



# OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

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## Fiscal Note & Local Impact Statement

**Bill:** S.B. 214 of the 132nd G.A.

**Status:** As Passed by the House

**Sponsor:** Sens. Terhar and Lehner

**Local Impact Statement Procedure Required:** No

**Subject:** Exempts from Public Records Law certain depictions of victims of crime and prohibits female genital mutilation

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### State & Local Fiscal Highlights

- The bill may increase the annual costs that state and local public offices incur: (1) to train staff in public records policy, and (2) for staff to expend additional time and effort to ensure that exempted information is not disclosed. It appears that such public offices generally can absorb these costs with existing staffing levels and appropriated funds.
- County criminal justice systems generally are likely to have sufficient staffing and appropriated resources to absorb any costs generated by a potentially small number of new felony cases. There may also be some annual revenue gain from local court costs, fees, and fines imposed on violators.
- There may be a relatively small number of additional offenders sentenced to state prison annually. The result would be a marginal increase in the annual institutional operating expenses of the Department of Rehabilitation and Correction (DRC) that can be absorbed utilizing existing appropriations.
- The state may gain negligible annual revenue in the amount of the locally collected court costs that are credited to the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0).

### Detailed Fiscal Analysis

#### Public Records Law exemptions

The bill exempts from the Public Records Law a depiction of a crime victim under certain specified circumstances. Thus, if a person, other than the victim or the victim's attorney or representative, requests a record from a public office that contains such a depiction, the office would either withhold or redact the objectionable part of the record. The bill also exempts from the definition of public record specified residential and familial information regarding county or multicounty corrections officers.

### **Depictions of certain crime victims**

The bill's victims of crime provision will affect state and local criminal justice offices (police departments, prosecutors, public defenders, and state law enforcement agencies) in responding to public records requests and may increase, to some degree, the cost that such an office incurs to ensure that exempted portions of a record are not disclosed.

It is uncertain whether a given office will experience an increase in workload related to ensuring that exempted information is not disclosed, as the volume of requests for these records varies by office. However, as requests for these records appear to be infrequent, any increase in administrative work, including additional time and effort to comply with the exemption, will be minimal.

Presumably, staff responsible for complying with public records requests will require additional training related to the disclosure exemption. It appears that criminal justice offices generally can absorb these public records training and response costs with existing staffing levels and appropriated funds.

### **Residential and familial information**

The bill adds county and multicounty corrections officers to the list of professions whose residential and familial information is exempted from disclosure under the Public Records Law. The bill further allows these individuals to request that their address be redacted from any record of a public office that is publicly available on the Internet in which their residential and familial information appears, except for the records of the county auditor. Finally, as it applies to publicly available records stored by the county auditor, the bill allows the officers to request that the county auditor replace the officer's name with their initials.

As noted, this exemption already applies to certain listed professions under current law. In essence, the bill simply adds to this list. Because of this, public offices have procedures in place for the removal or redaction of personal information of these employees. Thus, the addition of county and multicounty correction officers protected under this exemption would appear to be work that public offices generally can absorb with existing staffing levels and appropriated funds.

### **Female genital mutilation**

The bill prohibits: (1) any person from knowingly committing the act of female genital mutilation (FGM) of another person under age 18, and (2) any person from knowingly transporting a minor to any destination for the purpose of facilitating FGM.<sup>1</sup> A violation of either prohibition is a second degree felony. Under current law, unchanged by the bill, a sentencing court can impose on the offender a two, three, four,

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<sup>1</sup> FGM is a practice, also known in other parts of the world as female circumcision, which has some cultural imperative among certain ethnic populations largely of African and Middle Eastern origins.

five, six, seven, or eight-year definite prison term, a fine of up to \$15,000, or both. The bill also requires the court to impose an additional fine of up to \$25,000.

The key question for this fiscal analysis is the frequency with which FGM is occurring in Ohio and the likely number of new criminal cases generated by the bill. Accurate statistics on the number of FGM occurrences do not exist. A 2016 report referenced by the Centers for Disease Control (CDC) estimates that more than 500,000 young girls are at risk of FGM in the U.S., and somewhere between 10,000 and 25,000 in Ohio are at risk.<sup>2</sup> At risk does not mean they necessarily experienced FGM, but that they are connected to or part of the cultural communities in which the practice occurs.

While FGM may or may not be fairly common among certain ethnic populations in Ohio, it is not a medical procedure performed by licensed medical professionals. The Ohio Chapter of the American Academy of Pediatrics has indicated that pediatricians are seeing very little evidence of FGM and its medical consequences in their daily practices (minors requiring treatment for complications arising from FGM). They have indicated they believe the practice is rare in Ohio based on this observation of a very small number of patients seen with subsequent medical issues. If FGM is performed within families at home, the reporting of new offenses could be very problematic. In fact, given the cultural imperative among some groups, criminalizing FGM may drive it further underground, and shroud it in greater secrecy. All of these issues indicate that the number of known cases appears to be small, which then suggests that the number of new criminal cases generated by violations of the bill's prohibitions is likely to be relatively small annually statewide.

County criminal justice systems generally are likely to have sufficient staffing and appropriated resources to absorb any costs generated by a potentially small number of new felony cases. There may also be some annual gain in the revenue collected from local court costs, fees, and fines imposed on violators. The bill also requires an additional fine of up to \$25,000 for a conviction. Given the historic reality that criminal fines at the felony level can be difficult to collect, the likelihood of collecting such a large additional fine is probably low.

The creation of this new criminal offense may result in a small number of additional offenders being sentenced annually to a state prison, which would have a slight impact on the institutional operating expenses of the Department of Rehabilitation and Correction (DRC). With a very small number of additional inmates entering the prison system, the annual marginal cost of providing food, clothing, and medical care is about \$3,600 per inmate, a cost that DRC would be able to absorb.

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<sup>2</sup> Goldberg H, Stupp P, Okoroh E, Besera G, Goodman D, and Danel, I. Female Genital Mutilation/Cutting in the United States: Updated Estimates of Women and Girls at Risk, 2012. Public Health Reports 2016; Vol. 131:1-8.

With each felony conviction, the state might gain revenue in the form of locally collected state court costs forwarded for crediting to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). In the case of a felony, the court is generally required to impose state court costs totaling \$60, divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020.