

Fiscal Note & Local Impact Statement

123rd General Assembly of Ohio

BILL: H.B. 3

DATE: March 16, 1999

STATUS: As Introduced

SPONSOR: Rep. Evans

LOCAL IMPACT STATEMENT REQUIRED: Yes

CONTENTS: Extends the Victims' Rights Law to proceedings in a juvenile court in which a child is charged with committing an act that would be a felony or specified misdemeanor if committed by an adult

State Fiscal Highlights

| STATE FUND | FY 1999 | FY 2000 | FUTURE YEARS |
|---|------------------|------------------|------------------|
| General Revenue Fund | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | - 0 - | - 0 - | - 0 - |
| Crime Victims Compensation Fund (Fund 108) | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Minimal increase | Minimal increase | Minimal increase |

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- The Department of Youth Services' current practice with respect to victim notifications appears to largely conform to the bill's notification requirements. Thus, the department should incur no additional annual GRF expenditures.
- The Attorney General's Office will have to update its victim's bill of rights pamphlet. The cost of such an update will depend on the ease with which the Attorney General can incorporate those changes and the subsequent need to print and distribute new pamphlets. We believe that cost will be at most minimal and would be borne by the Attorney General's Crime Victims Compensation Fund (Fund 108).

Local Fiscal Highlights

| LOCAL GOVERNMENT | FY 1999 | FY 2000 | FUTURE YEARS |
|------------------|--|--|---|
| Counties | | | |
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Aggregate cost of at least \$191,000; cost could range from a few hundred dollars to \$30,000 or more per jurisdiction, with average cost of \$4.62 per notice | Aggregate cost of at least \$382,000; cost could range from a few hundred dollars to \$30,000 or more per jurisdiction, with average cost of \$4.62 per notice | Aggregate cost of at least \$382,000 plus additional increase; cost could range from a few hundred dollars to \$30,000 or more per jurisdiction, with average cost of \$4.62 per notice |



| Municipalities | | | |
|-----------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| Revenues | - 0 - | - 0 - | - 0 - |
| Expenditures | Increase up to \$136,500 statewide | Increase up to \$273,000 statewide | Increase up to \$273,000 statewide |

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Counties will experience an increase in annual expenditures of around \$322,000 statewide for notices given by prosecutors to victims at various stages in juvenile proceedings. The cost per county would range between a few hundred dollars up to \$30,000 or more per jurisdiction, with an average cost of \$4.62 per notice. Counties will also incur annual expenditures of up to \$60,000 statewide for notifications that will have to be provided by their various custodial agencies. Additional expenditures of an uncertain amount to counties will also result from (1) notices given by sheriff's departments to victims of juvenile crime; and (2) notices given by prosecutors for judicial and early releases.
- Municipalities will experience an increase in annual expenditures of up to \$273,000 statewide for notices given to victims by law enforcement upon the arrest of juveniles. The estimate of \$273,000 includes juvenile arrests made by all law enforcement agencies, and likely overestimates the statewide impact. It is assumed that the majority of juvenile arrests, however, would occur in municipal jurisdictions. This worst-case fiscal estimate also assumes that law enforcement agencies do not currently voluntarily provide notification of juvenile arrests. In reality, some police departments currently perform these duties.

Detailed Fiscal Analysis

Provisions of the Bill

The bill extends the Victim's Rights Law to proceedings in a juvenile court in which a child is charged with committing an act that would be a felony or a specified misdemeanor if committed by an adult. Existing statute is amended to provide victims of juvenile crime the same notice as provided to individuals who are victimized by adults. Victims of juvenile crime would be due notification and expanded rights at the following steps in the criminal justice system:

- Notice by the law enforcement agency that investigates the crime
- Notice to the victim from the prosecutor, including:
 1. Trial notices, including notices of changes and delays
 2. Notice of defendant's acquittal or conviction
 3. Notice of appeal
 4. Notice of confinement
- Victim's right with respect to the judicial release of the defendant

Cost of One Victim Notification

In 1993, the Ohio Criminal Sentencing Commission estimated the cost of one notification to be \$2.50. This estimate included staff and postage costs. LBO adjusted this figure to reflect inflation using a GDF deflator, and determined that the cost of one notification in 1999 dollars would be \$4.62. LBO would like to emphasize that the \$4.62 estimate used in this analysis is a

rough estimate, and that the actual cost of providing notifications will vary from jurisdiction-to-jurisdiction.

