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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 5
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 5's Bill Analysis](#)

Version: As Reported by House Criminal Justice

Primary Sponsors: Sens. Kunze and Dolan

Local Impact Statement Procedure Required: No

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Highlights

- The bill may slightly increase the size of the state's prison population, with any resulting increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures likely to be less than \$100,000 annually.
- The bill's required fee for an application for a Certificate of Qualification for Employment (CQE) will likely result in: (1) a minimal at most annual revenue loss for counties generally, and (2) a minimal annual gain in revenue credited to the state's General Revenue Fund (GRF).
- State and local licensing authorities will incur to some degree one-time costs to include information related to CQEs and Certificates of Achievement and Employability on their respective websites, materials, and forms.

Detailed Analysis

Promoting prostitution

The bill modifies the penalties for the offense of promoting prostitution. This offense, under the bill as well as current law, is generally a fourth degree felony. Under the bill, if the prostitute being managed or controlled by the offender is a minor, or this offender is also convicted of a drug trafficking offense, then the penalty is a third degree felony. If the offender has two or more previous convictions for promoting prostitution, the penalty is increased to a second degree felony.

Under current law and sentencing patterns, on average about ten offenders are incarcerated in the state prison system each year for the offense of promoting prostitution. The bill does not create any new criminal cases, but may result in a few offenders being sent to prison that may have been sentenced to community sanctions under current law. It is also

possible that certain offenders may receive longer prison sentences than they might have been given under current law.

The average time served for a fourth degree felony offense is 1.1 years. Similarly, the average time served for third degree and second degree felonies is 2.2 and 4.0 years, respectively. The net impact of the bill on the Department of Rehabilitation and Correction (DRC) is that up to as many as ten or more offenders, out of a total inmate population of around 49,000, may possibly serve somewhere between one and three additional years depending on the circumstances of their case. The marginal annual cost for a small number of additional bed years is about \$3,500 per bed. If ten offenders were convicted at the second degree felony level, the maximum annual increase in cost to DRC would be around \$105,000 (10 offenders x 3 additional years x \$3,500) starting four years more or less after the bill's effective date. The likely actual annual increase in incarceration-related expenditures would be less, as not every case will involve the circumstances necessary to justify charging an offender with a second or third degree felony.

The modifications to the penalties for the offense of promoting prostitution will not create any new felony cases for county criminal justice systems to handle, nor change the number of arrests and subsequent convictions for promoting prostitution. Thus, there would be no discernible ongoing fiscal impact on county criminal justice systems.

Certificate of Qualification for Employment

Fees

The bill sets the fee for an application for a Certificate of Qualification for Employment (CQE) at \$50. Current law does not specify the fee that must be paid for an application.

Of the \$50 application fee, \$20 is credited to the county general fund, and the remaining \$30 is credited to the state's General Revenue Fund (GRF). All or part of the filing fee may be waived if the applicant is indigent. When a reduced fee is collected, the first \$20 is credited to the county general revenue fund, after which any remaining amount is credited to the state GRF.

According to information provided by DRC, almost all of the state's 88 courts of common pleas charge and retain an application fee that ranges from \$28 to \$400. Thus, under the bill, depending on the court's current application fee, a county will lose between \$8 and \$380 for each CQE application submitted subsequent to the bill's effective date. The resulting annual revenue loss for counties generally is likely to be minimal at most because (1) some applicants will be indigent and, therefore, eligible for a fee reduction or waiver, and (2) the number of applicants is generally low. According to the most recent information available from DRC, 1,244 CQE petitions were submitted to the court for review from calendar years 2013 through 2016, or 311 per year. Using that data suggests the likely gain in revenue credited to the state's GRF will be minimal annually ($\$30 \times 311 = \$9,330$).

Rebuttable presumption

The bill creates a rebuttable presumption of eligibility for a CQE if the court that receives the petition finds that the application was filed after the applicable waiting period and after sufficient time has elapsed from the date of release. This provision is not expected to have

any discernible ongoing effect on the workload and related annual operating costs of the courts of common pleas.

Licensing authority websites and forms

The bill requires each licensing authority to include information related to CQEs and Certificates of Achievement and Employability on its website and on certain materials and forms. Under continuing law, unchanged by the bill, a “licensing authority” is a board, commission, or other entity that issues licenses under Title 47 of the Revised Code or any other provision of the Revised Code to practice an occupation or profession, or a political subdivision that issues a license or charges a fee for an individual to practice an occupation or profession in that political subdivision. State and local licensing authorities will incur to some degree one-time costs to conform their websites, materials, and forms as required by the bill.