



Ohio Legislative Service Commission

Jamie L. Doskocil

Fiscal Note & Local Impact Statement

Bill: H.B. 488 of the 129th G.A.

Date: April 24, 2012

Status: As Introduced

Sponsor: Reps. Baker and Slaby

Local Impact Statement Procedure Required: No

Contents: Court costs for felonies and misdemeanors

State Fiscal Highlights

STATE FUND

FY 2013 – FUTURE YEARS

Reparations Fund (Fund 4020)

Revenues Gain in revenues, potentially reaching up \$9.6 million annually

Expenditures - 0 -

Rape Crisis Program Trust Fund (new fund)

Revenues Gain in revenues, potentially ranging from \$10,000 to \$250,000 annually

Expenditures Increase in expenditures commensurate with revenue gain

Claims Section Fund (Fund 4190)

Revenues - 0 -

Expenditures Potential minimal annual increase for advisory council reimbursement expenses

Note: The state fiscal year is July 1 through June 30. For example, FY 2013 is July 1, 2012 – June 30, 2013.

- **Reparations Fund.** As a result of increasing the amount of the court costs deposited into the Reparations Fund (Fund 4020), up to \$9.6 million in additional revenue could be generated annually. However, as collecting money from certain offenders can be problematic, a more realistic estimate may be a few million dollars less than this amount.
- **Rape Crisis Program Trust Fund.** The bill's additional \$100 court cost for all misdemeanor and felony convictions involving a sexually oriented offense could potentially generate anywhere from \$10,000 to \$250,000 per year for deposit into the newly created Rape Crisis Program Trust Fund. Of that revenue stream, at least 95% must be used for the purpose of providing funding to eligible rape crisis centers, and no more than 5% may be used by the Attorney General to pay costs associated with administering the fund.
- **State Victims Assistance Advisory Council.** As a result of adding an additional member to the State Victims Assistance Advisory Council, the Attorney General may experience a minimal annual increase in expenditures related to reimbursable expenses. These expenses are paid from the Claims Section Fund (Fund 4190).

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2012 – FUTURE YEARS

County and Municipalities (clerks of courts)

Revenues

Potential minimal annual gain from \$1 service charge

Expenditures

Court cost collections increase, potentially offset to some degree by retained service charge

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

- **Clerks of courts.** The \$1 service charge that clerks of courts are permitted to retain from the collection of an additional \$100 court cost for sexually oriented offense convictions will generate, at most, a minimal amount of additional revenue for any given court per year. The cost of collecting and forwarding court costs to the state treasury may be offset either wholly or in part by this service charge.

Detailed Fiscal Analysis

The bill: (1) increases the court costs charged on felony and misdemeanor offenses that are to be credited to the Reparations Fund (Fund 4020), (2) creates the Rape Crisis Program Trust Fund to be funded by an additional court cost imposed for misdemeanor and felony convictions involving a sexually oriented offense, and (3) adds a representative of rape crisis centers as a member of the State Victims Assistance Advisory Council.

Reparations Fund

The bill will increase the court costs imposed on misdemeanor and felony convictions that are statutorily designated for deposit into Fund 4020, the Reparations Fund. Table 1 below illustrates the current court costs that are collected and forwarded to this fund, as well as the proposed increase.¹

