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H.B. 459
(1_134_0337-4)
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 459's Bill Analysis](#)

Version: In House Criminal Justice

Primary Sponsors: Reps. Cutrona and LaRe

Local Impact Statement Procedure Required: Yes

Jessica Murphy, Budget Analyst

Highlights

- Local criminal justice systems (law enforcement, prosecutors, courts, public defenders, and sanctioning systems) will likely experience some increase in workload and related costs to enforce compliance with the bill's prohibition. The magnitude of increases will depend on the number of registrants to whom the bill's restrictions would apply, the number of violators, the number of repeat violators, and the number of registrants in a position for whom a background check may make a restriction violation less likely.
- Assuming that the number of repeat violators is relatively small, any resulting increase in the Department of Rehabilitation and Correction's incarceration cost is likely to be minimal annually.

Detailed Analysis

The bill prohibits a person who is in a "restricted offender category" to begin service in a volunteer position that affords extensive contact with minor children.¹ Under the bill, extensive contact generally involves direct work with, or supervision or disciplinary power over, minors. The prohibition applies to certain offenders convicted of a sexually oriented offense involving a victim under age 18, or a child-victim oriented offense. With respect to that offense, the restricted offender category applies if one of the following applies:

1. The offender is either a Tier II or a Tier III sex offender/child-victim offender with respect to the offense; or

¹ The bill provides a 90-day time frame for a person in a "restricted offender category" serving in a prohibited capacity prior to the effective date of the bill to come into compliance with the prohibition.

2. The offense was committed prior to January 1, 2008, and under the version of the SORN Law in effect prior to that date, the offender was adjudicated or classified a sexual predator, child-victim predator, habitual sex offender, or habitual child-victim offender with respect to the offense.

The two groups within the restricted offender category account for the replacement of Megan’s Law, the state’s prior sex offender classification system, with the Sex Offender Registration and Notification Law (SORN Law) that went into effect on January 1, 2008.

Note that the “restricted offender category” includes only convicted criminal offenders and does not include children adjudicated delinquent. The table below shows the number of adult offenders in the Registry of Sex Offenders and Child-Victim Offenders as of August 2022. An unknown subset of these offenders would be subject to the bill’s restrictions.

Table 1. Sex Offenders in Ohio, August 2022*	
Sex Offender Classification System	Adult Offenders
Sex Offender Registration and Notification (SORN) Law	8,477
Tier II: Required to register for 25 years; verify address every 180 days	5,956
Tier III: Required to register for life; verify address every 90 days	2,521
Megan’s Law	6,479
Sexual offender/child-victim offender: registration required annually for 10 years	1,618
Habitual offender: registration required annually for 20 years	557
Sexual predator/child-victim predator: registration required every 90 days for life	4,304
Total	14,956

*The table excludes data on Tier I offenders because these offenders are not in a “restricted offender category.”

The bill states that the application of the restrictions described above to a person who committed the sexually oriented offense or child-victim oriented offense prior to the bill’s effective date is procedural and remedial, pertains to conduct of the person occurring on or after that date, and does not impose punishment on the person for the sexually oriented offense or child-victim oriented offense. This means that the bill will apply to existing registrants and new registrants.

Restriction violations

The bill provides that if an offender violates the bill’s restriction, as reported by law enforcement, a prosecutor may bring an action for an injunction for the violation or, if the offender previously had been subjected to an injunction for a violation of such a restriction, that the violation is a criminal offense. The penalty for a violation of the bill’s repeat violator restriction is generally a first degree misdemeanor, and elevates to a third or first degree felony

based on the number of prior restriction convictions. The following table shows existing law's sentences and fines that will apply to violations of the bill's restrictions.

Offense Level	Maximum Fine	Term of Incarceration
Felony 1 st degree*	\$20,000	3, 4, 5, 6, 7, 8, 9, 10, or 11 years definite prison term
Felony 3 rd degree	\$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
Misdemeanor 1 st degree	\$1,000	Jail, not more than 180 days

*For first and second degree offenses committed on or after March 22, 2019, that are not subject to life imprisonment, judges impose both a minimum and maximum prison term. Release is presumed at the expiration of the minimum prison term. Judges select a minimum prison term from the R.C. 2929.14(A) range. The maximum prison term is generally calculated as the minimum prison term plus 50% of itself.

Calculating the fiscal effects of the bill's new prohibitions is problematic because of a variety of unknowns, including the number of registrants to whom the restriction would apply, the number of likely violators, the number of likely repeat violators, and the number of registrants in a position for whom a background check may make a restriction violation less likely. Thus, the potential local fiscal effects on operations of law enforcement, prosecutors, courts, public defense counsel, and sanctioning systems are uncertain, but likely to be minimal, at most, for any given jurisdiction. Assuming that the number of repeat violators is relatively small, any resulting increase in the Department of Rehabilitation and Correction's incarceration cost is likely to be minimal annually.

Synopsis of Fiscal Effect Changes

The As Introduced version of the bill prohibits an individual meeting the bill's "restricted offender category" from serving in an employer, employee, independent contractor, or volunteer position that affords extensive contact with minor children. The substitute bill (I_134_0337-4) narrows the prohibition to only apply to volunteer positions. This change may reduce the number of potential violations of the bill and subsequent enforcement actions. The substitute bill also removes the additional information that those required to register a place of employment address must provide and other related requirements set forth in the As Introduced version.

The changes in the substitute bill notably eliminate the following fiscal effects:

- County sheriffs would have incurred one-time and ongoing administrative work to check and verify additional information related to sex offender registration, make determinations of compliance with the bill's new restrictions, and identify which of the offenders subject to registration duties prior to the effective date of the bill fall into a "restricted category."
- The Attorney General's Bureau of Criminal Investigation (BCI) would have incurred significant, one-time costs to modify Ohio Law Enforcement Gateway (OHLEG) software related to the additional information that the sheriffs would have been required to forward for inclusion in the state's Registry of Sex Offenders and Child-Victim Offenders.

The ongoing workload might have required BCI to hire additional staff, the cost of which is estimated at between \$59,000 to \$73,000 annually per hire for salary and benefits.