Notice from Law Enforcement Agency

Under existing law, law enforcement agencies investigating a crime must give the victim notice of the following: notice of the arrest, the name of the defendant, whether the defendant is eligible for pretrial release, the telephone number of the law enforcement agency, and the victim’s right to phone the agency to determine whether the defendant has been released from custody.

Under the bill, the victim must be notified by law enforcement as to whether a juvenile offender is eligible for pretrial release or for release from detention, and that the victim may call to see if the juvenile has been released from custody or detention.

Juvenile Arrests. The Federal Bureau of Investigation’s Uniform Crime Reporting program is a voluntary statistical reporting effort on the part of law enforcement agencies that forward the data to the FBI for analysis. The FBI collects information on Part I offenses (murder, rape, robbery, assault, burglary, larceny, auto theft, and arson) and for Part II offenses (forgery, fraud, embezzlement, vandalism, weapons violations, sex offenses, drug and alcohol abuse violations, gambling, vagrancy, curfew violations, and runaways).

LBO used the Uniform Crime Reports to zero in on the annual number of juvenile arrests affected by this bill. The bill would require notification efforts for certain offenses, and the UCR data is the most complete data available that provides a breakdown of all Ohio juvenile arrests by offense category.

Under the bill, all felony offenses require notice, plus certain misdemeanors: negligent homicide, vehicular homicide, assault, aggravated menacing, menacing by stalking, menacing, sexual imposition, domestic violence, and intimidation of crime victim/witness. Using the bill’s specifications, LBO decided which categories of offenses would be addressed by the bill, and excluded some arrests, while including others in our estimate. LBO then arrived at a rough estimate for the number of juvenile arrests that would be affected by the bill annually.

According to 1995 Uniform Crime Report data, the last year for which Ohio juvenile arrests were readily available for disaggregation, there were a grand total of 115,050 arrests of juveniles in Ohio for the Part I and Part II offenses shown below. The 1995 UCR arrest data include a mix of felonies and misdemeanors, as shown below.

Table 1: 1995 UCR data for arrests of Ohio juveniles

| Offense | Number of Reported Cases | Approximate Penalty Equivalent | Number of cases included in LBO estimate | | |
|--------------------|--------------------------|--------------------------------|--|---------------|---------------|
| | | | Low estimate | High estimate | Best estimate |
| Murder | 97 | Felony | 97 | 97 | 97 |
| Rape | 320 | Felony | 320 | 320 | 320 |
| Robbery | 1,814 | Felony | 1,814 | 1,814 | 1,814 |
| Aggravated Assault | 2,268 | Felony | 2,268 | 2,268 | 2,268 |
| Burglary | 4,602 | Felony | 4,602 | 4,602 | 4,602 |

