OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 289
135th General Assembly

Final Fiscal Note & Local Impact Statement

Click here for H.B. 289's Bill Analysis

Primary Sponsors: Reps. Robb Blasdel and Swearingen

Local Impact Statement Procedure Required: Yes

Jessica Murphy, Senior Budget Analyst

Highlights

- The bill's tolling requirement is expected to create potentially longer registration periods which will increase registration, notification, and enforcement work for some sheriffs' offices. The collection of permissive sex offender registration fees that are retained by the county may offset some of these administrative costs. For Tier I and Tier II offenders, the fees may not exceed $25 for each registration year.
- The Attorney General's Office will incur one-time costs to modify the Sex Offender Registration and Notification (SORN) system for tolling information to be input by sheriffs for inclusion into the state's sex offender registry. These costs will be covered by a federal grant award of $75,000.
- The bill makes changes to several other areas of law that are either clarifying in nature or are expected to have a less than minimal fiscal effect on the state or political subdivisions.

Detailed Analysis

Tolling period of time offender has to comply with SORN Law

The bill provides that if a Tier I or Tier II offender fails to comply with the Sex Offender Registration and Notification (SORN) Law, the period of time that the offender has a duty to register is tolled for the amount of time they are in violation. In other words, the offender's time on the registry would pause for as long as they are out of compliance.

As a result, Tier I and Tier II offenders who fail to comply with their SORN duties will spend a longer length of time on the sex offender registry than otherwise under current law. According to the Attorney General, there are typically around 500 noncompliant offenders on the state's sex offender registry on any given day. That figure fluctuates day by day as offenders fall in and out of compliance. It is important to note that those numbers also include Tier III offenders who are subject to SORN duties for life and not affected by the bill's tolling provisions.

Conversations with the Buckeye State Sheriffs' Association suggest that potentially longer registration periods will significantly increase registration, notification, and enforcement work for many sheriffs' offices. The collection of permissive sex offender registration fees that are retained by the county may offset some of these administrative costs. For Tier I and Tier II offenders, the fees may not exceed $25 for each registration year.

The Attorney General's Bureau of Criminal Investigation (BCI) will incur significant, one-time costs to modify the Sex Offender Registration and Notification system for tolling information to be input by sheriffs for inclusion into the state's sex offender registry. These costs will likely be covered by a recently awarded federal Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) grant of $75,000.

Fixed residence address for sex offenders

Current law requires sex and child-victim offenders to provide certain information when registering a residential address, filing an intent to reside, or changing a residential address under the SORN Law, including a current residence address. The bill specifies a current "fixed" residence address must be provided, which is defined as a permanent residential address. It does not include a temporary address such as places that a homeless person stays or intends to stay, unless that place is a shelter and it intends to provide housing to the person for more than 30 days. If the offender does not have a fixed address, a detailed description of the place or places at which the offender intends to reside must be provided every 30 days until they have a fixed residence address. This requirement will be subject to the existing penalties for SORN registration requirements set forth in R.C. 2950.99. It appears that the additional requirements are generally clarifying in nature with little, if any, fiscal effect.[1]

Notice of sex offender release in another county

The bill requires the Department of Rehabilitation and Correction (DRC), under certain circumstances, to notify a county sheriff as soon as practicable when a sex offender without a fixed residence will be transported to that county by the Department. It also requires DRC to adopt rules specifying how a sheriff may opt in to receive notification for qualifying releases and how the Department will provide sheriffs with information about requesting such notification.

The number of offenders who may trigger a notification in a given year is indeterminate, however, is expected to be relatively small. Some number of notifications are already taking place under current law, so the bill may have an effect of clarifying and broadening those notification requirements.

Overall, these requirements will create one-time administrative costs for DRC to adopt rules and ongoing increased expenses to send additional notifications. The magnitude of additional expenses will depend on the number of sheriffs opting in and manner in which DRC provides the notifications, however, it appears likely such increases will be absorbed using existing staff and resources.

[1] A sheriff shall not refuse to register a person, register a new residence address of a person, or verify the current residence address of a person, who does not pay a fee. Unpaid fees are reported to the county commissioners who may then proceed with certain collection activities (R.C. 311.171).

Subpoena of victims' records

The bill repeals procedures for a defendant subpoenaing a victim's records. This elimination is unlikely to have a significant impact on courts to determine whether these records may be disclosed, but potentially may reduce some administrative work and number of hearings.

Under the existing procedure, enacted by H.B. 343 of the 134th General Assembly, a defendant seeking to subpoena a victim's records must serve the prosecutor, victim, and the victim's attorney. The court may quash or modify the subpoena, upon the filing of a motion to quash, if compliance would be unreasonable or oppressive. Upon receipt of a motion to quash the subpoena, the court will conduct a hearing where the defendant must demonstrate certain elements. If the court does not quash the motion, it must review in camera any records to which privilege has been asserted. If the court determines that any of the records are constitutionally protected or privileged, the court must balance the victim's rights and privilege against the defendant's constitutional rights when ruling to disclose those records. The disclosure to the prosecutor does not make the records subject to discovery unless required pursuant to the Brady Rule.

Intervention in lieu of conviction and community-based correction facilities

The bill extends the temporary availability of placement in a community-based correctional facility (CBCF) as a term of intervention in lieu of conviction (ILC), so that a court may place an offender in a CBCF as part of a term of ILC if the request for ILC is approved on or before October 15, 2025. The fiscal effect, in particular for counties, will depend on the number of offenders placed with a community-based correctional facility, and whether that placement is more or less expensive than the other available alternatives.

FNHB0289EN-135/zg