Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 181** DATE: **December 11, 2007**

STATUS: **As Reported by Senate Judiciary--Criminal Justice** SPONSOR: **Rep. Setzer**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Missing child school record keeping and investigations, additional court cost for certain specified purposes, child placement plan reviews and hearings, and declares an emergency**

State Fiscal Highlights

STATE FUND	FY 2008*	FY 2009	FUTURE YEARS
Indigent Defense Support Fund (New Fund)			
Revenues	Potential gain, up to $4.1 million or more	Potential gain, up to $8.2 million or more	Potential gain, up to $8.2 million or more
Expenditures	Potential increase, up to available revenues	Potential increase, up to available revenues	Potential increase, up to available revenues
Drug Law Enforcement Fund (New Fund)			
Revenues	Potential gain, up to $2.9 million or more	Potential gain, up to $5.8 million or more	Potential gain, up to $5.8 million or more
Expenditures	Potential increase, up to available revenues	Potential increase, up to available revenues	Potential increase, up to available revenues
Indigent Drivers Alcohol Treatment Fund (Fund 049)			
Revenues	Potential gain, up to $1.25 million or more	Potential gain, up to $2.5 million or more	Potential gain, up to $2.5 million or more
Expenditures	Potential increase, up to available revenues	Potential increase, up to available revenues	Potential increase, up to available revenues

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.
* Fiscal analysis assumes six months of court cost collections in FY 2008 (January through June 2008).

- The bill creates the Indigent Defense Support Fund to be administered by the State Public Defender for the purpose of reimbursing counties for the provision of indigent criminal defense services and directs that 50%, or $5.00, of the additional $10 in court costs be deposited in the state treasury to the credit of the Indigent Defense Support Fund. LSC fiscal staff estimates the resulting amount of moneys that will be generated to the credit of the Indigent Defense Support Fund at up to $8.2 million or more annually.

- The bill creates the Drug Law Enforcement Fund to be administered by the Division of Criminal Justice Services for the purpose of awarding grants to local drug task forces to defray the expenses incurred in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity and directs that

35%, or $3.50, of the additional $10 in court costs be deposited in the state treasury to the credit of the Drug Law Enforcement Fund. LSC fiscal staff estimates the resulting amount of moneys that will be generated to the credit of the Drug Law Enforcement Fund at up to $5.8 million or more annually.

- The bill directs that 15%, or $1.50, of the additional $10 in court costs is to be deposited in the state treasury to the credit of the existing Indigent Drivers Alcohol Treatment Fund (Fund 049), to be distributed by the Department of Alcohol and Drug Addiction Services to counties and municipalities for the costs of alcohol monitoring provided to indigent defendants. LSC fiscal staff estimates the resulting amount of moneys that will be generated to the credit of Fund 049 at up to $2.5 million or more annually.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
School Districts			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
Townships, Municipalities, and Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase
County Indigent Criminal Defense Systems			
Revenues	Potential gain in state financial assistance, up to $8.2 million or more statewide	Potential gain in state financial assistance, up to $8.2 million or more statewide	Potential gain in state financial assistance, up to $8.2 million or more statewide
Expenditures	- 0 -	- 0 -	- 0 -
Drug Task Forces			
Revenues	Potential gain in state financial assistance, up to $5.8 million or more statewide	Potential gain in state financial assistance, up to $5.8 million or more statewide	Potential gain in state financial assistance, up to $5.8 million or more statewide
Expenditures	- 0 -	- 0 -	- 0 -
County and Municipal Indigent Drivers Alcohol Treatment Funds			
Revenues	Potential gain in state financial assistance, up to $2.5 million or more statewide	Potential gain in state financial assistance, up to $2.5 million or more statewide	Potential gain in state financial assistance, up to $2.5 million or more statewide
Expenditures	- 0 -	- 0 -	- 0 -
Clerks of Courts			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential, perhaps no more than minimal, increase to administer locally collected state court costs	Potential, perhaps no more than minimal, increase to administer locally collected state court costs	Potential, perhaps no more than minimal, increase to administer locally collected state court costs

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

- The additional court costs in the bill could generate up to $8.0 million or more for the purpose of reimbursing counties for the cost of providing indigent criminal defense services.