| | | | | | |
|------------------------------|----------------|-----------------------|---------------|---------------|---------------|
| Larceny* | 16,331 | Felony & Misdemeanor | 0 | 16,331 | 3,103 |
| Motor Vehicle Thefts | 3,004 | Felony | 3,004 | 3,004 | 3,004 |
| Arson | 524 | Generally felony | 524 | 524 | 524 |
| Other assaults | 9,628 | Generally felony | 9,628 | 9,628 | 9,628 |
| Forgery and counterfeiting | 245 | Felony & Misdemeanor | 0 | 245 | 0 |
| Fraud | 96 | Felony & Misdemeanor | 0 | 96 | 0 |
| Embezzlements | 12 | Felony & Misdemeanor | 0 | 12 | 0 |
| Having stolen property** | 3,060 | Felony & Misdemeanor | 0 | 3,060 | 2,662 |
| Vandalism | 4,631 | Felony | 4,631 | 4,631 | 4,631 |
| Weapons*** | 1,726 | Felony & Misdemeanor | 0 | 1,726 | 1,001 |
| Prostitution/Vice | 45 | Generally misdemeanor | 0 | 0 | 0 |
| Sex offenses | 541 | Generally felony | 541 | 541 | 541 |
| Drug abuse+ | 6,541 | Felony & Misdemeanor | 0 | 6,541 | 4,710 |
| Drug possession+ | 4,782 | Felony & Misdemeanor | 0 | 4,782 | 3,443 |
| Gambling | 117 | Misdemeanor | 0 | 0 | 0 |
| Offenses against family++ | 3,788 | Felony & Misdemeanor* | 3,788 | 3,788 | 3,788 |
| DUI | 586 | Generally misdemeanor | 0 | 0 | 0 |
| Liquor law violations | 5,661 | Misdemeanor | 0 | 0 | 0 |
| Drunkenness | 586 | Misdemeanor | 0 | 0 | 0 |
| Disorderly conduct | 6,193 | Misdemeanor | 0 | 0 | 0 |
| Vagrancy | 70 | Misdemeanor | 0 | 0 | 0 |
| All other except traffic +++ | 25,000 | Felony & Misdemeanor | 0 | 25,000 | 12,500 |
| Suspicion | 142 | Felony & Misdemeanor | 0 | 142 | 0 |
| Curfew | 9,750 | Misdemeanor | 0 | 0 | 0 |
| Runaway | 7,612 | Misdemeanor | 0 | 0 | 0 |
| Total: | 115,050 | | 31,217 | 89,152 | 58,636 |

*In Franklin County in 1997, there were 773 felony theft cases and 3,254 misdemeanor thefts, for a total of 4,027. If we then assume that this proportion applies to juveniles, then approximately 19% of all thefts are felonies.

**In Franklin County in 1997, there were 1,274 felony receipts of stolen property and 187 misdemeanor charges, for a total of 1,461. If we apply the same logic, then 87% of receipts of stolen property should be felonies.

***In Franklin County in 1997, there were 424 felony charges of carrying concealed weapons and 304 misdemeanor charges, for a total of 728. Therefore, 58% of these offenses are estimated to be felonies.

+ In Franklin county in 1997, there were 2,922 felony drug abuse charges and 1,123 misdemeanor charges, for a total of 4,045 drug abuse charges. Therefore, 72% of drug abuse charges should be felonies.

++ Includes domestic violence.

+++ LBO decided to split this miscellaneous category by 50% for the final estimate.

Low estimate of affected cases. LBO's low estimate of affected cases only includes those available offense categories that are *entirely* comprised of felonies and offenses against the family. The bill explicitly includes domestic violence as an offense qualifying for notification, and LBO

assumes that the majority of arrests in this category represent juveniles who are arrested for domestic violence. The low estimate, which likely represents a gross undercount of affected cases because it excludes many felonies and misdemeanors, is approximately 31,000 juvenile arrests annually statewide.

High estimate of affected cases. LBO's high estimate of affected cases includes those available offense categories that include *any* felony offenders. This count likely represents a gross overestimate of the number of cases addressed by the bill, because it includes many misdemeanor arrests not covered by the bill. The high estimate is approximately 89,000 annually statewide.

LBO's best estimate. LBO's best estimate attempts to take into account the proportion of offenses in each category, which are likely to be felonies and misdemeanors. LBO has reviewed the 1997 Franklin County Municipal Court report, which shows breakdowns of the numbers of felonies and misdemeanors for theft, receipt of stolen property, concealed weapons, and drug abuse. LBO then applied these proportions to the UCR offense categories, providing us with a more likely estimate of around 59,000 juvenile arrests that would fall under the notification provisions of this bill annually statewide.