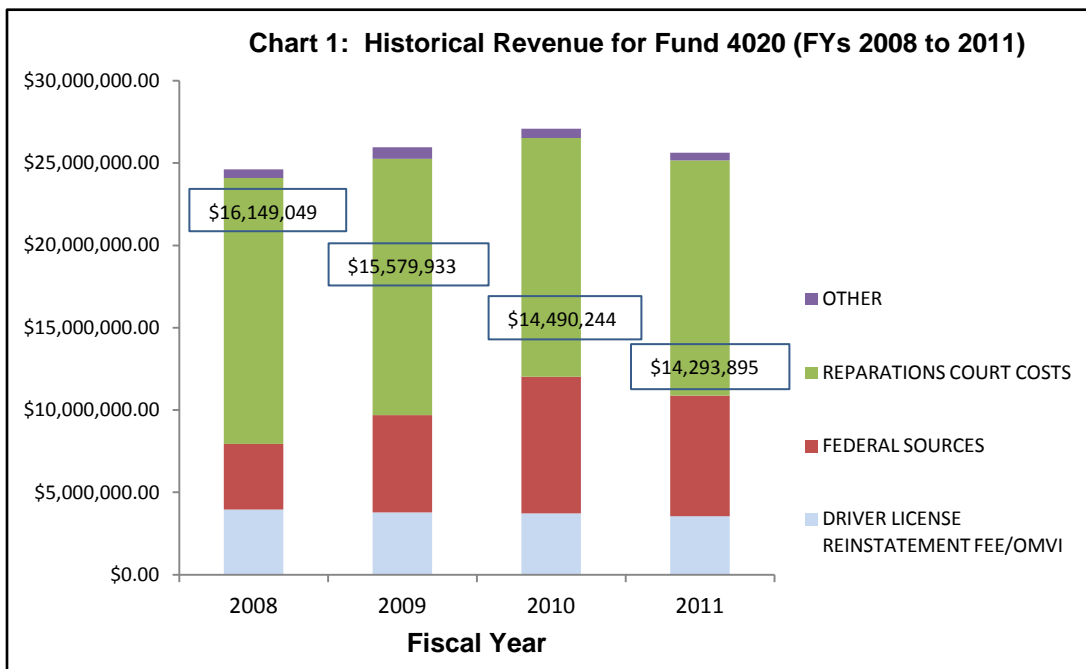
Table 1: Current and Proposed State Court Costs				
Offense Type	Current Court Cost	Proposed Court Cost	Amount of Increase	Percentage Increase
Misdemeanor	\$9	\$15	\$6	67%
Felony	\$30	\$50	\$20	67%

In FY 2011, these court costs generated a total of approximately \$14.3 million for deposit into Fund 4020. Based on this annual amount, one can straightforwardly calculate that the above court cost increase could generate up to an additional \$9.6 million or more annually (\$14.3 million x 67%). However, as discussed below, this estimate is likely to be somewhat higher than the additional amount that is likely to be collected annually.

After reviewing data obtained from OAKS (the state's accounting system), it appears that the revenue generated from court costs has been declining over the past few years. Although the reason(s) for this decline are uncertain, staff at the Office of the Attorney General (the agency that uses Fund 4020 for statutorily specified purposes) speculates that there are several possible reasons, including, but not limited to, the apparent statewide decrease in criminal cases, the way in which county treasurers and clerks are collecting and then remitting these court costs to the state, and the economic downturn which has possibly led to an increase in the number of offenders that are determined to be indigent, and hence no fines or court costs are levied or collected.

¹ In a case that a person is convicted of, or pleads guilty to, any offense other than a nonmoving traffic violation, the court is required to impose certain state costs in addition to any other court costs that the court is required by law to impose upon the offender. A judge may waive these court costs if the offender is determined to be indigent. Many offenders are unwilling or financially unable to pay court costs and fees.

The chart below illustrates this trend in declining annual revenues. From FY 2008 through FY 2011, revenues generated by these court costs have declined by more than \$1.8 million, from \$16.1 million in FY 2008 to \$14.3 million in FY 2011. Whether this trend is likely to continue and for how long is unclear. With this caveat in mind, the estimated \$9.6 million in additional annual revenues generated by the proposed court cost increase may more likely represent the maximum amount that could be generated. A more realistic estimate may be a few million dollars less than this amount, especially if certain offenders become less willing or are financially unable to pay any court costs assessed by the court.



Rape Crisis Program Trust Fund

The bill creates the Rape Crisis Program Trust Fund, which is to be administered by the Attorney General. The new fund's revenue stream will be derived from an additional court cost of \$100 for all misdemeanor and felony convictions involving a sexually oriented offense, also set forth in the bill. If the alleged offender posts bail, the \$100 is added to the bond and the amount is held until the individual is found guilty. It is refunded if the charges are dismissed or the individual is found not guilty. The clerk of the court will forward \$99 of each cost to the Treasurer of State to be deposited into the fund. The clerk may retain the remaining \$1 to help offset the cost of collecting these additional court costs.

