# Ohio Legislative Service Commission

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# Fiscal Note & Local Impact Statement

**Bill**: H.B. 13 of the 128th G.A.

**Date**: March 18, 2009

**Status**: As Introduced

**Sponsor**: Rep. Garrison

**Local Impact Statement Procedure Required**: No — Minimal cost

**Contents**: SORN Law restrictions

## State Fiscal Highlights

| STATE FUND | FY 2010 – FUTURE YEARS |
|---|---|
| **General Revenue Fund (GRF)** | |
| Revenues | Potential negligible annual gain in locally collected court costs |
| Expenditures | Potential incarceration cost increase, but likely to be no more than minimal annually |
| **Victims of Crime/Reparations Fund (Fund 4020)** | |
| Revenues | Potential negligible annual gain in locally collected court costs |
| Expenditures | - 0 - |

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- **Incarceration expenditures.** As a result of violations of the bill's prohibitions, it is possible that additional offenders will be sentenced to prison. In theory, the fiscal effect of such an outcome would be an increase in the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. The number of those offenders, however, appears to be small enough that any increase in the Department's annual expenditures would be minimal at most. Herein, a minimal state expenditure means a cost increase estimated at less than $100,000 per year.

- **Locally collected state court costs.** If, as a result of violating the bill's prohibitions, additional offenders are convicted of a felony offense, the state GRF and the Victims of Crime/Reparations Fund (Fund 4020) could experience an increase in locally collected state court cost revenues that the court requires such an offender to pay. However, since the likely number of offenders appears to be relatively small, the amount of money that the GRF and Fund 4020 may gain annually is likely to 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.

# Local Fiscal Highlights

| LOCAL GOVERNMENT | FY 2009 – FUTURE YEARS |
|---|---|
| **Counties** | |
| Revenues | Potential gain in court costs and fines, likely to be minimal at most annually |
| Expenditures | Potential increase in criminal justice system costs (arrest, detention, prosecution, adjudication, indigent defense, and sanctioning), likely to be minimal at most annually |
| **Municipalities** | |
| Revenues | - 0 - |
| Expenditures | Potential increase in criminal justice system costs (arrest and detention), likely to be minimal at most annually |

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

- **Local criminal justice system expenditures.** It appears unlikely that the bill will create many new felony cases for county and municipal criminal justice systems to process. That said, any new criminal case that is created as a result of violating the bill's prohibitions carries the potential to increase costs related to the matter's investigation, prosecution, and adjudication; defense counsel if the offender is deemed indigent; and subsequent local sanctioning of the offender. Any resulting increase for any affected county or municipal criminal justice system will be minimal annually, as it seems likely that the number of violations will be relatively small. 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.

- **County court cost and fine revenues.** If, as assumed herein, the number of new felony cases that might be produced as a result of violations of the bill's prohibitions in any given local jurisdiction is relatively small on an ongoing basis, then any related gain in court cost and fine revenues generated by county criminal justice systems generally will likely be no more than minimal. For the purposes of this fiscal analysis, minimal means an estimated gain in revenues that is no more than $5,000 for any affected county.

# Detailed Fiscal Analysis

## Operation of the bill

The bill prohibits an adult Tier III sex offender/child victim offender from knowingly being present on school premises or preschool or child day-care center premises if the offender has been convicted of or pleaded guilty to a specified offense against a victim under the age of 16 or a specified violation of gross sexual imposition against a child under 12 years of age. A violation of the prohibition is a felony of the fifth degree. Table 1 below summarizes the sentence and penalty generally for a felony of the fifth degree under current law.

| Table 1. Sentence and Fine for Felony of the Fifth Degree Generally | | |
|---|---|---|
| **Degree of Offense*** | **Prison/Jail Term** | **Maximum Fine** |
| F5 | 6, 7, 8, 9, 10, 11, or 12 months in prison | Not more than $2,500 |

*For an F5, the sentencing guidelines state a general preference against a prison term.

## Tier III sex offender/child-victim offenders

According to the Office of the Attorney General, there are currently 28,963[1] sex offenders registered in the eSORN database.[2] Of that number, 14,047 are classified as adult Tier III offenders.

After analyzing the data provided by the Office of the Attorney General, LSC fiscal staff has ascertained that approximately half of those adult Tier III offenders, or roughly 7,000, are currently incarcerated. The bill's prohibitions would be applicable to a subset of those adult Tier III offenders who are not incarcerated and were convicted of or pleaded guilty to a sex/child-victim offense where the victim was of a certain age.

## State fiscal effects

### Incarceration expenditures

As a result of violations of the bill's prohibitions, it is possible that additional offenders could be sentenced to prison. In theory, the fiscal effect of such an outcome would be an increase in the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. It appears, however, that the number of new felony convictions that may result from violations of the bill's prohibitions is likely to be relatively small, and any related potential increase in DRC's annual incarceration costs

[1] As of March 16, 2009

[2] eSORN stands for Ohio's Electronic Sex Offender Registration and Notification database, which is linked to all 88 county sheriff's offices and the records office of all of the Ohio Department of Rehabilitation and Correction's 32 correctional facilities.

would be no more than minimal. For the purposes of this fiscal analysis, minimal means an estimated cost of less than $100,000 per year for the state.

The annual cost associated with housing and providing services to an offender in prison may be calculated using two separate annual inmate cost estimates: (1) total cost per inmate bed (fixed plus marginal), and (2) marginal cost per inmate bed. The Department has reported that, as of March 2009, its total annual cost per inmate bed was $24,867 ($68.13 per day). Marginal cost can be used when a relatively small number of offenders are likely to be added to DRC's total annual inmate population. Marginal costs include things such as food, clothing, medical care, and so on. LSC fiscal staff estimates that DRC's annual marginal cost is currently around $3,700 per inmate.

### Court cost revenues

As noted, the bill may create some new felony-level convictions. Such an outcome would create the possibility that the state may gain additional locally collected court cost revenue that is deposited in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 4020). The amount of money that the GRF ($15 per conviction) and Fund 4020 ($30 per conviction) may gain annually is likely to be negligible, as the number of new felony convictions appears likely to be relatively small. For the purposes of this fiscal analysis, negligible means an estimated revenue gain of less than $1,000 per year for the GRF and Fund 4020. 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 unwilling or unable to pay.

## Local fiscal effects

### Criminal justice system expenditures

As noted, it appears unlikely that the bill will create many new felony cases for county and municipal criminal justice systems to process. That said, any new criminal case that is created as a result of violating the bill's prohibitions, in theory, carries the potential to increase costs related to: (1) municipalities in terms of the arrest and detention of additional offenders and (2) counties in terms of expenses related to investigating, prosecuting, adjudicating, and sanctioning the offender, as well as paying for defense counsel if the offender is indigent. Any resulting increase in an affected county or municipal criminal justice system's expenditures is likely to be no more than minimal annually, as it seems likely that the number of violations will be relatively small. 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.

### Court cost and fine revenues

County criminal justice systems may realize an increase in court cost and fine revenue collections as a result of offenders being convicted of violating one or more of the bill's prohibitions. If the number of offenders convicted of violating the bill's prohibitions is relatively small in any given jurisdiction, the potential amount of additional court cost fine revenue that might be generated for that local jurisdiction is likely to be no more than minimal annually. For the purposes of this fiscal analysis, a "minimal" revenue gain means an estimated increase of no more than $5,000 for any affected county per year. As noted above, the collection of 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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