Implications for law enforcement agencies. If law enforcement does not currently do these notifications, then they would be required to do 59,000 of these, at an annual cost of approximately \$273,000 statewide (59,000 x \$4.62 = \$272,580). Throughout this analysis, LBO assumes one victim per offender.

Technically, under current law, law enforcement agencies are not required to give notice to victims of juvenile crime. Discussions with some police departments indicate that there frequently are no distinctions made between adult and juvenile arrestees in notifications to victims, particularly with regard to some serious classes of crimes, such as rape, domestic violence, and child abuse. That said, at this time, LBO is unable to generalize conclusively as to whether or not law enforcement agencies in Ohio, as a whole, conduct juvenile notifications. We can only determine that they are not compelled to do so, but some do so voluntarily.

Notice from prosecution

Initial prosecutor notifications. The bill requires the prosecutor to confer with the victim before the juvenile court conducts an adjudicatory hearing. Under the bill, the prosecutor must give the victim all of the information that a victim would receive if involved in an adult criminal proceeding. Language is added that entitles a victim of juvenile crime to the following:

1. The name of the offense with which the defendant has been charged and the name of the defendant;
2. The file number of the case;
3. A statement describing the procedures in a criminal case and the right of the victim to be present during all proceedings;
4. A summary of the Victim's Rights Law;
5. Procedures to be followed if the victim is threatened or intimidated by the defendant or any other person;
6. The name and telephone number of a contact person for further case information;

7. The right of a victim to have a representative exercise the victim's right and the procedure by which a representative may be designated; and
8. Notice that any further information will be given to the victim only if the victim requests it.

In 1995, the Ohio Courts Summary reported 90,188 new delinquency cases filed in juvenile courts statewide. For that same year, UCR data shows 115,050 total arrests. Based on this data, we then estimate that 78 percent of all juvenile delinquency arrests result in court filings ($90,188 \div 115,050 = 0.784$).

Previously, we estimated that approximately 59,000 arrests annually will fall under the scope of the bill. If, as estimated above, 78 percent of these cases result in case filings, then we roughly estimate that 46,000 cases annually would require initial notifications from prosecutors' offices, at a cost of \$212,520 statewide annually ($46,000 \times \$4.62 = \$212,520$).

However, previous studies by the Ohio Criminal Sentencing Commission have indicated that approximately 60 percent of filings in criminal cases have identifiable victims. If we apply this percentage to our previous estimate, we get approximately 27,600 cases annually that would require initial notifications from prosecutors' offices ($46,000 \times .60 = 27,600$). The annual cost of such initial notifications would then be approximately \$127,500 statewide ($27,600 \times \$4.62 = \$127,512$).

Additional notices, including notices of conviction, appeal, and confinement, are given to the victim only if the victim requests the information. The following estimates assume that all victims would choose to receive notification, and are therefore to be viewed as worst-case fiscal scenarios.

Notice of Conviction or Acquittal and Right to Participate in Sentencing. Under the bill, victims of juvenile crimes may request the prosecutor to give notice of the defendant's acquittal or conviction. The prosecutor must then give notice describing the crimes for which the defendant is convicted. In calendar year 1992, the Ohio Department of Youth Services reported that there were 15,421 felony juvenile adjudications. As this number does not include some of the misdemeanor offenses addressed in the bill, LBO assumes that the number of cases affected at that step would be slightly higher. If we assume that there are approximately 16,000 convictions annually, and that 60 percent of cases have identifiable victims, then the total statewide cost associated with notices of conviction would be approximately \$44,000 ($16,000 \times .60 \times \$4.62 = \$44,352$).

Notice of Appeal. In general, LBO assumes that juvenile cases are rarely appealed, and that notices of appeal would generate a minimal number of additional notice costs for the relatively few cases going to the state's courts of appeals.