- The additional court costs in the bill could generate up to $5.8 million or more to be distributed annually by the Division of Criminal Justice Services to counties, municipal corporations, townships, township police districts, and joint township police districts to defray the expenses that a drug task force incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.

- The additional court costs in the bill could generate up to $2.5 million or more for deposit in county and municipal indigent drivers alcohol treatment funds annually statewide.

- As of this writing, it would not appear that the potential cost to establish and maintain the appropriate controls for any given clerk of court to collect and forward the additional $10 in state court costs would exceed minimal on an ongoing basis.

- Public and nonpublic schools may experience minimal increases in expenditures as a result of marking the records of students identified as missing children and notifying law enforcement agencies of requests for those records.

- Law enforcement agencies may experience minimal increases in expenditures if they choose to locate and notify the last school in which a child reported as missing was enrolled.

- County and municipal civil courts may experience an increase in administrative costs for the court to meet with the child and consider both in-state and out-of-state placement options when deciding on a permanency plan for the child.

- The bill contains an emergency clause. It will become effective as soon as the Governor signs the bill.

Detailed Fiscal Analysis

Additional court costs for moving violations

The bill requires a court to impose an additional court cost of $10 for a moving violation to provide funds for certain costs of drug task forces, certain costs of alcohol monitoring provided to indigent offenders, and certain indigent defense costs.

State revenues and expenditures

According to the state's Bureau of Motor Vehicles, in 2006, there were approximately 1,653,000 moving violation convictions statewide, a number that includes violations committed by both commercial and noncommercial drivers. Assuming that the total number of moving violation convictions recorded in subsequent years is more or less similar to calendar year 2006, LSC fiscal staff estimates that the bill's additional court cost of $10 will generate up to $16.53 million or more annually statewide (1,653,000 moving violation convictions x $10).

Compared to more serious criminal violations in which the collection of court costs and fines can become very problematic, it is more likely that persons convicted of moving violations will make an attempt to pay any fines and court costs imposed by a court so as not to risk bench warrants, future arrests on traffic stops, and a possible suspension of their driving privileges. That said, while the collection rate for moving violations is relatively higher than most other types of violations, it is not likely to reach 100%.

The bill directs the additional $10 in court costs be forwarded to the state treasury as follows:

- Fifty percent, or $5.00, is to be credited to the Indigent Defense Support Fund, which the bill creates, to be administered by the State Public Defender for the purpose of reimbursing counties for the provision of indigent criminal defense services.
- Thirty-five percent, or $3.50, is to be credited to the Drug Law Enforcement Fund, which the bill creates, to be administered by the Division of Criminal Justice Services for the purpose of awarding grants to counties, municipal corporations, townships, township police districts, and joint township police districts to defray the expenses that a drug task force incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.
- Fifteen percent, or $1.50, is to be credited to the existing Indigent Drivers Alcohol Treatment Fund (Fund 049), to be distributed by the Department of Alcohol and Drug Addiction Services to counties and municipalities for the costs of alcohol monitoring provided to indigent defendants.

Table 1 immediately below displays the breakdown and distribution of the revenue that the additional $10 in court costs will generate annually.

Table 1
Distribution of $10 in Additional Court Costs

State Fund	$10 Additional Court Cost		Total Estimated Annual Revenue
	Dollar Amount	Percentage	
Indigent Defense Support Fund	$5.00	50%	Up to $8,265,000 or more
Drug Law Enforcement Fund	$3.50	35%	Up to $5,785,500 or more
Indigent Drivers Alcohol Treatment Fund	$1.50	15%	Up to $2,479,500 or more
Totals	**$10.00**	**100%**	**Up to $16,530,000 or more**

Under the state's Indigent Defense Reimbursement Program, the State Public Defender subsidizes counties for the cost of providing counsel to indigent persons in criminal and juvenile matters pursuant to the requirements of sections 120.18, 120.28, and 120.33 through 120.35 of the Revised Code. The Revised Code stipulates that the Public Defender shall reimburse the counties 50% of the costs of operating their local indigent defense systems, unless the legislature appropriates less funding than needed to reimburse at 50%, in which case each county receives a reduced share. The currently enacted level of funding corresponds to a reimbursement rate of about 25% in FY 2008 and 24% in FY 2009. Public Defender fiscal staff has indicated that an increase in annual funding of $8.0 million or so would increase the county reimbursement rate by 6% to 7% each year.

