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Office

H.B. 302
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 302's Bill Analysis](#)

Version: In House Criminal Justice¹

Primary Sponsor: Rep. Perales

Local Impact Statement Procedure Required: Yes

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Highlights

- For the purposes of assisting the Attorney General with absorbing the associated one-time and ongoing costs of maintaining the existing Violent Offender Database (VOD), the bill appropriates GRF of \$100,000 in FY 2020 and \$15,000 in FY 2021.
- At the outset, it appears that county sheriffs generally will not incur significant costs to add more offenders to their existing VOD responsibilities. It is unclear as to whether this duty will become more fiscally problematic as the size of the enrolled offender population will grow each year.
- The magnitude of the workload increase and related costs likely to be incurred by county criminal justice systems generally is indeterminate. The bill noticeably expands the number of offenders required to enroll in the VOD, and are subject to sanctions for prohibition violations. Affected county entities include courts of common pleas, prosecutors, public defenders, probation departments, and sanctioning programs and facilities.
- Violations of the bill's prohibitions may result in additional offenders being sentenced to a prison term. The marginal annual incarceration costs incurred by the Department of Rehabilitation and Correction (DRC) to add a relatively small number of offenders to an existing prison population of around 49,000 is \$3,000 to \$4,000 per inmate.

¹ Under the As Introduced version of the bill, its permanent law provisions would have become effective 90 days after the bill was filed with the Secretary of State. The House Criminal Justice Committee subsequently amended the bill to extend that effective date by another six months (AM1077).

- The state will gain revenue annually in the form of locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Detailed Analysis

Overview

Under continuing law, a person classified as a “violent offender” is subject to certain duties to enroll in the violent offender database (VOD) maintained by the Attorney General’s Bureau of Criminal Identification and Investigation (BCII). The bill expands the definition of “violent offender” to include a person convicted of certain child abuse-related offenses, in effect, adding to the population of offenders currently required to enroll. The bill’s offenses generally include permitting child abuse, domestic violence, and endangering children if committed when the offender was 18 years old or older and the victim involved was under 14 years old at the time of the offense.

The bill’s expansion of the definition of “violent offender” will result in the following annual increases:

- The number of offenders required to enroll and re-enroll annually with a county sheriff, and for whom certain information must be forwarded to BCII.
- The work of county criminal justice systems (courts of common pleas, prosecutors, probation departments) related to the presumption and notice of database duties, the filing of offender motions, and the termination of duties.
- The number of offenders charged, convicted, and sanctioned for failure to enroll or re-enroll, a fifth degree felony for which an offender could be sentenced to prison.²

From calendar years 2014 through 2019, an average of 12,923 child abuse-related offenses were reported annually to the Ohio Incident-Based Reporting System (OIBRS).³ While OIBRS does not include incident reporting from every law enforcement agency in the state, and does not reflect the prosecution, adjudication, and disposition of criminal cases, it does show that the potential magnitude of the annual increase in the number of offenders with VOD duties statewide.

² An offender being sentenced for failure to comply with VOD duties is eligible for the Targeting Community Alternatives to Prison (T-CAP) Program, meaning that any term of confinement imposed for the offense would be served in a local correctional facility. Generally, a person convicted of a fifth degree felony otherwise is ineligible for T-CAP if previously convicted of a felony offense of violence.

³ OIBRS, which is managed by the Office of Criminal Justice Services, is a voluntary reporting program in which Ohio law enforcement agencies can submit crime statistics directly to the state and federal government in an automated format.

State fiscal effects

Attorney General

The existing VOD, established by BCII pursuant to S.B. 231 of the 132nd General Assembly, became operational March 20, 2019. Administration of the VOD was assigned to Watch Systems, the vendor that was already under contract with the Attorney General to operate the sex offender and arson registries. The bill is likely to increase noticeably the number of offenders and related information entered into the VOD annually. For the purposes of assisting the Attorney General with absorbing the associated one-time and ongoing costs, the bill appropriates GRF of \$100,000 in FY 2020 and \$15,000 in FY 2021.

Department of Rehabilitation and Correction

Continuing law prohibits an offender who has VOD duties from recklessly failing to enroll, re-enroll, or notify the sheriff of a change of address during the ten-year enrollment period or extended enrollment period. A violation of the prohibition is a fifth degree felony. 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.

Under the bill, there will likely be some number of additional violations annually and of that number, some will result in an offender being sentenced to prison. Relative to the size of prison population (around 49,000), a slight increase in offenders sentenced to prison for violation of an enrollment requirement will be relatively small, with marginal annual incarceration costs incurred by the Department of Rehabilitation and Correction (DRC) of \$3,000 to \$4,000 per inmate.

Revenues

Relatedly, any increase in violations potentially could result in additional revenue in the form of state court costs collected from violators that would not otherwise be subjected to VOD enrollment duties under existing law. State court costs, totaling \$60 for a felony, are divided equally for crediting to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local fiscal effects

Enrollment by offenders

Courts of common pleas

Violent offenders must annually re-enroll in the VOD for ten years following their initial enrollment. The presumption must be rebutted, following a specific procedure, for an offender to avoid these duties. As a result of the bill's expanded definition of violent offender, courts of common pleas are likely to experience some increase in the hearings to rebut the presumption to enroll. In addition, administrative costs incurred by those courts to notify more offenders of the presumption, and of the right, procedure, and criteria for rebutting the presumption will increase to the extent that the number of offenders with VOD duties increases. The magnitude of the workload increase and related costs are indeterminate. Additional hearings also create work for county prosecutors and county probation departments.

County sheriffs

After an offender enrolls or re-enrolls in the VOD, the sheriff 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 the duty to enroll certain child abuse-related offenders into their existing VOD responsibilities. It is unclear as to whether this duty will become more fiscally problematic as the size of the registering population grows each year.

Extension and termination of extended periods of enrollment

Current law specifies circumstances under which an offender's enrollment period can be extended. A court extension is 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, an offender's enrollment duties would continue indefinitely. An offender may file a termination motion, not more than once every five years during the extended period, to terminate their duties.

As a result of the bill's expanded definition of violent offender, courts of common pleas are likely to experience some increase in duty to enroll extension and termination hearings. The magnitude of the workload increase and related costs are indeterminate. Additional hearings also create work for county prosecutors and county probation departments.

Violations of enrollment requirements

The bill will increase to some degree the number of violations of the duty to enroll, which creates felony cases requiring disposition by a county criminal justice system, by adding new underlying offenses to those that classify a person as a "violent offender" subject to VOD enrollment duties. 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 a potentially greater number of violators of this offense. That annual increase will depend upon the number of child abuse-related violent 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).