



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 108 of the 130th G.A.

Date: May 31, 2013

Status: As Reported by House Judiciary

Sponsor: Reps. Baker and Schuring

Local Impact Statement Procedure Required: Yes

Contents: Rape Crisis Program Trust Fund

State Fiscal Highlights

STATE FUND

FY 2014 – FUTURE YEARS

General Revenue Fund (GRF)

Revenues - 0 -

Expenditures Increase of \$1,000,000 in each of FYs 2014 and 2015 to expend Rape Crisis Centers appropriations

Rape Crisis Program Trust Fund

Revenues Potential annual gains of: (1) up to \$220,000 or more from SORN Law registration fee, and (2) up to between \$5,500 and \$1.1 million from discretionary fine

Expenditures Annual increase, up to available revenue

Other Funds of the Attorney General

Revenues - 0 -

Expenditures Potential annual increase to recover fees in a civil action

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- **General Revenue Fund.** The bill appropriates \$1,000,000 in each of FYs 2014 and 2015 to new GRF line item 055501, Rape Crisis Centers, to be administered by the Office of the Attorney General.
- **Rape Crisis Trust Fund.** The bill's \$100 Sex Offender Registration and Notification (SORN) Law registration fee could generate up to \$220,000 or more per year for deposit into the newly created Rape Crisis Program Trust Fund. The discretionary \$50 to \$500 fine imposed by the sentencing court may also generate revenue for the fund ranging from \$5,500 to \$1.1 million annually. However, the annual revenue from these sources is likely to fall at the lower end of the ranges.
- **Attorney General.** The Attorney General will experience an increase in annual operating expenses for staff to develop and administer a rape crisis center grants program, and may generate additional annual operating expenses to file the civil actions authorized by the bill to enforce the payment of the mandatory \$100 registration fee. These costs would be covered by a mix of funding sources, both GRF and non-GRF, available to the Attorney General.

Local Fiscal Highlights

- **County sheriffs.** The bill will likely create minimal annual administrative costs for county sheriffs as a result of (1) the requirement to collect the required \$100 sex offender registration fee, (2) transferring, each month, all fee money collected to the county treasurer who in turn transfers the money to the Treasurer of State, and (3) reporting annually to the Attorney General the names of those who fail to pay the fee.
- **Municipal courts and county courts.** If the Attorney General opts to file a civil action in order to collect registration fees that were not successfully collected by the county sheriffs, local courts, most likely municipal courts and county courts, could experience an increase in their civil caseloads. Statewide, the costs for judicial personnel to process these matters could exceed a minimal annual amount, especially in local jurisdictions with larger numbers of SORN Law registrants with unpaid fees.

Detailed Fiscal Analysis

The bill: (1) creates the Rape Crisis Program Trust Fund within the state treasury, to be administered by the Attorney General and funded by both a \$100 fee for first-time SORN Law registrants collected by county sheriffs and a discretionary fine of \$50 to \$500 imposed by the sentencing court on a person convicted of a sexually oriented or child-victim oriented offense, (2) permits the Attorney General to file civil actions to collect unpaid registration fees, (3) appropriates \$1,000,000 in each of FYs 2014 and 2015 to new GRF line item 055501, Rape Crisis Centers, and (4) adds two additional members to the State Victims Assistance Advisory Council.

Rape Crisis Program Trust Fund

The bill creates the Rape Crisis Program Trust Fund in the state treasury, to be administered by the Attorney General. The fund will derive its revenue from two primary sources: (1) a \$100 fee paid by first-time SORN Law registrants and (2) a discretionary fine of \$50 to \$500 imposed by the sentencing court on certain persons.

At least 95% of the money deposited into the fund must be used for the purpose of providing funding to eligible rape crisis programs. The Attorney General may use up to 5% to pay costs associated with administering the fund. The amount of funding that each rape crisis program may receive will depend on the number deemed eligible by the Attorney General and the available revenue.

Estimated revenues

SORN Law registration revenues. The bill requires a county sheriff to charge a fee of \$100 when a person first registers as a sex offender. The fee is in addition to the optional fee that a sheriff may charge under existing R.C. 311.171.¹ A sheriff may not refuse to register a person who does not pay the fee; however, a sentencing court may make the payment of the registration fee a condition of community control sanctioning. The bill requires the sheriff to transmit monthly all fee money collected to the county treasurer. Within 60 days after receipt, the county treasurer is required to transmit the money to the Treasurer of State to be credited to the Rape Crisis Program Trust Fund.

The number of new SORN Law registrants annually is relatively stable in Ohio. In CY 2012, there were approximately 2,200 new registrants. Assuming that the number of new registrations in future years is roughly the same, then annual revenues could total \$220,000 (2,200 new registrants x \$100). However, as discussed in more detail below, it is more likely that the annual revenues will be less than this estimated amount.

