OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: S.B. 235 of the 132nd G.A. **Status:** As Introduced

Sponsor: Sen. Eklund **Local Impact Statement Procedure Required:** No

Subject: Creates a procedure for certain sex offenders to be reclassified or removed from the sex offender registry

State Fiscal Highlights

- The conviction record sealing provision may generate minimal at most application fee revenue annually for the state's General Revenue Fund (GRF).
- It is expected that the Attorney General's Bureau of Identification and Investigation can absorb the additional notification and record sealing work utilizing existing staff and appropriated resources.

Local Fiscal Highlights

- It is likely that the courts of common pleas can use existing staff and appropriated resources to absorb the additional work created by the petition procedure.
- There may be minimal net annual change in the costs and revenues of county sheriffs, as the duration of the duties of certain Sex Offender Registration and Notification (SORN) Law registrants may be reduced to some degree
- The conviction record sealing provision will have a minimal annual fiscal effect on courts of common pleas, as there will be some gain in record sealing application fees and a related increase in time and effort for the courts to review applications and potentially seal additional records.
- The annual county criminal justice system costs for the mandatory participation in a sex offender treatment program for a relatively small number of offenders will depend on the degree to which a court is already ordering such participation as a nonresidential sanction.

Detailed Fiscal Analysis

The bill: (1) allows certain offenders convicted of unlawful sexual conduct with a minor to petition a court of common pleas for modification or termination of duties under the existing Sex Offender Registration and Notification (SORN) Law, (2) permits record sealing in those cases, and (3) requires a court to sentence certain offenders

convicted of unlawful sexual conduct with a minor to a sex offender treatment program as a nonresidential sanction.

According to research by Families and Individuals for Reform (FAIR), as of January 2017, up to roughly 235 current SORN registrants would potentially be eligible for reclassification, registration termination, and record sealing subsequent to the bill's effective date, with an estimated 29 newly convicted offenders eligible annually thereafter.[1] The courts of common pleas will be required to sentence those newly convicted offenders to a sex offender treatment program as a nonresidential sanction.

Petitioning the court

Once an offender has completed community control sanctions, the offender may petition the original sentencing court to review the effectiveness of the sanction and to determine duty to comply with sex offender registration requirements. Upon review, the court is required to enter one of three types of orders: (1) terminate the offender's duty to comply with SORN Law registration duties, (2) reclassify the offender from a Tier II offender with child-victim classification to a Tier I offender with child-victim classification, or (3) continue the offender's Tier II offender with child-victim classification. Under continuing law, an adult Tier II offender is required to register for 25 years and to verify his or her address every 180 days. An adult Tier I offender is required to register for 15 years and verify his or her address annually.

A termination or reclassification stays in effect for the entirety of the offender's sentence, and the offender may refile three years following the first decision, and five years after a second if the court reclassifies or continues classification.

Given the relatively small statewide population of eligible offenders, it is likely that the courts can absorb the additional work associated with this petition procedure utilizing existing court personnel and appropriated resources.

Notification

The court is required to provide the Ohio Attorney General's Bureau of Criminal Identification and Investigation (BCII) with a copy of the order, with BCII subsequently required to notify the county sheriff with whom the offender most recently registered of the court's order. BCII can be expected to perform this additional work utilizing personnel and appropriated resources.

A reclassification from Tier II to Tier I (order (2) above) results in reduced registration and address verification requirements for the offender; termination (order (1) above) results in an end to registration and address verification.

Currently, there are over 17,000 nonincarcerated adults registered under the SORN Law with county sheriffs statewide. As a result of the bill, it is possible that the duration of the required registration duty for a relatively small number of those

[1] FAIR is an Ohio-based advocacy organization dedicated to reform, rehabilitation, and redemption of registered sex offenders. The cited research is based on data provided by the Ohio Attorney General.

offenders will be reduced to some degree. The corresponding decrease in any given sheriff's annual registration, notification, and enforcement costs generally will not be significant.

There is also a possible effect on a county sheriff's revenue-generating activities. Current law permits a sheriff to charge SORN Law registrants a fee not exceeding a total of $25 for certain actions in each registration year. All such fees are paid into the county general fund and then allocated to the sheriff to be used to defray SORN Law administration costs. The termination of an offender's registration duty means that sheriffs collecting such fees may lose a negligible amount of revenue that otherwise would have been collected in any given year.

Record sealing

Three years following the offender's final discharge in a case where the court orders a termination of duty to comply as described above, the offender may petition the court to have the record sealed. The annual costs for county criminal justice systems and BCII to handle a potential increase in sealing requests will be minimal at most, with the application fee to offset some portion of those costs. Record sealing applicants, unless indigent, are required to pay a $50 fee. The $50 application fee is divided between the state GRF ($30) and the county general revenue fund ($20).

Sex offender treatment program

The bill may result in additional expenses for courts of common pleas and affiliated entities to utilize sex offender treatment programs certified by the Department of Rehabilitation and Correction (DRC) as a nonresidential sanction and to manage offenders sentenced to such programs. Courts are not prohibited under existing law from utilizing such programs, which suggests that this required sanction may be codifying current practice in certain counties. Any annual cost increase for a given county not currently utilizing such a program will be manageable with existing resources, as the likely number of additional offenders sentenced to a sex offender treatment program will be relatively small (an estimated 29 offenders annually statewide).