Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL:	**Sub. H.B. 471**	DATE:	**December 17, 2008**
STATUS:	**As Enacted – Effective April 7, 2009**	SPONSOR:	**Rep. Setzer**
LOCAL IMPACT STATEMENT REQUIRED:	**Yes**	**However, current version does not contain supplemental compensation for coroners that caused local impact in introduced bill**	
CONTENTS:	**To require installation of electronic monitoring devices under certain conditions and to revise the Coroner's Law**		

State Fiscal Highlights

STATE FUND	FY 2009 – FUTURE YEARS
General Revenue Fund (GRF)	
Revenues	Potential, minimal at most, annual gain in locally collected court costs
Expenditures	Potential, minimal at most, annual incarceration cost increase
Victims of Crime/Reparations Fund (Fund 4020)	
Revenues	Potential, minimal at most, annual gain in locally collected court costs
Expenditures	Potential increase of up to between a couple of hundreds of thousands of dollars and tens of millions of dollars annually to pay for electronic monitoring of indigent respondents

- ***Victims of Crime/Reparations Fund (Fund 4020).*** The bill requires the Victims of Crime/Reparations Fund (Fund 4020) to be used for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent. LSC fiscal staff's analysis suggests that the potential increase in the fund's annual expenditures could be up to between a couple of hundreds of thousands of dollars and tens of millions of dollars. As discussed further on in this fiscal analysis, according to data provided by the Office of the Attorney General, Fund 4020, based on current revenue and expenditure patterns, could become insolvent in the next biennium. Assuming that the Office of the Attorney General's analysis is reasonably accurate, then the bill would accelerate the fund's projected cash flow crisis.

- ***Court cost revenues.*** From a state revenue perspective, if a respondent is convicted of violating a protection order, then the state potentially collects state court costs that the court is generally required to impose on that individual. Although LSC fiscal staff is unable to quantify the number of additional respondents that might be convicted of violating a protection order annually statewide, we assume that the amount of court cost revenue likely to be generated for either state fund annually is unlikely to exceed minimal. For the purposes of this fiscal analysis, a minimal revenue gain means an increase estimated at less than $100,000 for either state fund per year.

- ***Incarceration expenditures.*** From a state expenditure perspective, if a respondent is convicted of a felony protection order violation, then it is possible that the court will sentence the offender to a prison term, the practical effect of which, dependent upon the dynamics in the prison population at that time, may be to increase the Department of Rehabilitation and Correction's GRF-funded incarceration costs. If all of the

mitigating factors noted in this document's "Detailed Fiscal Analysis" were true, then LSC fiscal staff assumes that the effect of felony protection order violations on state incarceration costs will be minimal. For the purposes of this fiscal analysis, a minimal expenditure increase means an additional annual cost estimated at less than $100,000.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 – FUTURE YEARS
Counties – Coroner's Laboratory Fund	
Revenues	- 0 -
Expenditures	Potential decrease in investigation costs and public record costs
Courts of Common Pleas (divisions handling civil protection orders)	
Revenues	- 0 -
Expenditures	(1) Potential increase to make electronic monitoring decisions; (2) Potential increase, if state's Fund 4020 becomes insolvent, to pay for law enforcement's electronic monitoring of indigent respondents estimated at up to between a couple of hundreds of thousands of dollars and tens of millions of dollars annually statewide
County Sheriffs and Other Law Enforcement Agencies (electronic monitoring systems)	
Revenues	Potential gain of up to between approximately one million dollars and tens of millions of dollars annually statewide to electronically monitor respondents, with range reduced if state's Fund 4020 becomes insolvent and courts of common pleas do not pay for costs of electronically monitoring indigent respondents
Expenditures	Potential increase of up to between approximately one million dollars and tens of millions of dollars annually statewide, wholly or partially reimbursed depending on whether state's Fund 4020 becomes insolvent and courts of common pleas pay for costs of electronically monitoring indigent respondents
County and Municipal Criminal Justice Systems Generally (processing protection order violators)	
Revenues	Potential gain in court costs and fines, annual magnitude for any affected local criminal justice system uncertain
Expenditures	Potential increase to investigate, prosecute, adjudicate, defend, and sanction violators, annual magnitude for any affected local criminal justice system uncertain

