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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 427
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsors: Reps. White and Manchester

Local Impact Statement Procedure Required: No

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Highlights

- County criminal justice systems generally may experience some increase in their annual operating costs to process human trafficking and prostitution cases. Although such a cost increase is not readily quantifiable, it should be relatively small for any given county criminal justice system and more or less absorbed by utilizing existing staff and resources.
- The bill may result in a marginal increase in the size of the prison population that the Department of Rehabilitation and Correction (DRC) will likely absorb by utilizing existing staff and resources.

Detailed Analysis

The existing offenses of “trafficking in persons” and “compelling prostitution” prohibit various conduct, with certain prohibitions involving the element of “compelling” another. For prosecutors to establish the element of compelling, the state must prove that the victim’s will was overcome by certain methods (force, fear, duress, intimidation, and, in some cases, fraud). The bill (1) clarifies that the state must prove that the offender overcame the victim’s will, and (2) expands the methods of “compelling” to include furnishing or offering a controlled substance to the victim or manipulation of the victim’s controlled substance addiction. The inclusion of these additional methods can be seen as expanding the definition of “compel” to remove the defense that drug use or manipulation of drug addiction do not constitute compelling a victim.

Evidence suggests that drug addiction is a common way that victims of human trafficking-related sex offenses are controlled, regardless of whether the victim was addicted when they met the offender, or the offender introduced them to the drugs later. For example, in 71% of all human trafficking investigations reported by law enforcement to the Attorney General through the Ohio Enforcement Gateway (OHLEG), drug addiction was the means used to compel the

victim. Other human trafficking statistics support this conclusion. Polaris, a nonprofit, nongovernmental organization that works to combat and prevent sex and labor trafficking, analyzed information received about victims and survivors to identify the top five methods used to compel another into trafficking. According to their analysis, “induces/exploits substance abuse issues” was the leading method for sex trafficking.¹

Local criminal justice systems

The bill can be seen, at least in part, as addressing conduct that may not explicitly, or unambiguously, violate existing prohibitions of trafficking in persons and compelling prostitution. Under the bill, prosecutors will no longer need to litigate over matters related to whether drug use or manipulation of drug addiction are included in existing methods of compelling. As such, this conduct may be more prosecutable. The bill could then alter the bargaining process between a prosecutor and defense counsel, as under current law a prosecutor may be more apt to agree to a plea of a lesser charge if circumstances make “compelling” difficult to prove.

By expanding the element of “compelling,” the bill may make it more likely for victims to contact or inform law enforcement of their circumstances. Further, law enforcement officers and social service workers may be more able to recognize and respond to victims in this circumstance. However, based on information from subject matter experts, any increase in reporting and subsequent charges will not be substantial. Associated cost increases are not readily quantifiable, but should be relatively small for any given county criminal justice system and more or less absorbed by utilizing existing staff and resources. According to the 2020 Ohio Attorney General’s *Human Trafficking Annual Report*, 148 potential victims of human trafficking were identified in 2020. In the same year, there were 28 incidents of compelling prostitution reported to the Ohio Incident-Based Reporting System (OIBRS).²

Department of Rehabilitation and Correction

Under current law, it appears that very few offenders are sentenced to prison for trafficking in persons or compelling prostitution. For the two offenses combined, an average of 11 offenders were committed to prison annually from calendar years 2016 through 2020. In the context of an institutional inmate population of around 43,000, the likely increase in the number of offenders committed to prison will be relatively small. The marginal cost for the Department of Rehabilitation and Correction (DRC) to add a relatively small number of offenders to its inmate population is around \$4,000 per offender per year. This suggests that the potential increase in DRC’s GRF-funded incarceration costs is likely to be no more than minimal annually.

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¹ <https://polarisproject.org/2019-us-national-human-trafficking-hotline-statistics/>.

² OIBRS is a voluntary reporting program in which Ohio law enforcement agencies can submit crime statistics directly to the state and federal government. At this time, the number of law enforcement agencies submitting data to OIBRS represents approximately 80% of the population. OIBRS does not reflect final charging data, eventual sentencing, or crimes that may be reported directly to a prosecutor, but it may provide a sense of the overall number of violations of an offense.