Local revenues and expenditures

The bill, as discussed below, will have direct fiscal effects on at least four local government components: (1) clerks of courts, (2) indigent drivers alcohol treatment funds, (3) county indigent criminal defense systems, and (4) drug task forces.

Clerks of courts. The clerks of municipal courts, county courts, mayor's courts, and courts of common pleas will be required to collect and then forward the specified court costs for deposit in the state treasury. Presumably, these clerks of courts will need to modify their accounting systems in order to properly receipt and disburse the additional court cost amounts to the state treasury. As of this writing, it would not appear that the potential cost to establish and maintain the appropriate controls for any given clerk of court would exceed minimal on an ongoing basis.

Indigent drivers alcohol treatment funds. Under current law, counties and municipalities are eligible to receive state financial assistance from the Indigent Drivers Alcohol Treatment Fund (Fund 049), which is administered by the Department of Alcohol and Drug Addiction Services for the purpose of funding certain costs incurred by counties and municipalities in administering indigent drivers alcohol treatment programs. The additional court costs in the bill could generate up $2.5 million or more to be disbursed by the state and deposited in county and municipal indigent drivers alcohol treatment funds annually statewide.

County indigent criminal defense systems. As noted above, the additional court costs in the bill could generate up $8.0 million or more for the purpose of reimbursing counties for the cost of providing indigent criminal defense services.

Drug task forces. The additional court costs in the bill could generate up $5.8 million or more to be distributed annually by the Division of Criminal Justice Services to counties, municipal corporations, townships, township police districts, and joint township police districts to defray the expenses that a drug task force incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.

Missing child school record keeping and investigations

The bill requires a public or nonpublic school to mark the records of a missing student when the school is notified by a law enforcement agency that the student is the subject of a missing child report. It also requires a public or nonpublic school to notify the law enforcement agency when the missing child's records are requested. When responding to such a request, the public or nonpublic school is required to ensure that the receiving district or school will not be able to tell that the student's records have been marked. Upon notification by a law enforcement agency that the child is no longer missing, the public or nonpublic school is required to remove the mark from the student's records.

Public and nonpublic schools may experience minimal increases in expenditures as a result of marking the records of students identified as missing children and communicating with law enforcement agencies when missing students' records are requested. According to the Buckeye Association of School Administrators, it is likely that school districts would simply attach a note to a student's permanent enrollment card. Currently, a student's permanent enrollment card is generally photocopied for the school in which the student subsequently enrolls. The bill permits, but does not require, a law enforcement agency to notify the school that a child has been reported as missing. If a law enforcement agency chooses to notify the school, it may incur minimal increases in expenditures as a result of determining in which school the child was most recently enrolled and then notifying that school that the child has been reported as missing.

Current law requires law enforcement agencies to assist and cooperate with each other in missing child investigations. The bill specifies that such assistance and cooperation need to follow the agreed-upon terms. It also specifies that when law enforcement agency employees provide services related to missing child investigations outside their jurisdiction, they are covered by the state Sovereign Immunity Law, any indemnity fund established by their employer, and the state Workers' Compensation Law to the same extent as if providing services within their jurisdiction. These provisions do not appear to have any additional fiscal effects beyond current law.

Review hearings that pertain to permanency plans

The bill provides that, in any review hearing that pertains to a permanency plan for a child who will not be returned to the parent, the court must consider in-state and out-of-state placement options and must determine whether the in-state or the out-of-state placement continues to be appropriate and in the best interests of the child and that in any review hearing that pertains to a permanency plan, the

court or a citizens' board appointed by the court must consult with the child, in an age-appropriate manner, regarding the proposed permanency plan for the child. To the extent that a court is not already doing this, there may be some additional administrative costs to meet with the child and consider all placement options when deciding on a permanency plan for the child.

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