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

- ***Electronic monitoring systems.*** The bill requires that: (1) the respondent pay all costs associated with the installation and use of the monitoring device, and (2) the state's Victims of Crime/Reparations Fund (Fund 4020) to be used for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent. LSC fiscal staff estimates the potential statewide local electronic monitoring cost at between approximately one million dollars and tens of millions of dollars annually, an amount that may be wholly or partially reimbursed depending upon the respondent indigency rate, the future solvency of the state's Fund 4020, and a court of common pleas responsibility for the costs of electronically monitoring indigent respondents.

- ***Court of common pleas.*** From the perspective of the divisions of the courts of common pleas whose subject matter jurisdiction includes ruling on petitions requesting the issuance of a civil protection order, the bill presents several areas of potential fiscal concern. However, quantifying those areas of concern relative to their effect on the workload and annual operating expenses of courts of common pleas is problematic. Although any affected court of common pleas may be able to reallocate resources and reengineer decision-

making processes in an effort to minimize costs, it is not clear how those courts will handle the apparent uncertainties surrounding who is responsible for the payment of electronic monitoring costs that, for whatever reason, cannot be collected from the respondent or covered by moneys drawn from the state's Victims of Crime/Reparations Fund.

- ***County sheriffs and other local law enforcement agencies.*** The annual magnitude of the costs incurred by any affected law enforcement agency will likely be a function of the fixed cost to establish and maintain an electronic monitoring system and the marginal cost, which will be dependent on the number of respondents ordered to be electronically monitored and the length of time that the order is in effect. Presumably, some, but perhaps not all, of these costs will be recovered by the requirement that respondents pay the cost of the installation and monitoring of the electronic monitoring device. That said, it seems likely that the respondent payment stream in certain local jurisdictions will not fully cover the electronic monitoring system's annual operating expenses and that the "gap" between those expenses and the earmarked revenue stream may exceed minimal, perhaps significantly so. For the purposes of this fiscal analysis, a local cost in excess of minimal means an estimated expenditure increase of more than $5,000 for any affected law enforcement agency per year.

- ***County and municipal criminal justice systems generally.*** If additional respondents are arrested and prosecuted for violating the terms of a stalking/sex offense-related civil protection order, then the affected local criminal justice system's expenditures may increase, including costs related to investigating, prosecuting, adjudicating, defending (if the person is indigent), and sanctioning the violator. Whether the number of violators in any given county or municipal criminal justice system and associated costs will be sufficient to exceed LSC fiscal staff's "minimal local cost" threshold is uncertain. A minimal local cost means an expenditure increase estimated at no more than $5,000 for any affected county or municipality per year. If collected from violators, court cost and fine revenues may offset all, or a portion, of the expenses incurred in the local criminal justice system's handling of the violation. The magnitude of the revenues that any affected local jurisdiction may collect annually is uncertain.

- ***Coroner's records.*** The bill restricts the types of coroner's records which are considered to be public records. This restriction would most likely decrease the number of public records that need to be produced by the coroner's office, and could lead to reduced administrative expenses.

- ***Appointment of officials.*** The bill allows coroners to appoint law enforcement officials from within the county to be investigators. This could allow coroners to utilize local law enforcement officials instead of contracting with a qualified private individual, thus reducing investigative costs.

Detailed Fiscal Analysis

Overview

For purposes of this fiscal analysis, the bill most notably:

- Requires a court that makes certain findings at a full hearing on a petition for a stalking/sex offense-related civil protection order to order the respondent be subjected to "electronic monitoring" for a period of time and under the terms and conditions that the court determines are appropriate.
- Requires the court to direct the county sheriff or other appropriate law enforcement agency to install the electronic monitoring device and to monitor the respondent.
- Requires the court to order the respondent to pay the cost of the installation and monitoring of the electronic monitoring device.
- Requires the existing state Victims of Crime/Reparations Fund to be used for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent.
- Provides, pursuant to existing law, that violating the terms of a stalking/sex offense-related civil protection order is generally a misdemeanor of the first degree and enhances to a felony of the fifth or third degree depending upon the circumstances present.
- Restricts the type of coroner's records that are public records.
- Permits coroners to appoint law enforcement officials from within the county to be investigators.