At least 95% of the moneys deposited into the fund must be used for the purpose of providing funding to eligible rape crisis centers.² The Attorney General may use up to 5% to pay costs associated with administering the fund. After the bill is enacted, the Attorney General will draft rules establishing the guidelines for eligible centers to apply for funding. The amount of funding that each rape crisis center may receive will depend on the number deemed eligible by the Attorney General and the amount of revenues deposited annually into the fund.

It is estimated that the revenues that could potentially be generated by this additional court cost may range as low as \$10,000 to as high as \$250,000 per year statewide. The estimation of where annual revenues would fall within this range depends on the likelihood such offenders would pay the additional \$100 in court costs. The methodology used to calculate that estimate is described below.

Estimating the sexually oriented offender population

Estimation of the revenue likely to be generated from the additional \$100 court cost fee is dependent on the size of the felony and misdemeanor sex offender populations that would be subject to the new fee.

To estimate the annual population of offenders convicted of or pleading guilty to a sexually oriented offense, two sets of data were utilized as follows:

1. The Office of the Ohio Attorney General provided several years of data on the annual number of new registrants in the Sex Offender Registration and Notification (SORN) database, which would incorporate nearly everyone with a new sexually oriented offense conviction. These offenders are required to register in the SORN system upon conviction.
2. Data was also obtained from the Department of Rehabilitation and Correction (DRC) describing their annual intake of new offenders with a felony sex offense conviction.

Based on the available data from these two sources, it is estimated that the total number of offenders convicted of or pleading guilty to a sexually oriented offense is in the range of 2,000 to 2,500 per year statewide.

Estimated revenue from the additional sex offender court cost

Table 2 below provides a range of annual revenue collection estimates for the proposed \$100 additional court cost based on: (1) the above-estimated numbers of sexually oriented offense convictions per year (2,000 to 2,500) and (2) estimated collection rates as low as 5% and as high as 100%. As the table shows, the amount

² The bill defines an eligible rape crisis center as an organization or entity that operates in Ohio and that provides one or more of the following services to or for victims of sexual assault: (1) a telephone hotline, (2) information and referral services, (3) crisis-intervention services, (4) advocacy and support services, (5) therapy services, (6) service coordination, (7) programs to promote community awareness of available services, and (8) medical intervention.

collected annually statewide from the additional court cost could be as low as \$10,000 to as high as \$250,000.

It is important to note that the rates at which court costs, fees, and fines are collected for most, if not all felonies, is very low. One of the primary reasons for such low compliance is that many felony offenders, in particular those convicted of or pleading guilty to offenses of violence, are generally determined by the sentencing court to be indigent and thus cannot or will not pay the court costs, fees, and fines assessed under current law.

Table 2. Estimated Annual Revenue from Additional Sex Offender Court Cost of \$100		
Collection Rate	Estimated Annual Number of Sex Offenders	
	2,000	2,500
5%	\$10,000	\$12,500
10%	\$20,000	\$25,000
15%	\$30,000	\$37,500
25%	\$50,000	\$62,500
50%	\$100,000	\$125,000
75%	\$150,000	\$187,500
100%	\$200,000	\$250,000

The 100% collection rate level is included in the table not so much as a realistic expectation, but to illustrate the maximum revenue that could potentially be generated if none of the felony offenders were determined to be indigent and all of those nonindigent offenders paid all of their court costs, fees, and fines in full. The revenue that is likely to be generated will reflect a lower overall rate of collection, particularly the 5%-10% range. In general, it is reasonable to expect the presence of an elasticity effect whereby as the total amount in court costs, fees, and fines paid by any given offender increases, more offenders will either be unable to pay or choose not to pay the higher amount.

State Victims Assistance Advisory Council

The bill adds a representative of rape crisis centers as a member of the State Victims Assistance Advisory Council. Council members are not compensated but may be reimbursed for travel and other necessary expenses. These expenses are paid by the Attorney General, with the money being disbursed from the Claims Section Fund (Fund 4190). The amount necessary to reimburse this additional member will be minimal at most annually.