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OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 431
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 431's Bill Analysis](#)

Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Abrams and Carfagna

Local Impact Statement Procedure Required: No

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Highlights

- The Office of the Attorney General will incur one-time and ongoing costs to establish and maintain the Sexual Exploitation Database. If this duty is incorporated into the current contract with the vendor operating its existing sex offender, arson, and violent offender registries/databases, the estimated cost is up to \$170,000 in the first year, and up to \$20,000 annually thereafter to maintain.
- Any workload increase for the clerks of courts to provide the Attorney General with conviction records of certain prostitution offenders for entry into the database, or orders for removal, will be incorporated into their current duties utilizing existing staff and resources. Those costs are likely to be minimal.
- There will likely be a minimal at most annual expenditure increase for the juvenile divisions of the courts of common pleas. This is due to increases: (1) in the number of juveniles identified as victims of human trafficking, and (2) in the number of cases requiring the appointment of a guardian ad litem at the expense of the court.

Detailed Analysis

Sexual Exploitation Database

The bill requires the Attorney General to establish and maintain the Sexual Exploitation Database of certain convicted prostitution offenders to address the “demand” side of soliciting sexual activity for hire. The conviction record of any individual convicted of or pleading guilty to a soliciting offense will be entered into the Sexual Exploitation Database if the offender’s violation results from offering something of value to another person in exchange for sexual activity.

In calendar year (CY) 2020, the Ohio Office of Criminal Justice Services published a report that examines trends in prostitution-related offenses using data entered in the Ohio Incident-Based Reporting System (OIBRS) from CY 2011 through CY 2016. According to the report, of all prostitution-related offenses, “solicitation” is reported at the highest rate, with an average of 10.3 incidents per 100,000.¹

Attorney General

The Office of the Attorney General will experience a one-time cost to design and build the Sexual Exploitation Database as well as some administrative costs to adopt rules and prescribe forms for its establishment and operation. Under the bill, the rules and forms must include procedures for a court to order the Attorney General to remove an offender from the database when a qualifying offense is overturned, expunged, or sealed. Absent such an order, the offender will remain on the database for five years from their most recent conviction of a prostitution offense, after which the offender is automatically removed from the database. There will be some ongoing costs related to entering a qualifying offender’s information into the database, as well as the work associated with any removals.

According to the Attorney General, the Sexual Exploitation Database is likely to be designed and maintained by Watch Systems, the vendor that currently contracts with the Attorney General to operate the sex offender, arson, and violent offender databases/registries. For that purpose, in FY 2020, the Attorney General is contracted to pay Watch Systems no more than \$591,234. The cost of renewing the agreement with an amendment expanding the contract’s scope will depend on the work involved to develop and implement the Sexual Exploitation Database. The additional costs to establish the violent offender and arson databases/registries were \$100,000 in FY 2019 and \$50,000 in FY 2013, respectively. The estimated annual cost to maintain the Sexual Exploitation Database is up to \$20,000.

Clerks of court

Clerks of courts will be responsible for forwarding conviction information to the Attorney General’s Bureau of Criminal Investigation (BCI). This information will be sent in one of three ways: (1) manually (written on a form issued by BCI), (2) electronically through an FTP (file transfer protocol), or (3) electronically through the Ohio Supreme Court’s Ohio Courts Network (OCN). Many courts currently send information to BCI using automated criminal justice information systems.

It appears, generally, that any workload increase for clerks of courts to provide the Attorney General with conviction records of certain prostitution offenders for entry into the Sexual Exploitation Database, or orders for removal, will be incorporated into their current duties utilizing existing staff and resources.

¹ Nicholson, Kristina C., M.S. *Human Trafficking and Related Offenses*, Ohio Office of Criminal Justice Services, Department of Public Safety. https://www.ocjs.ohio.gov/links/Human_Trafficking_and_Related_Offenses.pdf. Accessed February 2020.

Trafficking in persons

The bill's provisions regarding the classification of juveniles as victims of human trafficking and the requirement for the courts to appoint a guardian ad litem for a child when the court believes that the act charged is soliciting, loitering to engage in solicitation, or prostitution or the juvenile is a victim of human trafficking are likely to increase the expenses of the juvenile court associated with guardianship. This will be due to a likely increase in both the number of juveniles identified as victims of human trafficking and the number of cases in which a guardian ad litem is appointed by the court. Based on the historical number of juveniles identified as victims of human trafficking, the increases are expected to be minimal. From 2014 through 2018, the Attorney General identified 216 juvenile victims of human trafficking, averaging 43 annually over the four-year period.

Appointment of guardian ad litem

Costs associated with the appointment of a guardian ad litem vary between counties, by the length of the case, and by the type of guardian. According to the Ohio CASA/GAL Association, a guardian ad litem who is also an attorney may cost on average \$50 per hour, while a volunteer court appointed special advocate (CASA) would be less expensive for the court.² Currently, 51 counties utilize a CASA program. Most juveniles are considered indigent by the court; therefore, all costs associated with guardians would be borne by the court.

Abeyance of juvenile court proceedings

Additionally, the bill allows the court to grant a petition for abeyance without a hearing if the prosecuting attorney consents. Changes to the abeyance procedure have the potential to decrease the work of the court by eliminating the requirement for a hearing to grant an abeyance in certain circumstances. However, any potential increase in the number of juveniles identified as victims of human trafficking will also increase the number of cases eligible for abeyance with the potential for a hearing whenever the prosecuting attorney requests one. The net fiscal effect of these changes is expected to be minimal at most.

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² The Ohio CASA/GAL Association is a nonprofit corporation that provides CASA programs and their volunteers with training, funding, leadership, quality assurance, and management assistance.