The bill also revises aspects of the Coroner's Law. The fiscal effects of the electronic monitoring and coroner provisions are described below.

State fiscal effects

Victims of Crime/Reparations Fund (Fund 4020)

The bill will affect the cash flow of the Attorney General's Victims of Crime/Reparations Fund (Fund 4020) by increasing its annual expenditures potentially by hundreds of thousands and perhaps tens of millions of dollars.

According to data provided by the Office of the Attorney General, Fund 4020, based on current revenue and expenditure patterns, will become insolvent in FY 2011. The fund's end of year cash balance decreased from $34.6 million in FY 2006 to $23.2 million in FY 2007, is projected to decrease to $2.6 million by the close of FY 2010, and is projected to post a deficit by FY 2011. Assuming that the Office of the Attorney General's analysis is reasonably accurate, then the bill will accelerate the fund's projected cash flow crisis.

Based on information provided by the Office of the Attorney General, this decrease in the fund's end of year cash balance is due to a variety of factors. First, the fund is taking in less revenue in the form of court costs. In FY 2003, $18.5 million in court costs was collected; in FY 2007, $16.1 million in court costs was collected.

Second, the magnitude of the fund's annual disbursements has increased. For example, disbursements on: (1) DNA services have expanded from $400,000 in FY 2003 to $2.3 million in FY 2007, (2) crime victim compensation awards have increased from a total of $19.7 million in FY 2003 to $25.5 million in FY 2007, and (3) victim assistance program subsidies have increased from $2.8 million in FY 2003 to $5.2 million in FY 2007. Costs associated with child and elder protection were $0 in FY 2003, but increased to $1.7 million in FY 2007.

Overall, the fund's total annual revenues have decreased from $25.7 million in FY 2003 to $25.6 million in FY 2007, while the fund's total annual expenditures have increased from $24.1 million in FY 2003 to $37.0 million in FY 2007 (an increase of 53.5%).

Violating a protection order

As noted, under existing law, the offense of violating a protection order is generally a misdemeanor of the first degree, but is elevated to a felony of the fifth or third degree if other circumstances are present. As a result of the bill, certain respondents will be electronically monitored for a period of time ordered by the court, which presumably increases the possibility that some respondents, who might not have been caught violating a protection order, will be caught in violation of the protection order, arrested for doing so, and successfully prosecuted for the offense of "violating a protection order." Such an outcome has potential fiscal implications for state revenues and expenditures, which are discussed in more detail in the paragraphs immediately below.

State revenues. From a state revenue perspective, if a respondent is convicted of violating a protection order, then the state potentially collects state court costs that the court is generally required to impose on that individual. Those locally collected court costs are forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 4020). The state court costs for a felony offense total $45, of which the GRF receives $15 and Fund 402 receives $30. The state costs for a misdemeanor offense total $24, of which the GRF receives $15 and Fund 4020 receives $9. Although LSC fiscal staff is unable to quantify the number of additional respondents that might be convicted of violating a protection order annually statewide, we assume that the amount of court cost revenue likely to be generated for either state fund annually is unlikely to exceed minimal. For the purposes of this fiscal analysis, a minimal revenue gain means an increase estimated at less than $100,000 for either state fund per year.

State expenditures. From a state expenditure perspective, if a respondent is convicted of a felony protection order violation, then it is possible that the court will sentence the offender to a prison term, the practical effect of which, dependent upon the dynamics in the prison population at that time, may be to increase the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. As of December 2008, DRC's web site indicates that its budgeted average incarceration cost per inmate is $67.37 per day, or $24,590.05 per year.

LSC fiscal staff does not have a reliable estimate of the number of respondents that might be sentenced to a prison term for a felony protection order violation. That said, there appear to be several factors that may combine to keep the number of prison-bound respondents to a relatively small group. First, the mere act of monitoring respondents electronically may be sufficient incentive for some respondents to abide by the terms of the protection order. Second, some number of respondents will likely be convicted of a misdemeanor protection order violation for which a court can order a stay in a local jail, but cannot impose a prison term. Third, some number of respondents convicted of a felony protection order violation may also be convicted of other related felony conduct for which a prison term would have been imposed independent of the felony protection order violation.