If a juvenile defendant is convicted, and the victim requests notice as described above, a prosecutor must notify the victim of the appeal, including the following information:

1. Explanation of the appellate process;
2. Whether the defendant has been released on bail or recognizance pending the disposition of the appeal;
3. The time, place, and location of the court proceedings and any changes; and

4. The result of the appeal.

Notice of Confinement. Upon request of the victim, the bill requires prosecutors to give notice of the offender's commitment to a school, camp, institution, or other facility operated for delinquent children or to the custody of the Department of Youth Services (DYS). The prosecutor must notify the victim of the date on which the juvenile will be released, or the prosecutor's reasonable estimate of such a date. If DHS is the custodial agency, the prosecutor shall notify the victim of the services offered by DHS' Office of Victim's Services, and the victim's right to request further notifications from DHS detailing actions that its Release Authority may take with respect to the juvenile. If the victim requests the information, the prosecutor must also provide notification of any hearing for judicial or early release of the juvenile.

LBO assumes that all the juveniles convicted of felony-equivalent offenses or the serious misdemeanor offenses described in the bill will be committed to the custody of DHS or another entity. At least one additional set of notices would necessarily be generated, at an annual cost of \$44,000 (16,000 adjudications x .60 with victims x \$4.62 = \$44,352). This estimate is likely to be a "lowball" amount, as more than one notice may be required of prosecutors under the confinement provisions. Specifically, an additional notice would occur if the juvenile receives an early or judicial release hearing.

Other notices. Under the bill, prosecutors would be required to give additional notices to victims regarding the date, time, and place of the scheduled proceedings and any changes to these proceedings or in the schedule of the case. The number of additional notices would vary by case, and are difficult to quantify.

Total Likely Costs to Prosecutors. The Ohio Sentencing Commission, in its previous analysis of the victim notification law regarding the adult system, estimated that prosecutors would average eight notices per case in which the victim requested notification. The Franklin County Prosecutor's Office Victim-Witness Division estimates that they average six notices per case in which the victim requests notification. Given that prosecutors would likely give one less notice due to the unlikely possibility of appeal, LBO estimates that seven notices will be given by prosecutors' offices for each case in which victims request notice.

Above, we estimated that the cost of initial notifications statewide would be approximately \$127,500 statewide, assuming that there will be 27,600 cases annually triggering this bill's initial notification requirement. The Franklin County Prosecutor's Office reported that they distributed 3,999 initial notification letters last calendar year, and that they received 1,120 responses for victim notification. If Franklin County's experience is typical, we can assume that approximately 25 percent ($1,120 \div 3,999$) of the identifiable victims will want further notification from prosecutors' offices. This diminishes the number of cases that will go through the seven-step notification process to approximately 7,000 annually (27,600 cases with identifiable victims x .25 = 6,900).

If LBO assumes that these 7,000 cases would receive six additional notifications each, then the statewide cost to prosecutors for continuing notifications would be around \$194,000 (7,000 x 6 notices x \$4.62 = \$194,040). If this is added to the cost for initial notifications,

previously estimated to be \$127,500, the total statewide cost to prosecutors would likely be in the neighborhood of \$321,500.

This estimate represents aggregate statewide costs. Costs to individual counties may be as low as a few hundred dollars or as high as \$30,000 dollars, dependent on whether the notification responsibilities can be absorbed by existing staff or necessitate the hiring of additional staff.

Notice from the Department of Youth Services

On request, victim notification will be given from the Release Authority of the Department of Youth Services with respect to: all release reviews, escapes, pending release hearings, supervised release revocation hearings, discharge reviews relating to the juvenile, the placement of the juvenile on supervised release, and the discharge of the juvenile. Additionally, at least 30 days before the DYS Release Authority holds a release review, release hearing, or discharge review, notice shall be given to the victim of the victim's right to attend and make a statement.

Through the Office of Victims' Services, established by Am. Sub. H.B. 1 of the 122nd General Assembly, the DYS Release authority has put into place procedures that satisfy the requirements of this bill. As a result, DYS provides information about its policies, procedures, and the status of juveniles in its custody if referring courts have provided DYS with the name and address of victims. Under the bill, prosecutors would be required to provide victims with information regarding how to contact the Office of Victim's Services, and victims would proactively need to contact DYS. Established DYS procedures provide for the victim to be notified of release and their right to make appearances and statements at release hearings.

