



OHIO LEGISLATIVE SERVICE COMMISSION

Robert Meeker

Fiscal Note & Local Impact Statement

Bill: S.B. 4 of the 132nd G.A.

Status: As Reported by Senate Judiciary

Sponsor: Sens. Kunze and Oelslager

Local Impact Statement Procedure Required: No

Subject: Criminal records expungement and intervention in lieu of conviction

State and Local Fiscal Highlights

- An expected small increase in the number of persons eligible to apply for records expungement each year may generate, at most, a minimal amount of related application fee revenue for crediting to the state's General Revenue Fund (GRF).
- The records expungement provision will have a minimal annual fiscal effect on local criminal and juvenile justice systems, as there will be some gain in application fee revenues and a minimal increase in time and effort for courts to expunge additional delinquency and criminal records.
- There may be a relatively small increase in the number of persons granted intervention in lieu of conviction, the cost of which for any given county or municipality is likely to be no more than minimal annually.

Detailed Fiscal Analysis

The bill: (1) allows for expungement of certain conviction records if a person is convicted of specific sex offenses resulting from being a human trafficking victim, (2) provides for the expungement of any human trafficking-related offense that did not result in conviction and establishes a procedure to approve or deny expungement, and (3) authorizes intervention in lieu of conviction for certain offenses committed while a victim of compelling prostitution.

According to data collected and then reported in the Attorney General's Human Trafficking Commission's annual reports indicate that the number of potential victims of human trafficking identified by law enforcement in recent years are as follows: 151 (2016), 203 (2015), 181 (2014), and 23 (2013).¹ This data suggests that, relative to the existing size of the state and local criminal and juvenile justice systems, changing their respective operations strictly related to victims of human trafficking will generate minimal annual fiscal effects.

¹ It is important to note that 2013 was the first year in which local law enforcement were required to collect certain information related to human trafficking investigations and forward it to the state's Bureau of Criminal Investigation.

Expungement of delinquency and criminal records

For an offender convicted of six specified offenses, including soliciting and prostitution, the bill expands the list of criminal offenses the records of which may be expunged to include the offender being a victim of human trafficking. In addition, the bill authorizes the expungement of records related to a finding of not guilty or to a dismissed criminal charge, if the finding or charge was the result of the person having been a victim of human trafficking.

Under the bill, a relatively small number of additional persons may be eligible to apply for expungement. Expungement applicants, unless indigent, are required to pay a \$50 fee. The \$50 application fee is divided between the state GRF (\$30) and the county or municipality (\$20). The annual costs for local criminal and juvenile justice systems to handle a potential increase in expungement requests will be minimal at most, with the application fee likely to offset all, or some portion, of those costs.

The bill also establishes a procedure to approve or deny an application to expunge the aforementioned records, including notice to the prosecutor, a hearing, and a determination by the court. Given the relatively small number of new records eligible for expungement under the bill, any additional costs for local courts will be minimal at most annually.

Intervention in lieu of conviction

The bill allows a victim of compelling prostitution to request intervention in lieu of conviction (ILC) when charged with certain offenses² in the same manner as current law provides when certain factors may have led to the offense: alcohol or drug usage, mental illness, intellectual disability, or the offender was a victim of human trafficking. LSC conversations with subject matter experts suggest that victims of compelling prostitution may already commonly be granted ILC at the judge's discretion, indicating the bill is widely codifying current practice in this regard. This suggests that any cost for a given municipality or county will be minimal annually, as the likely number of additional persons granted ILC would be relatively small.

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² These offenses include: theft, unauthorized use of a motor vehicle, passing bad checks, misuse of credit cards, forgery, and/or nonsupport or contributing to nonsupport of dependents.