If all of the mitigating factors noted in the immediately preceding paragraph were true, then LSC fiscal staff assumes that the effect of felony protection order violations on state incarceration costs will be minimal. For the purposes of this fiscal analysis, a minimal expenditure increase means an additional annual cost estimated at less than $100,000.

Local fiscal effects

Number of stalking/sex offense-related civil protection orders issued

LSC fiscal staff took as its starting point for this fiscal analysis the need to determine how many stalking/sex offense-related civil protection orders are being issued by Ohio's courts annually statewide. Unfortunately, finding a reliable and straightforward answer to that question is difficult, as the details associated with the issuance of any given protection order are not entered into a centralized depository or database available to court and law enforcement personnel statewide, and by extension such information is not readily available to persons interested in researching related matters. As an alternative, LSC fiscal staff contacted several courts of common pleas and affiliated court personnel, but had great difficulty collecting responses that would permit one to generate a reliable estimate of protection order activity statewide.

Based on some informal research conducted by staff of the Judicial Conference of Ohio and conversations with knowledgeable local court personnel, LSC fiscal staff has estimated the following:

- In calendar year (CY) 2006, approximately 15,000 to 25,000 requests for the issuance of a stalking/sex offense-related civil protection order were filed statewide.
- Approximately 65% of filings noted in the immediately preceding dot point resulted in the court issuing such a protection order, which suggests that the number of stalking/sex offense-related civil protection orders issued was in the approximate range of 9,750 to 16,250.

An additional uncertainty needs to be noted. Under existing law, a person can seek different types of civil protection orders – a temporary protection order, a civil protection order, or a stalking/sex offense-related civil protection order – and there appears to be some degree of flexibility in permitting a person to determine the type of protection order sought. If this is indeed the case, then it is possible that the availability of electronic monitoring of the respondent may create an incentive for certain persons that would have filed a request for a temporary

protection order or a civil protection order to instead file a request for a stalking/sex offense-related civil protection order. To the degree that this phenomenon actually occurs, then our estimated range may have undercounted to some degree the actual number of stalking/sex offense-related civil protection orders that will be filed and issued annually statewide subsequent to the bill's becoming effective.

Number of respondents subject to "electronic monitoring"

Filing and content of petition. The bill provides that, in addition to an allegation and a request for relief as required under existing law, a petition seeking relief in the form of electronic monitoring must contain an allegation that the respondent engaged in conduct that would cause a reasonable person to believe their safety was at risk and that the respondent presents a continuing danger to the person seeking protection. If the court finds by "clear and convincing evidence" that the previously described circumstances are true, then the court is required to order the respondent be electronically monitored.

To assess the potential fiscal implications of the provisions described in the immediately preceding paragraph, one needs to measure the following occurrences: (1) the frequency with which a person filing a petition will seek relief in the form of electronic monitoring of the respondent, and (2) the frequency with which a court will order a respondent be subject to electronic monitoring. In order to measure these "frequencies," one has to in effect predict the future actions of petitioners and courts. From the perspective of local court and law enforcement personnel, these measurements constitute a problematic task, as the bill represents an arguably dramatic departure from the manner in which civil protection orders are currently issued and enforced. LSC fiscal staff's research into this matter revealed no clear consensus or response patterns.

Petitions requesting electronic monitoring order. Under existing law, a person filing for a stalking/sex offense-related civil protection order indicates to the court what type of relief is sought by checking the appropriate boxes in the form provided by the court. Presumably, this form would be amended to incorporate electronic monitoring as an additional type of relief available to a petitioner and that the petitioner would simply check the appropriate box to request the court do so.

From LSC fiscal staff's perspective, if a person is motivated enough to file a petition, then that person is highly likely to add electronic monitoring to the relief sought by simply checking the appropriate box under the belief that it enhances their personal safety. Thus, for the purposes of this fiscal analysis, we assume that all of those petitioning the court to issue a stalking/sex offense-related civil protection order will include a request for electronic monitoring of the respondent.

