



OHIO LEGISLATIVE SERVICE COMMISSION

Jessica Murphy

Fiscal Note & Local Impact Statement

Bill: S.B. 231 of the 132nd G.A.

Status: As Reported by House Criminal Justice

Sponsor: Sen. Gardner

Local Impact Statement Procedure Required: Yes

Subject: Violent offender database

State Fiscal Highlights

- The Office of the Attorney General will experience an initial one-time cost of about \$50,000 to establish the violent offender database if incorporated into its existing vendor-operated sex offender and arson registries. There may be an additional annual cost to incorporate that duty into the existing contract.
- There will be violations of the bill's enrollment requirements, with some violators being sentenced to prison. Relative to the total number of offenders incarcerated annually however, any increase in the Department of Rehabilitation and Correction's overall prison population, and resultant expenses, is initially expected to be minimal. Expenditures in subsequent years could possibly be more significant, as the number of offenders with re-enrollment duties increase and the probability of more violations likely rises.
- The state may gain a minimal at most amount of revenue annually in the form of locally collected court costs that are forwarded for crediting to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- At the outset, it appears that county sheriffs generally will not incur significant costs to incorporate the bill's violent offender enrollment duty into their existing sex offender and arson registry responsibilities. It is unclear as to whether this duty will become more fiscally problematic as the size of the registry will grow each year.
- The bill's court termination of an extended duty and failure to enroll provisions will create additional work for county criminal justice systems. Any associated cost will be a function of the numbers of motions to terminate after ten years of enrollment and violations of enrollment duties.

Detailed Fiscal Analysis

The bill requires the Office of the Attorney General's Bureau of Criminal Identification and Investigation (BCII) to establish and maintain a database of violent offenders and qualifying out-of-state violent offenders. Any individual convicted of, or pleading guilty to, aggravated murder, murder, voluntary manslaughter, kidnapping, or abduction when it is a second degree felony, or any attempt or conspiracy to commit such an offense is required to enroll annually in person with the sheriff of the county in which the offender resides. This requirement also applies to such offenders that, on the bill's effective date, are serving a term of confinement for the offense.

Based on recent time served data, the number of these offenders released from prison is approximately 300 each year. Juvenile offenders are exempt from the enrollment requirements.

State fiscal effects

Attorney General

The Office of the Attorney General will experience some initial one-time costs to design and build the database and to design the forms that will be used by the appropriate state or local authority to inform violent and qualifying out-of-state violent offenders of their enrollment duties. If the Attorney General is able to incorporate the database into the existing sex offender and arson registries, then the one-time cost is likely to be approximately \$50,000. Administration of the database would likely be assigned to Watch Systems, the vendor that currently contracts with the Attorney General to operate the sex offender and arson registries. There may be an additional annual cost to incorporate that duty into the existing contract.

The Attorney General is also required to adopt procedures for sheriffs to use to forward identification records including specified information, photographs, fingerprints, palm prints, and other materials to BCII. This requirement creates a one-time administrative cost that can be absorbed with existing appropriated resources.

Department of Rehabilitation and Correction

Penalty for failure to enroll or re-enroll

The bill creates a felony of the fifth degree for failing to enroll, re-enroll, or notify the sheriff of a change of address. A conviction or guilty plea could result in a definite prison term of 6, 7, 8, 9, 10, 11, or 12 months, a fine of not more than \$2,500, or both.

Since this is a new offense, predicting the number of violations for failing to enroll is problematic. There will likely be some number of violations annually and of that number, some of those violators may be sentenced to prison. Relative to the size of prison population (close to 50,000) and the number of offenders sentenced to prison (around 20,000 per year), the number sentenced to prison for violation of an enrollment requirement will be relatively small and the associated incarceration costs minimal; however, costs may increase over time as more offenders are added to the database

each year and the probability of more violations likely rises. The average annual cost for the Department of Rehabilitation and Correction (DRC) to incarcerate an offender in an Ohio prison was \$28,641 as of November 2018, with the marginal cost around \$3,500 per inmate.

The state may gain a minimal at most amount of revenue annually in the form of locally collected court costs collected from offenders who violate their enrollment duties. The court costs are forwarded for crediting to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). In the case of a felony, the court is generally required to impose state court costs totaling \$60 for a felony, divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020.

Ex-Offender Re-entry Coalition

The bill expands the membership of the Ex-Offender Re-entry Coalition from 17 to 21 members and modifies its duties. Under current law, the Coalition is to be abolished on December 31, 2019. The bill repeals this sunset. DRC expects to absorb any of the costs associated with these modifications with no discernible effect on its annual operating expenses.

Risk assessment tool

The bill's requirement that halfway houses use the single validated risk assessment tool for adult offenders that DRC has selected will have no direct fiscal effect on the state or any of its political subdivisions.

Local fiscal effects

Enrollment by offenders

Courts of common pleas

The bill establishes: (1) a presumption that violent offenders will enroll in the database for ten years after initial enrollment, and (2) procedures for rebutting the presumption to potentially avoid the duty. If an offender proves by a preponderance of evidence that they were not the principal offender in the commission of the offense that classifies them as a violent offender, the presumption is rebutted. This would require the sentencing court to continue the hearing to determine whether the offender should be required to enroll in the database.

As a result of these provisions, courts of common pleas may experience a slight increase in caseloads, as some offenders may file a motion to rebut the presumption. In addition, courts will incur additional administrative costs associated with notifying offenders of the presumption, and of the right, procedure, and criteria for rebutting the presumption. The overall increase in operating expenditures for any given court of common pleas can be expected to be minimal at most.

County sheriffs

After an offender enrolls or re-enrolls in the database, the sheriff or their designee forwards the offender's signed, written enrollment form, photograph,

fingerprints, palm prints, and other materials to BCII. At the outset, it appears that county sheriffs generally will not incur significant costs to incorporate this duty to enroll into their existing sex offender and arson registry responsibilities. It is unclear as to whether this duty will become more fiscally problematic as the size of the registry will grow each year.

Extension and termination of extended duty motions

The bill specifies circumstances under which an offender's enrollment period would be extended. A court extension will be imposed, upon a motion made by the prosecutor, if the court finds that the offender has violated a term or condition of their sanction or has been convicted of or pleads guilty to an offense of violence during the ten-year enrollment period. As a result, the offender's enrollment duties will continue indefinitely. Under the bill, an offender may file a termination motion, not more than once every five years during the extended period, to terminate their duties.

Courts of common pleas will have notification requirements, in addition to other responsibilities, related to a court extension or termination of an extended duty. Additional work will also be created: (1) for county prosecutors that receive a copy of the offender's termination motion and are permitted to file an objection, and (2) for the court's probation department or other appropriate agency that will be required to investigate the merits of a termination motion. The work for these county entities (courts of common pleas, prosecutors, and probation departments) will not begin until ten years after the bill's effective date. The number of termination motions filed at that time and annually thereafter depends on the number of offenders subject to an extended enrollment period. The associated annual costs for any given county criminal justice system to dispose of these motion are uncertain.

Violations of enrollment requirements

There will be violations of the bill's duty to enroll, which creates felony cases requiring disposition by a county criminal justice system. As a result, counties are likely to experience an increase in their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders who commit this offense. That annual increase will depend upon the number of offenders prosecuted for a violation of their enrollment duty. Some of that cost may be offset to some degree by money collected from violators (fines, court costs, and fees).