

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 228** DATE: **November 7, 2007**
STATUS: **As Introduced** SPONSOR: **Sen. Stivers**
LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**
CONTENTS: **Victim notification**

State Fiscal Highlights

STATE FUND	FY 2008	FYs 2009 – 2018 or so	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	One-time costs to reprogram certain information systems, magnitude uncertain	(1) Increase in annual post-release control costs rising to an estimated \$5-plus million over roughly ten-year period; (2) Minimal ongoing victim notification costs	(1) Estimated \$5-plus million increase in annual post-release control costs; (2) Minimal ongoing victim notification costs

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

- **Post-release control.** The Department of Rehabilitation and Correction (DRC) has concluded that, roughly ten years after the bill becomes effective, approximately 7,000 additional offenders will be under post-release control supervision annually, and that, in order to supervise those additional offenders, it would need to hire approximately 93 new parole officers over this ten-year period. At a current annual salary with benefits of about \$55,000, the total annual cost of these new parole officers would be \$5,115,000 (93 x \$55,000). Additional costs would also likely be incurred to support, house, and equip these new parole officers. Presumably, moneys appropriated from the state's General Revenue Fund (GRF) would cover the bulk of these operating expenses.
- **Victim notifications.** The bill makes changes to the manner in which DRC and the Department of Youth Services (DYS) provide victim notifications. These changes in and of themselves will not create large ongoing costs to either department, however, since much of this notification process is computer automated, there would likely be one-time costs, of uncertain magnitude, associated with reprogramming the computers that govern the process. The exact cost of making these one-time programming changes is not known at this time. Other costs associated with additional notifications and postage would be only minimal.



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase to certain criminal justice system components, not likely to exceed minimal	Potential increase to certain criminal justice system components, not likely to exceed minimal	Potential increase to certain criminal justice system components, not likely to exceed minimal

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

- **County prosecutors.** The county prosecutors across the state are already engaged in extensive victim notification activities under current law, particularly with respect to pretrial level activities. According to the Ohio Prosecuting Attorneys Association, the bill does create some additional workload and administrative burdens, but these costs would not likely exceed minimal in any given county, and should be readily absorbed into the ongoing cost of doing everyday business.
- **County sheriffs.** Based on LSC fiscal staff's research to date, it appears that the bill might subject, at most, a few additional offenders to the Sex Offender Registration and Notification (SORN) Law annually statewide, and the fiscal impact on any given county sheriff's department would be negligible.

Detailed Fiscal Analysis

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

- Requires the prosecuting attorney of a county in which an eligible offender was indicted to notify the victim or the victim's representative of any judicial release hearing of an eligible offender, or the granting of a judicial release to any eligible offender.
- Requires, if an offender is incarcerated for an offense of violence that is a felony of the first, second, or third degree, certain notifications to a victim concerning the offender's confinement, release, and other matters related to the offender's confinement regardless of whether or not the victim requested notification.
- Makes numerous changes to the time frames specified for holding judicial release hearings, and a variety of notifications pertaining to the incarceration and potential release of certain eligible prisoners.
- Requires a period of post-release control for offenders who commit first, second, or third-degree felony offenses of violence.
- Requires the Department of Rehabilitation and Correction (DRC) to keep information on certain offenders in a publicly accessible database for ten years following final discharge.
- Requires DRC submit certain reports on a monthly basis to county prosecutors, and on a quarterly basis to the chairs of the House and Senate criminal justice committees in the General Assembly.
- Expands the victims of offenses of violence that are felonies of the first, second, or third degree who may request a hearing before the full Parole Board.
- Requires the adoption of rules prohibiting the Parole Board from considering sentences in effect on and after July 1, 1996, in making determinations relative to release of an inmate imprisoned for an offense committed before July 1, 1996.
- Makes changes to the criminal code such that the offense of voluntary manslaughter, when committed with a sexual motivation, is a sexually motivated offense for purposes of the Sex Offender Registration and Notification (SORN) Law.