Notice from County Detention Facilities

Under the bill, county custodial agencies must, upon a victim's request, provide notification of the following:

- Notice of the juvenile's release from confinement and the terms and conditions of the release;
- Notice of the juvenile's transfer to transitional control;
- Notice of the juvenile's death or escape.

DYS reported that there were 15,421 felony adjudications in 1992. In that same year, 2,563 juveniles were committed to DYS custody. We can assume that approximately 13,000 juveniles would then be placed in county custody. Assuming that the majority of juveniles would not die nor escape county control, an additional set of notices would be generated, at a cost of approximately \$60,000 annually statewide ($13,000 \times \$4.62 = \$60,060$). This estimate will likely overestimate the cost, as not all juvenile felony adjudications would necessarily receive a sentence of confinement.

Attorney General's Victim's Bill of Rights

Under existing law, the Attorney General must prepare and distribute a pamphlet containing all statutes relative to victim's rights for distribution as a victim's bill of rights. The pamphlet expenditures currently come from the Crime Victims Compensation Fund, a State Special Revenue Fund account. As a result of the bill, changes to the material in the pamphlet will

have to be made to address the changes in victim's rights made by this bill. These changes will result in the Attorney General's Office incurring costs for the following:

- The printing of updated pamphlets, which could potentially be at a higher printing cost, due to additional provisions included in the victim's bill of rights.
- Distribution to an increased number of victims and agencies.

Summary of Fiscal Effects

Fiscal effects on the state. There are two potential sources of fiscal impact:

1. Additional responsibilities placed on DYS for victim's rights notification. DYS has been determined to essentially be in compliance with the bill's provisions, resulting in no additional annual costs to the department.
2. Changes in the victim's bill of rights pamphlets produced by the Attorney General. Some costs will be incurred for the design and printing of a new pamphlet that includes the provisions of the bill. It is also expected that this pamphlet will be distributed to a wider audience of victims and agencies.

Fiscal effects on counties. There are several sources of fiscal impact:

1. Notices from law enforcement of arrest of juvenile offenders. Sheriff's departments who arrest juvenile offenders are expected to incur additional costs associated with providing notice to victims. Some sheriff's departments may give these notices currently, but they are not required to do so.
2. Initial prosecutors' notifications. Prosecutors are required to give victims certain information at the beginning of the adjudicatory process. The annual cost of initial notifications statewide is estimated to be approximately \$127,500.
3. Cost of additional prosecutors' notifications. Additional notifications are provided by the prosecutor only upon the request of the victim for the following: notice of conviction/acquittal, notice of appeal, notice of confinement, and other notices involving judicial/early release, delays, and changes in location and time. LBO estimates that the annual statewide cost of the additional notifications would be around \$194,000.
4. Cost of notifications from county detention facilities. LBO estimates that the maximum statewide annual cost of release notifications to be around \$60,000 statewide.

Total annual statewide fiscal impact on counties: At least \$381,500.

Caveat: This estimate represents aggregate statewide costs. Costs to individual counties may be as low as a few hundred dollars or as high as \$30,000 or more, depending upon whether the notification responsibilities can be absorbed by existing staff or necessitate the hiring of additional staff. LBO assumes an average cost of \$4.62 per notice.

Fiscal effects on municipalities. There is one primary source of fiscal impact:

1. Notices from law enforcement of arrest of juvenile offenders. It is assumed that municipal police departments will perform the majority of juvenile arrests. Some police departments currently give notice to victims of juvenile offenders, while others do not. Assuming that no law enforcement agencies currently perform these notices, the annual statewide cost to law enforcement would be approximately \$273,000. However, this estimate is higher than the actual cost, because: (a) some police departments currently perform these duties; and (b) this estimate includes arrests made by county sheriff's departments.

Total annual statewide fiscal impact on municipalities: Under \$273,000.

□ *LBO staff: Laura Bickle, Budget/Policy Analyst*

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