

- **Intervention in lieu of conviction.** There may be a relatively small increase in the number of persons granted intervention in lieu of conviction, the cost of which for any given county or municipality is likely to be no more than minimal annually.
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Detailed Fiscal Analysis

Misuse of criminal record information

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.

Human trafficking and compelling prostitution

The bill: (1) allows for expungement of certain conviction records if a person is convicted of specific sex offenses resulting from being a human trafficking victim, (2) provides for the expungement of any human trafficking-related offense that did not result in conviction and establishes a procedure to approve or deny expungement, and (3) authorizes intervention in lieu of conviction for certain offenses committed while a victim of compelling prostitution. Due to the relatively small population of identified victims of human trafficking, the fiscal effect on state and local criminal and juvenile justice systems is likely to be minimal at most annually.

Expungement of delinquency and criminal records

For an offender convicted of six specified offenses, including soliciting and prostitution, the bill expands the list of criminal offenses the records of which may be expunged to include any offense other than aggravated murder, murder, or rape, the person's participation in which resulted from the offender being a victim of human trafficking. In addition, the bill authorizes the expungement of records related to a finding of not guilty or to a dismissed criminal charge, if the finding or charge was the result of the person having been a victim of human trafficking. According to the 2015 Ohio Attorney General's Human Trafficking Annual Report, 203 potential victims of human trafficking were identified in 2015.

Under the bill, a small number of additional persons will be eligible to apply for expungement. Expungement applicants, unless indigent, are required to pay a \$50 fee. The \$50 application fee is divided between the state GRF (\$30) and the county or municipality (\$20). The annual costs for local criminal and juvenile justice systems to handle a potential increase in expungement requests will be minimal at most, with the application fee likely to offset all, or some portion, of those costs.

The bill also establishes a procedure to approve or deny an application to expunge the aforementioned records, including notice to the prosecutor, a hearing, and a determination by the court. Given the relatively small number of new records eligible for expungement under the bill, any additional costs for local sentencing courts will be minimal at most annually.

Intervention in lieu of conviction

The bill allows a victim of compelling prostitution to request intervention in lieu of conviction (ILC) when charged with certain offenses¹ in the same manner as current law provides when certain factors may have led to the offense: alcohol or drug usage, mental illness, intellectual disability, or the offender was a victim of human trafficking. LSC conversations with subject matter experts suggest that victims of compelling prostitution may already commonly be granted ILC at the judge's discretion, indicating the bill is widely codifying current practice in this regard. This suggests that any cost for a given municipality or county will be minimal annually, as the likely number of additional persons granted ILC would be relatively small.

Casino Control Law prohibition

Under the Casino Control Law, a casino operator or employee is prohibited from purposely or knowingly participating in casino gaming other than as part of operation or employment. A person who violates the prohibition commits a first degree misdemeanor on the first offense and a fifth degree felony for a subsequent offense. The bill modifies the prohibition by stating that it applies with respect to casino gaming at the casino facility at which the casino operator or employee has an interest or is employed at an affiliated casino facility in Ohio.²

Since the Casino Control Law was enacted in September 2010, no casino operator or employee has been charged with a violation of this prohibited conduct. The bill makes it even less likely that such a violation may occur in the future by narrowing the locations in which the conduct is prohibited. Given the extremely low likelihood of such violations, the bill will have no direct fiscal effect on the state or any of its political subdivisions.

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¹ These offenses include: theft, unauthorized use of a motor vehicle, passing bad checks, misuse of credit cards, forgery, and/or nonsupport or contributing to nonsupport of dependents.

² "Casino facility" means the Cleveland, Franklin County, Cincinnati, and Toledo casino facilities.