State fiscal effects

Department of Rehabilitation and Correction (DRC)

Post-release control. The bill expands the categories of prisoners for whom post-release control is mandatory upon release, and the duration of the periods of mandatory post-release control. As a result, additional offenders who committed offenses of violence that are felonies of the first, second, or third degree will be subject to five years of post-release control, while certain other violent offenders will be subject to three years of post-release control.

An analysis by the Department of Rehabilitation and Correction has concluded that this provision of the bill will, over time, increase the number of offenders being subject to community supervision by the Adult Parole Authority (APA), such that, roughly ten years after it became effective, approximately 7,000 additional offenders will be under post-release control supervision annually. Departmental staff has also estimated that, in order to supervise those additional offenders, it would need to hire approximately 93 new parole officers over this ten-year period. At a current annual salary with benefits of about \$55,000, the total annual cost of these new parole officers would be \$5,115,000 (93 x \$55,000). Additional costs would also likely be incurred to support, house, and equip these new parole officers. Presumably, moneys appropriated from the state's General Revenue Fund (GRF) would cover the bulk of these operating expenses.

Notification changes. The bill amends the process of notifying victims, and other required parties, of changes in the incarceration status of certain offenders. The Department currently provides a variety of such notifications to statutorily required parties and victims that request to be notified. Under the bill, the APA is required to provide a more timely notification to prosecuting attorneys, presiding judges, and victims of any recommendations for pardon, parole, or commutation of the sentence of any prisoner incarcerated for an offense of violence that would be a felony of the first, second, or third degree. The bill mandates notification to victims regardless of whether the victims requested notification. These modifications to the timing of notifications also incorporate prisoners being moved into transitional control, and the posting of releases or other changes in inmate sentences to the Internet database maintained by the Department.

The Department has indicated that the changes to the timing of the various notifications are not a major fiscal concern in and of themselves. Since much of the notification process in the Department is computer automated, there would likely be one-time costs, of uncertain magnitude, associated with reprogramming the computers that govern the process. The Department lacks the in-house capability to make such changes, and would therefore likely hire a vendor. The exact cost of making these one-time programming changes is not known at this time.

Since the bill requires the notification of victims even if they have not requested to be notified, the Department is required to make an attempt to identify the mailing addresses of victims and mail the appropriate notifications to these addresses. This may also result in an increase in annual postage expenditures for the Department, which has made recent progress in utilizing telephone and other electronic means of providing notifications. If the Department must return to using the U.S. postal system, notification expenditures will increase accordingly. The Department is uncertain of the magnitude of such an increase in expenditures.

Victim conferences. The bill requires the APA to adopt rules providing for victim conferences prior to a parole hearing for prisoners incarcerated for an offense of violence that is a felony of the first, second, or third degree. The Department already has some ability to hold conferences as requested and does not anticipate any significant fiscal impact from this provision.

Required reporting. The bill requires DRC to submit reports on a monthly basis to county prosecutors, and on a quarterly basis to the chairs of the House and Senate criminal justice committees in the General Assembly listing those inmates incarcerated for offenses of violence that are felonies of

the first, second, or third degree who were either granted parole or some other type of release, and a summary of the terms and conditions of that release or parole. The Department already generates a number of reports detailing various aspects of the release of inmates, including some that are sent regularly to the county prosecutors. A large part of the Department's capability to generate reports is currently computer automated; thus, there would likely be one-time costs, of uncertain magnitude, associated with reprogramming the computers that govern the report generation process. The exact cost of making these one-time programming changes is not known at this time.

