



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 369 of the 128th G.A.

**Date:** April 28, 2010

**Status:** As Introduced

**Sponsor:** Rep. Luckie

**Local Impact Statement Procedure Required:** Yes

**Contents:** Active GPS monitoring of SORN registrants who have no fixed address

### State Fiscal Highlights

#### STATE FUND

#### FY 2011 – FUTURE YEARS

##### General Revenue Fund (GRF)

|              |   |
|--------------|---|
| Revenues     | - 0 -   |
| Expenditures | Potential incarceration cost increase, annual magnitude uncertain |

##### Indigent Defense Support Fund (Fund 5DY0)

|              |  |
|--------------|--|
| Revenues     | Potential negligible gain in locally collected state court costs |
| Expenditures | - 0 -  |

##### Victims of Crime/Reparations Fund (Fund 4020)

|              |  |
|--------------|--|
| Revenues     | Potential negligible gain in locally collected state court costs |
| Expenditures | - 0 -  |

Note: The state fiscal year is July 1 through June 30. For example, FY 2011 is July 1, 2010 – June 30, 2011.

- **Revenues.** With each conviction for noncompliance with the bill's monitoring requirement, the state may gain locally collected state court cost revenue that is deposited in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). Given many will be determined indigent, the amount of money that either of these state funds may gain annually will be negligible. Negligible state revenue means an estimated gain of less than \$1,000 for either state fund per year.
- **Incarceration costs.** The available data does not permit a reasonably accurate estimate of the number of persons that will be convicted of a compliance failure and subsequently sentenced to prison. That said, there are likely to be violations though, with most of those convicted of a felony offense and sentenced to prison. The magnitude of the potential resulting increase in the Department of Rehabilitation and Correction's annual GRF-funded incarceration costs is uncertain.

# Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

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## Counties (criminal justice systems)

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|              |   |
|--------------|---|
| Revenues     | Potential, likely negligible, annual gain in court cost and fine revenues   |
| Expenditures | (1) Likely increase in active GPS monitoring costs, possibly exceeding minimal for counties with more than a few homeless SORN registrants; (2) Likely increase to process SORN registrants for noncompliance |

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

- **Monitoring costs.** Determining a reasonably accurate cost for counties to implement the required active GPS monitoring of certain SORN registrants is difficult, as the number of persons requiring such monitoring will vary greatly from county to county. Costs could also vary based on each county's interpretation of the term "fixed residence address." Based on a range of \$10 to \$18 per day, monitoring one indigent person for a year could cost a county \$3,650 to \$6,570. Larger, urban counties would likely have more than a few "homeless" indigent persons requiring active GPS monitoring. If certain counties have a sizable population of homeless SORN registrants, additional staff may be required to oversee the monitoring program.
- **Criminal case processing costs.** As the likely number of violations of the bill's monitoring requirement is uncertain, it is unclear as to whether the resulting increase in an affected county criminal justice system's expenditures will exceed minimal annually. Costs in excess of minimal mean an estimated increase of more than \$5,000 annually 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 persons being convicted of violating the bill's monitoring requirement. Given the likelihood that many will be determined indigent, the amount of money that any county may gain annually will be negligible. Negligible county revenue means an estimated gain of less than \$1,000 per year.

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## Detailed Fiscal Analysis

### Overview

Most notably, the bill will require a person who registers under the Sex Offender Registration and Notification (SORN) Law and who does not have a fixed residence address to be monitored by the county sheriff by an active global positioning system (GPS) device until the person acquires a fixed residence address. Such a person is to pay the full costs of monitoring unless indigent, in which case the county where the person resides or is temporarily domiciled must pay those costs.

### Affected population

According to staff of the Ohio Law Enforcement Gateway (OHLEG), a section of the Office of the Attorney General which administers the state SORN database, there are currently between 135 to 200 released sex offenders classified as "homeless" in the database or that carry some other address designation that alludes to homelessness (i.e. bridge or street intersection).<sup>1</sup> However, it is likely that the actual number of homeless sex offenders is higher than that range would suggest. Per design, the SORN database does not capture data that would clearly identify a registrant as "homeless." Sheriff's deputies typically make these interpreted notations in a separate text field. These designations or notations could vary from county to county, thus making an exact count of the population difficult. It is also presumed that a number of registrants provide false addresses as well, further complicating this assessment.

It should be noted that the bill does not define "fixed residence address." As a result, it is unclear if persons residing in homeless shelters or other temporary housing arrangements would be included in the requirement for active GPS monitoring. Related fiscal costs would vary greatly depending upon each county's interpretation of "fixed residence address."

