least, carries the potential to increase related county criminal justice system costs, for example, expenses related to investigating, prosecuting, adjudicating, and sanctioning the offender, as well as paying for defense counsel if the offender is indigent. If, as assumed, the number of cases in any given county criminal justice system is relatively small in the context of the overall criminal caseload, then any resulting increase in a county's annual criminal justice system expenditures is likely to be no more than minimal. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated annual cost of no more than \$5,000 for any affected county. As of this writing, it is also assumed that any costs incurred by municipal or township criminal justice entities will be no more than minimal on an ongoing basis as well.

County revenues

Furthermore, the bill could also increase the amount of court cost and fine revenues collected by counties from offenders. Given the number of cases in which a violation of the bill's prohibition might apply appears likely to be relatively small, the amount of additional court cost and fine revenues that counties may actually collect annually is likely to be no more than minimal. For the purposes of this fiscal analysis, a minimal revenue increase means an estimated gain of no more than \$5,000 for any affected county per year. As noted, 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.

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