Parole Board guidelines. The bill requires DRC to adopt rules prohibiting the Parole Board from considering sentences in effect on and after July 1, 1996, in making determinations relative to release of an inmate imprisoned for an offense committed before July 1, 1996. While this provision would invalidate some, but not all, of the Parole Board's guidelines for determining releases, the overall fiscal impact on the Department is uncertain at this time. One concern is that if this requirement in the bill potentially reduces the number of paroles granted in any given year, then the reduction in the number of releases contributes to the ongoing problem of overall inmate population growth, which translates into higher GRF operating costs. The magnitude of any such potential increase in operating expenditures is very uncertain, as the Department really does not know how this provision of the bill will impact the operation of the Parole Board.

Parole Board hearings. The bill permits a victim of an offense of violence that is a felony of the first, second, or third degree, the victim's representative, or the spouse, parent or parents, sibling, or child or children of the victim to request the Parole Board to hold a full Board hearing that relates to the proposed parole or re-parole of the person that committed the violation. According to the Department, this would not significantly alter current practice in which victims may already request a full Board hearing. Such requests are typically honored under current law; thus, this provision of the bill would not result in any increase in expenditures.

Department of Youth Services (DYS)

Notification changes. The bill amends the process of notifying victims, and other required parties, of changes in the incarceration status of certain juvenile offenders. The Department of Youth Services currently provides such notifications to statutorily required parties and victims that request to be notified. Under the bill, DYS would be required to provide a more timely notification to victims of changes in the incarceration status of any juvenile offender incarcerated for an offense of violence that would be a felony of the first, second, or third degree if committed by an adult. The bill mandates notification to victims regardless of whether the victims requested notification.

Department of Youth Services staff have indicated that the changes to the overall number and timing of the various notifications are not a major fiscal concern in and of themselves. The additional administrative workload presented by this requirement of the bill will likely be absorbed into the everyday cost of doing business. Since the bill requires the notification of victims that have not requested to be notified, the Department is required to make an attempt to identify the mailing addresses of victims and send the appropriate notifications to these addresses by ordinary U.S. mail. This may also result in an increase in annual postage expenditures for the Department, which has made recent progress in utilizing telephone and other electronic means of providing notifications. If the Department

must return to using the U.S. postal system, notification expenditures will increase accordingly. The Department is uncertain of the magnitude of these increases in expenditures, but does not expect them to be any more than minimal.

Local fiscal effects

County prosecutors

The bill creates two new victim notification duties for county prosecutors in addition to the ongoing victim notification functions performed by the county prosecutors under current law. First, when the prosecuting attorney's office receives notice from a court of an upcoming judicial release hearing for a prisoner convicted in that county and incarcerated for an offense of violence that is a felony of the first, second, or third degree, the county prosecutor must send written notice to the victim regardless of whether the victim requested notification. Second, if the court grants a motion for judicial release, the county prosecutor must send written notice to the victim regardless of whether the victim requested notification.

The county prosecutors across the state are already engaged in extensive victim notification activities under current law, particularly with respect to pretrial level activities. According to the Ohio Prosecuting Attorneys Association, the bill does create some additional workload and administrative burdens, but these costs would not likely exceed minimal in any given county, and should be readily absorbed into the ongoing cost of doing everyday business.

County sheriffs

The bill provides that "voluntary manslaughter" when committed with a sexual motivation is a sexually oriented offense for purposes of the Sex Offender Registration and Notification (SORN) Law and that an offender who commits this offense with a sexual motivation is a Tier III sex offender/child-victim offender. The bill further specifies that a child who is adjudicated a delinquent child for committing "voluntary manslaughter" with a sexual motivation, is a public registry-qualified juvenile offender registrant if the juvenile court imposes a serious youthful offender dispositional sentence on the child, the child was 14, 15, 16, or 17 years of age at the time of committing the act, and the juvenile court classifies the child a juvenile offender registrant.

Knowledgeable experts in this field do not believe there would be very many qualifying cases in which voluntary manslaughter is committed with a sexual motivation, and thus the number of new offenders that could be added to the SORN system would likely be no more than a few annually statewide. The Buckeye State Sheriffs' Association believes that any annual increase in cost to county sheriffs related to their SORN Law responsibilities would be negligible.

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