
Detailed Fiscal Analysis

Provisions of the Bill

The bill includes the offense of disseminating matter harmful to juveniles in the definition of "sexually oriented offense." Under current law, disseminating matter harmful to juveniles prohibits persons, with knowledge of its character or content, from recklessly doing any of the following:

1. Disseminating to a juvenile any material or performance that is obscene or harmful to juveniles;
2. Offering to disseminate to a juvenile any material or performance that is obscene or harmful;
3. Allowing any juvenile to review or peruse any harmful material.

This offense is a first-degree misdemeanor, except when the material involved is deemed to be obscene, in which case the offense is a fifth-degree felony. If the victim is under thirteen years of age, the offense becomes a fourth-degree felony. The bill makes no alterations to this penalty structure.

By including the offense of disseminating matter harmful to juveniles in the definition of "sexually oriented offense," it is likely that a small additional number of offenders would be eligible for inclusion in Ohio's sex offender registry.

Operation of Ohio's Sex Offender Registry

Under existing law, certain sex offenders are required to register with law enforcement agencies. These statutes also require law enforcement to release relevant information about these offenders, and provide for a sex offender database under the oversight of the Attorney General's Bureau of Criminal Identification and Investigation (BCI&I). As of September 16, 1998, there were 880 sex offenders registered in Ohio.

In Ohio, three classes of offenders are required to register upon release: sexual predators, habitual sex offenders, and sexually oriented offenders. All are required to provide fingerprints, photographs, DNA, criminal history, and vehicle registration information:

- ***Sexual predator:*** An offender who is convicted of a sexually violent offense and is determined to be a sexual predator by the sentencing court. Generally, sexual predators are required to register for life, and must verify their addresses quarterly with the sheriff of the county in which they reside.
- ***Habitual sex offender:*** An offender previously convicted of one or more sexually oriented offenses. The sentencing judge may or may not determine that community notification is necessary. Generally, habitual offenders must register for 20 years, and must verify their addresses annually with the sheriff of the county in which they reside.

- ***Sexually oriented offender:*** An offender convicted of a sexually oriented offense. Such offenders must register for 10 years, verify their addresses annually with the sheriff of the county in which they reside, and are not subject to community notification provisions.

Offenders must register within seven days of entering any county, and within seven days of changing address. These requirements also apply to out of state offenders establishing residence in Ohio. The penalties for failure to register in Ohio are dependent upon the sexually oriented offense the offender committed. Offenders who are required to register as the result of committing a misdemeanor sex offense are charged with a first-degree misdemeanor for failure to register. A first-degree misdemeanant may be sentenced up to six months in the jail and fined up to \$1,000. Offenders who are required to register as the result of committing a felony sex offense are charged with a fifth-degree felony for failure to register. A fifth-degree felon may be sentenced to between six and twelve months in state prison, and may be fined up to \$2,500.

Active written notification of the presence of a sexual predator or habitual sex offender is provided to the following parties within the school district in which the offender resides:

1. Local law enforcement;
2. All occupants of residences adjacent to the offender's residence;
3. The executive director of the public children services agency;
4. The superintendent of each board of education of the school district;
5. The appointing/hiring officer of each nonpublic school;
6. The director, head teacher, or elementary principal of each preschool;
7. The administrator of each child day care center;
8. The president or other chief administrator of each higher education institution.

Such notification includes the offender's name, address, the offense of which the offender was convicted, and a statement that the offender has been adjudicated to be a sexual predator or habitual sexual offender.

State Fiscal Effects

The Attorney General's BCI&I may incur an increase in expenditures as a result of a category of offenders being included in Ohio's sex offender registry who may not otherwise have been eligible. The number of affected offenders, however, is expected to be relatively small, thus the additional annual cost incurred by BCI&I should be negligible.

In FY 1997, the Department of Rehabilitation and Correction received 3 commitments for disseminating matter harmful to juveniles. In FY 1996, 5 offenders were committed to DRC for this offense.

BCI&I receives information from county sheriffs and compiles this information into the state registry, which it maintain at a cost of less than \$60,000 annually. BCI&I compiles data on offenders and offenses, which is then forwarded to the FBI for inclusion in the National Sex Offender Database.

DRC would also likely incur some additional negligible costs as a result of this bill. At the time of the offender's release from correctional control, DRC reviews registry requirements

with qualifying offenders. DRC obtains background information on the offender, including the offender's intended place of residence, and forwards this information to the sheriff's department in that area and to BCI&I. DRC would also incur additional negligible costs resulting from obtaining DNA specimens for offenders convicted of disseminating matter harmful to juveniles.

Local Fiscal Effects

County sheriffs bear the most intensive burden of registration and notification relative to sex offenders. Offenders are required to register with the county sheriff. The sheriff is then responsible for: (1) providing notification to those parties entitled to notification information; and (2) forwarding address verifications and all other offender information to BCI&I. Given that the bill is likely to affect only a handful of offenders annually, the resulting additional administrative burden placed on county sheriffs statewide is expected to be negligible.

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