¹ The sheriff may charge a fee each time a person does any of the following: (1) registers under R.C. 2950.04 or 2950.041, (2) registers a new residence address under R.C. 2950.05, or (3) verifies a current residence address under R.C. 2950.06.

It is important to note that the rates at which court costs, fees, and fines are collected from those convicted of felonies is very low. One of the primary reasons for such low compliance is that many felony offenders, including sex offenders, 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.

As previously noted, county sheriffs are permitted to charge for certain SORN Law registration duties. According to a representative of the Buckeye State Sheriffs' Association, approximately half of all county sheriffs (44 of 88) attempt to collect such fees. Of this number, approximately 25%, or around 11, actually succeed in collecting this permissive fee. This is an imprecise estimate though and largely reflects anecdotal assessments from the Association. However, it is largely believed that this is a reasonable reflection of current collection trends amongst this particular offender population. It was also noted that, since the sheriff is not permitted to deny the registration or verification of a SORN Law registrant, collecting the fee consistently from individual registrants over time proves difficult. This scenario would likely be the same for the new \$100 mandatory fee. By making the payment of the fee a condition of community control, compliance rates may increase.

Discretionary fine revenues. The bill permits a court, at the time of sentencing, to impose a fine of between \$50 and \$500 upon an offender convicted of a felony that is a sexually oriented offense or a child-victim oriented offense. Table 1 below provides a range of annual revenue collection estimates for the discretionary fine based on: (1) the above-estimated numbers of sexually oriented offense convictions per year (2,200) and (2) estimated collection rates as low as 5% and as high as 100%. As the table shows, the amount collected annually statewide from the additional fine could be as low as \$5,500 to as high as \$1,100,000.

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. As stated previously, 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. The bill also does not mandate that a court impose the additional fine and leaves it at the court's discretion. Therefore, predicting with accuracy the amount of fine revenue that could be generated annually is problematic.

Table 1. Estimated Annual Revenue from Discretionary Fine		
Collection Rate	Potential Fine	
	\$50 (minimum)	\$500 (maximum)
5%	\$5,500	\$55,000
10%	\$11,000	\$110,000
15%	\$16,500	\$165,000
25%	\$27,500	\$275,000
50%	\$55,000	\$550,000
75%	\$82,500	\$825,000
100%	\$110,000	\$1,100,000

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% to 10% range.

Collection/enforcement costs

At the end of each calendar year, the sheriff must report to the Attorney General all fees that have been due and unpaid for more than one year and that the sheriff has not previously reported. The bill authorizes the Attorney General to recover those fees in a civil action. For the reasons noted above, it is estimated that the initial collection rate will be low. In the cases where the fee is remitted at the time of registration, the sheriff will be required to transmit all fee money collected to the county treasurer once a month. This will create additional administrative costs for these sheriffs and treasurers. However, these costs are expected to be minimal annually.

More notable could be the costs generated by the civil actions filed by the Attorney General. If the noncompliance rate is high, then it is possible that up to 2,000, or possibly more, civil actions could be filed annually across the state. As each of these actions will involve the collection of \$100, they likely fall under the monetary jurisdiction of municipal courts and county courts. In local jurisdictions with relatively large numbers of registrants failing to pay, the additional annual operating costs for judicial personnel to process these cases could exceed minimal. However, the bill gives the Attorney General the option of filing such actions. It is possible that the Attorney General may use other means to attempt to collect the unpaid fees.

Program administration costs

After the bill is enacted, the Attorney General will draft rules establishing the guidelines for eligible programs to apply for funding. The Attorney General will experience an increase in expenditures in order to: (1) administer the Rape Crisis Program Trust Fund, (2) draft rules, (3) make grants to eligible rape crisis programs

throughout the state, and (4) file civil actions to enforce the payment of the \$100 registration fee. It is uncertain if additional personnel will be needed, however, up to 5% of the Rape Crisis Program Trust Fund's revenues may be used by the Attorney General to help with some of these costs. Costs in excess of this available funding will likely be supported via a mix of other funding sources, both GRF and non-GRF, available to the Office of the Attorney General.

Rape Crisis Centers GRF appropriation

The bill creates, within the Attorney General's budget, GRF line item 055501, Rape Crisis Centers, and appropriates \$1,000,000 in each of FYs 2014 and 2015. Although the bill does not specify the intended purpose of this appropriation, it appears likely that it will be used to initially provide funding to eligible rape crisis programs, as determined by the Attorney General, until revenues deposited into the Rape Crisis Program Trust Fund are sufficient enough to support the program's purpose.

State Victims Assistance Advisory Council

The bill adds two new members to 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 these additional members will be minimal at most annually.