



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 172 of the 131st G.A.
(LSC 131 0852-6)

Date: April 18, 2016

Status: In House Commerce and Labor

Sponsor: Rep. Barnes

Local Impact Statement Procedure Required: No

Contents: Publishing of criminal record information

State Fiscal Highlights

- Violations of the bill's criminal prohibition may generate a minimal at most annual gain in revenue in the form of locally collected state court costs distributed between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- As result of the violations of the bill's criminal prohibition, there may be a relatively small increase in the number of misdemeanor cases handled by county and municipal criminal justice systems. Any additional cost to resolve such cases will be minimal at most annually, and may be offset to some degree by court costs, fees, and fines collected from offenders.
- Courts of common pleas, municipal courts, and county courts are expected to absorb any additional civil actions filed alleging a violation of the bill's prohibition with little, if any, discernible effect on their daily cost of operations.

Detailed Fiscal Analysis

Criminal offense

The bill creates the offense of "misuse of criminal record information." Under the bill, a person engaged in publishing or otherwise disseminating criminal record information is prohibited from soliciting or accepting payment from the subject individual to remove, correct, modify, or refrain from publishing or otherwise disseminating criminal record information. Whoever violates the prohibition is guilty of a first degree misdemeanor. Each payment solicited or accepted constitutes a separate violation. A conviction for a first degree misdemeanor carries a possible jail sentence of not more than 180 days, a \$1,000 maximum fine, or both.

Entities affected by the bill generally are: (1) newspapers who do nothing but download and print peoples' mug shots from sheriffs' office websites, and whose business model often involves owning several newspapers under different names so that a person has to pay several times to get a mug shot removed from several separate newspapers, and (2) legitimate background check websites that do not necessarily know that a record has been expunged and may charge a person to have the data removed. The number of entities/persons that will be affected by the bill is uncertain.

It is likely that, as entities/persons gain awareness of the bill's prohibition, most will comply and that violations will become relatively infrequent. In the context of any given county and municipal criminal justice system's overall caseload, the number of additional misdemeanor cases generated will be relatively small. This means that any increase in their annual expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders will be minimal. There may also be a minimal at most annual gain in: (1) local revenue from court costs, fees, and fines, and (2) state revenue from locally collected state court costs. The state amount is \$29 and divided as follows: \$20 to the Indigent Defense Support Fund (Fund 5DY0) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020).

Civil remedy

The bill specifies that, in a civil action for damages for a criminal act, an individual who suffers loss or harm as result of violation of the bill's prohibition may be awarded \$10,000 in actual and punitive damages, whichever is greater, and reasonable attorney's fees, court costs, and any other remedies provided under current law.

Depending on the amount of money involved, a civil action would be filed in a court of common pleas, municipal court, or county court. A court of common pleas has jurisdiction where the amount is more than \$15,000. A municipal or county court may hear an action where the amount of money does not exceed \$15,000. Although the number of resulting civil actions that will be or could be filed is uncertain, it is expected that the common pleas, municipal, and county courts will be able to absorb any

additional filings into their respective caseloads with little, if any, discernible effect on annual operating expenses.

Synopsis of Fiscal Effect Changes

The substantive differences between the fiscal effects of the substitute bill (LSC 131 0852-6) and the As Introduced version is as follows:

- **Criminal offense.** The substitute bill creates the misdemeanor offense of misuse of criminal record information. The costs for county and municipal criminal justice systems to process an expected small increase in cases will be minimal annually, with a related at most minimal annual gain in revenue from court costs, fees, and fines. The As introduced version did not provide for a criminal prohibition.
- **Civil remedy.** The As Introduction version of the bill provided for three civil remedies that could be initiated either by: (1) the Attorney General, (2) a local prosecuting attorney, and (3) an individual. The substitute bill retains a civil remedy to be initiated by an individual, but removes the provision permitting the Attorney General or a local prosecuting attorney to file a civil action. The cost of any additional civil actions undertaken by the Attorney General or local prosecutors was expected to be minimal in terms of time and effort, with the associated costs potentially offset to some degree by the recovery of reasonable expenses, including court costs and attorney's fees.