While the bill states that monitoring costs are to be paid by the registrant, it seems reasonable to assume that a large majority are likely to be indigent and will not be able to pay these costs (outlined in more detail below). Therefore, for the purposes of this fiscal analysis, it is assumed that most, if not all, of the monitoring costs are likely to be borne by each county in which homeless SORN registrants reside.

### Active GPS monitoring (county costs)

Active GPS devices use global positioning satellites to track a person's location in the community. These devices are able to transmit real-time data to the monitoring jurisdiction ranging from every few seconds to every few hours. Active GPS monitoring is generally more expensive to administer than passive GPS systems, which require manual data downloads at a base station, perhaps daily, or at some other

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<sup>1</sup> As of April 21, 2010, there were a total of 18,400 released sex offenders registered in the SORN database.

interval of time as determined by the monitoring agency. LSC fiscal staff's latest research indicates that the average cost for active GPS monitoring systems could range from \$10 to \$18 per day. Actual costs could vary though depending upon how counties implement their individual monitoring programs. Counties may choose to purchase the devices outright and hire additional staff to monitor certain persons or counties may choose to contract with a private vendor to provide these services for them.

Determining the exact cost of implementing these programs in each county is problematic. As noted above, determining the number of registrants that would require such monitoring would vary greatly from county to county. Costs could also vary based on each county's interpretation of the term "fixed residence address." Based on a rate range of \$10 to \$18 per day, one indigent registrant who is monitored for a year could cost a county \$3,650 to \$6,570. Larger, urban counties would likely have more than a few "homeless" indigent registrants requiring active GPS monitoring. If certain counties have a sizable population of homeless registrants, additional staff may be required to oversee the monitoring program. This would suggest that, in certain counties, the annual cost for active GPS monitoring could easily exceed minimal. For the purposes of this fiscal analysis, costs in excess of minimal mean an estimated increase of more than \$5,000 annually for any affected county.

### **Noncompliance with monitoring requirement (state and county costs)**

By requiring certain SORN registrants to be monitored by active GPS devices, there could be a number of registrants that, in some manner, fail to comply with this requirement. Failure to comply could result in a subsequent criminal charge being filed by the local jurisdiction. Generally speaking, these are felony level charges which vary in level of degree based on the original level of offense that triggered the SORN requirement. If the registrant has been previously convicted of a failure to register offense, the penalty includes a definite prison term of no less than three years.

Determining the potential number of future violations of this monitoring requirement is problematic. However, there will likely be some number of violations and subsequent charges filed annually. It also seems reasonable to assume that those counties with larger SORN populations, as well as homeless persons, will experience a larger number of violations than those counties with smaller populations.

### **State fiscal effects**

#### **Incarceration expenditures**

As a result of violations of the bill's monitoring requirement, 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. As of April 2010, the annual average cost associated with housing and providing services to an offender in prison was \$25,334, or \$69.41 per day.

As the size of the population potentially affected by the bill's monitoring requirement cannot accurately be assessed, or the degree of their future noncompliant behavior, it is difficult to estimate the number of additional persons that will be convicted of a compliance failure and subsequently sentenced to prison. That said, there are likely to be violations though, with most of those convicted of a felony offense and sentenced to prison. The magnitude of the potential resulting increase in DRC's annual incarceration costs is uncertain.

### **Court cost revenues**

With each successful conviction for noncompliance with the bill's monitoring requirement, the state may gain additional locally collected state court cost revenue that is deposited in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). It is important to note though, 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. Given the number of nonindigent offenders appears likely to be relatively small, the amount of money that either of these state funds may gain annually will be negligible. For the purposes of this fiscal analysis, negligible state revenue means an estimated gain of less than \$1,000 for either state fund per year.

A person convicted of any felony offense other than a nonmoving traffic violation is generally required to pay state court costs totaling \$60. The \$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020.

### **Local fiscal effects**

Any new criminal case that is created as a result of violating the bill's monitoring requirement (i.e. refusal to be monitored, removing or damaging the device, etc.), carries the potential to increase costs for 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. As the likely number of violations of the bill's monitoring requirement is uncertain, it is unclear as to whether the resulting increase in an affected county criminal justice system's expenditures will exceed minimal annually. For the purposes of this fiscal analysis, costs in excess of minimal mean an estimated increase of more than \$5,000 annually for any affected county.

In theory, county criminal justice systems may realize an increase in court cost and fine revenue collections as a result of persons being convicted of violating the bill's monitoring requirement. As noted above though, the collection of court costs and fines from certain offenders can be problematic, especially in light of the fact that many of these persons will be indigent and unable to pay. This would suggest that the amount of court cost and fine revenues that any given county may collect annually is likely to be negligible. For the purposes of this fiscal analysis, negligible county revenue means an estimated gain of less than \$1,000 per year.