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H.B. 295
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Rep. Demetriou

Local Impact Statement Procedure Required: No

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Highlights

- Local criminal and juvenile justice systems will likely experience some increase in their annual operating costs, in particular counties, as they have jurisdiction over felonies. Although such a cost increase is not readily quantifiable, it should be relatively small for any given county criminal justice system and more or less absorbed by utilizing existing staff and resources. Some of these costs may be partially offset by fine and court cost revenue, if collected.
- There may be a marginal annual increase in the size of the prison population that the Department of Rehabilitation and Correction (DRC) will likely absorb by utilizing existing staff and resources.
- The bill's civil remedy provision appears unlikely to generate any discernible ongoing fiscal effects on common pleas, municipal, and county courts that have jurisdiction over such matters.

Detailed Analysis

The bill establishes three new criminal offenses including: (1) failure to verify the age of a person accessing materials that are obscene or harmful to juveniles, (2) use of false identifying information to access materials that are obscene or harmful to juveniles, and (3) nonconsensual dissemination of fabricated sexual images. The bill also authorizes certain civil remedies for victims of the offenses of failure to verify the age of a person accessing materials that are obscene or harmful to juveniles, and nonconsensual dissemination of fabricated sexual images. The bill provides for an affirmative defense if certain criteria are met.

Criminal and juvenile justice systems

The bill's new offenses may result in some number of adults and/or juveniles being charged and adjudicated. Depending on the charge, cases may be filed in either a county or municipal court (misdemeanor level cases) or in a court of common pleas (felony level cases or cases involving juveniles).

The table below shows the bill's felony and misdemeanor sentences and fines for the new offenses.

Sentences and Fines for Bill's New Criminal Offenses			
Offense	Degree Level	Fines	Term of Incarceration
Failure to verify the age of a person accessing materials that are obscene or harmful to juveniles	Felony 3 rd degree	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
Use of false identifying information to access materials that are obscene or harmful to juveniles	Misdemeanor 4 th degree	Up to \$250	Jail, not more than 30 days
Nonconsensual dissemination of fabricated sexual images	Felony 3 rd degree, generally	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
	Felony 2 nd degree, if the offender has certain prior offenses	Up to \$15,000	2, 3, 4, 5, 6, 7, or 8 years indefinite prison term
	Misdemeanor 1 st degree, if the offender is under the age of 18	Up to \$1,000	Jail, not more than 180 days

The number of new criminal cases stemming from prohibited behavior in the bill is difficult to estimate. The bill will likely affect a relatively small number of cases under the jurisdiction of any given county and municipal criminal justice system. However, the costs associated with adjudication, prosecution, indigent defense (if applicable), and sanctioning, including a residential sanction such as jail, will likely be minimal annually for any single jurisdiction.

There may be a marginal annual increase in the size of the prison population that the Department of Rehabilitation and Correction (DRC) will likely absorb by utilizing existing staff and resources. In the case of fourth or third degree felonies, there is presumption generally in favor of a community control rather than the imposition of a prison term. In the case of juvenile offenders, the Department of Youth Services (DYS) may also experience an increase in supervision costs.

Counties and municipalities may gain minimal additional revenue collected from violators pursuant to the order of the sentencing court. In addition, a court generally imposes state court costs that are credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The \$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020. The \$29 misdemeanor amount is divided as follows: \$20 to Fund 5DY0 and \$9 to Fund 4020. The annual revenue gain to the state because of violations of the bill's prohibition will be minimal at most annually. Of note is that the court rarely imposes the maximum permissible fine, and collecting the fine and court costs and fees can be problematic. This is because offenders can be financially unable or unwilling to pay.

Civil actions

The bill provides for a civil remedy to a victim of the offense of failure to verify the age of a person accessing materials that are obscene or harmful to juveniles, as well as a victim of the offense of nonconsensual dissemination of fabricated sexual images. Included in the actions that the court is permitted to take is the award of compensatory damages, reasonable attorney's fees, court costs, and other reasonable expenses incurred in maintaining the civil action. The number of new civil actions that may be filed as a result of the bill is uncertain but likely to be minimal annually for any single jurisdiction.

The effect on the daily operations and related operating expenses of the courts will depend on the monetary amount being sought by the victim, the frequency of civil actions being filed, and the matter's legal complexity. Municipal and county courts have limited civil jurisdiction, and may only hear cases in which the amount of money in dispute does not exceed \$15,000. Common pleas courts hear all cases in which the amount of money in dispute is more than \$15,000.

Forfeiture

Under the bill, in addition to any other penalties or dispositions, the court is permitted to order a convicted offender to forfeit any property acquired or maintained in connection with the nonconsensual dissemination of fabricated sexual images. It is likely that common pleas, municipal, and county courts can absorb the administrative cost of holding these forfeiture proceedings into their daily operations with no discernible ongoing cost. The value of the property that might be forfeited annually to the state and/or a political subdivision is indeterminate.