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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 431  
(1\_133\_1975-5)  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 431's Bill Analysis](#)

**Version:** In House Criminal Justice

**Primary Sponsors:** Reps. Abrams and Carfagna

**Local Impact Statement Procedure Required:** No

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### Highlights

- The bill appropriates GRF of \$170,000 in FY 2020 and \$20,000 in FY 2021 for the purposes of assisting the Office of the Attorney General with absorbing the associated one-time and ongoing costs of establishing and maintaining the Sexual Exploitation Database.
- Any workload increase for the clerks of courts to provide the Attorney General with conviction records of certain prostitution offenders for entry into the database, or orders for removal, will be incorporated into their current duties utilizing existing staff and resources. Those costs are likely to be minimal.

### Detailed Analysis

The bill requires the Attorney General to establish and maintain the Sexual Exploitation Database of certain convicted prostitution offenders to address the “demand” side of soliciting sexual activity for hire. The conviction record of any individual convicted of or pleading guilty to a soliciting offense will be entered into the Sexual Exploitation Database if the offender’s violation results from offering something of value to another person in exchange for sexual activity.

In calendar year (CY) 2020, the Ohio Office of Criminal Justice Services published a report that examines trends in prostitution-related offenses using data entered in the Ohio Incident-Based Reporting System (OIBRS) from CY 2011 through CY 2016. According to the

report, of all prostitution-related offenses, “solicitation” is reported at the highest rate, with an average of 10.3 incidents per 100,000.<sup>1</sup>

## **Attorney General**

The Office of the Attorney General will experience a one-time cost to design and build the Sexual Exploitation Database as well as some administrative costs to adopt rules and prescribe forms for its establishment and operation. Under the bill, the rules and forms must include procedures for a court to order the Attorney General to remove an offender from the database when a qualifying offense is overturned, expunged, or sealed. Absent such an order, the offender will remain on the database for five years from their most recent conviction of a prostitution offense, after which the offender is automatically removed from the database. There will be some ongoing costs related to entering a qualifying offender’s information into the database, as well as the work associated with any removals.

According to the Attorney General, the Sexual Exploitation Database would likely be designed and maintained by Watch Systems, the vendor that currently contracts with the Attorney General to operate the violent offender database, and sex offender and arson registries. For the purposes of assisting the Attorney General with absorbing the associated one-time and ongoing costs, the bill appropriates GRF of \$170,000 in FY 2020 and \$20,000 in FY 2021.

## **Clerks of court**

Clerks of courts will be responsible for forwarding conviction information to the Attorney General’s Bureau of Criminal Investigation (BCI). This information will be sent in one of three ways: (1) manually (written on a form issued by BCI), (2) electronically through an FTP (file transfer protocol), or (3) electronically through the Ohio Supreme Court’s Ohio Courts Network (OCN). Many courts currently send information to BCI using automated criminal justice information systems.

It appears, generally, that any workload increase for clerks of courts to provide the Attorney General with conviction records of certain prostitution offenders for entry into the Sexual Exploitation Database, or orders for removal, will be incorporated into their current duties utilizing existing staff and resources.

## **Synopsis of Fiscal Effect Changes**

The substitute version of the bill (I\_133\_1975-5) is likely to reduce the annual costs that the state, and county criminal justice systems in particular, otherwise would have incurred under the As Introduced version of the bill. This cost reduction is because the substitute bill removes “promoting prostitution” from those prostitution offenses that are entered into the Sexual Exploitation Database. Depending on the circumstances present, promoting prostitution

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<sup>1</sup> Nicholson, Kristina C., M.S. *Human Trafficking and Related Offenses*, Ohio Office of Criminal Justice Services, Department of Public Safety. [https://www.ocjs.ohio.gov/links/Human\\_Trafficking\\_and\\_Related\\_Offenses.pdf](https://www.ocjs.ohio.gov/links/Human_Trafficking_and_Related_Offenses.pdf). Accessed February 2020.

is a felony of the second, third, or fourth degree, all of which fall under the subject matter jurisdiction of a court of common pleas.

In addition, the substitute bill requires a color photograph of the prostitution offender be sent by the clerk of courts as part of a conviction record only if available, thus eliminating any administrative costs a local criminal justice system otherwise may have incurred to obtain and report information that may not be regularly maintained.

The substitute bill also requires the clerk of courts, in sending conviction records to the Attorney General, identify an offense by Revised Code section, not including any specific division reference. As such, the identification will not give any indication as to whether the soliciting violation was of the general prohibition contained in division (A) of the section or of the HIV-related prohibition contained in division (B) of the section. This change will not affect the number of records sent by the clerks to the Attorney General nor create administrative costs, but prevents a person viewing the database from discerning that an offender was convicted of engaging in solicitation after a positive HIV test.