Electronic monitoring orders issued. In researching the matter of the frequency with which the court will order a respondent to be electronically monitored, LSC fiscal staff generally found two distinct perspectives. Some individuals felt that a court would be very selective in its use of electronic monitoring and reserve its use for circumstances present in which the respondent represented a substantial threat to the petitioner's safety. This could mean that only about 5% of respondents would be ordered to be electronically monitored. Conversely, the court may want to use all available tools to enhance the safety of petitioners, in which case a court may order a respondent to be electronically monitored in as many as 95% of the petitions filed.

Table 1 immediately below takes our previously estimated range of stalking/sex offense-related civil protection orders issued (9,750 to 16,250) and shows, assuming that this estimate is a reasonably accurate approximation of the true number, the number of respondents that could be ordered to be electronically monitored as a percentage of the total number of petitions filed.

Table 1
Estimated Statewide Number of Respondents Subject to "Electronic Monitoring"

Percentage of Orders Issued with Electronic Monitoring of Respondent	Estimated Number of Orders Issued	
	9,750	16,250
5%	488	813
25%	2,438	4,063
50%	4,875	8,125
75%	7,313	12,188
95%	9,263	15,438

Electronic monitoring costs

Although it may be a simplification to do so, one may view electronic monitoring as involving three distinct tools or technologies, as described generally below: radio frequency, active global positioning satellite (GPS), and passive global positioning satellite (GPS).

- Radio frequency monitoring essentially involves the imposition of a curfew on an offender and monitoring whether that offender is at their residence at required times.
- Active GPS uses global positioning satellites to track an offender's location in the community, and also allows officers to enter parameters that restrict an offender from being in certain geographic areas. If the offender violates the boundaries of those areas, an alert is registered at the monitoring center and relayed to the officer and, if a victim chooses to be notified, he/she is alerted by a beeper signal.
- Passive GPS system has many of the same features of the active GPS system, but it does not report the monitored offender's movements in "real time." Instead, the system maintains a log of the offender's location throughout the day and uses landline telephones to transmit a summary of this data to officers the following day.

Costs of electronic monitoring appear to range from $5 to $18 a day, with "active" monitoring being on the more expensive end of this cost spectrum in comparison to what can be termed "passive" monitoring. According to a December 2005 report by the Task Force to Study Criminal Offender Monitoring by Global Positional Systems in the State of Maryland (herein referred to as the "Maryland Task Force"), a survey found that active monitoring systems typically cost between $9 and $12 a day.[1] More recently, however, *I-Secure Trac* made a product presentation to members of the Ohio General Assembly's Senate Criminal Justice Committee and stated that electronic monitoring through a global positioning system would cost $18 a day.[2]

The bill requires that the respondent pay all costs associated with the installation and monitoring of an electronic monitoring device. It seems highly likely, however, that some respondents will be determined indigent and thus unable to pay these monitoring costs. LSC fiscal staff's research into this matter suggests that the indigency rate associated with this population of respondents is likely to be around 30%. The bill requires the state's Victims of Crime/Reparations Fund (Fund 4020) to be used for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent. According to data provided by the Office of the Attorney General, Fund 4020, based on current revenue and expenditure patterns, could become insolvent in the next biennium. If that were true, then, in the case of the court ordering an indigent respondent to be electronically monitored, that court may end up being responsible for ensuring that the law enforcement entity ordered to monitor the respondent is paid for the costs it incurs in doing so.

Table 2 below summarizes our best estimate of the statewide costs associated with the electronic monitoring of certain respondents. It incorporates, from Table 1, our estimated numbers of respondents that might be electronically monitored, and a range of potential average daily electronic monitoring costs ($5, $9, $12, $18) to calculate two cost figures: (1) the estimated statewide average daily electronic monitoring costs that are theoretically to be paid by respondents, and (2) the amount of the figure from (1) that represents respondents who may be determined to be indigent and from whom costs may not be collected.

The intent of Table 2 below is to suggest the magnitude of the electronic monitoring costs that might be incurred by county sheriffs and other local law enforcement personnel statewide, and of that amount, how much might not be collected because some respondents being electronically monitored are deemed indigent.

Under the bill, the court will direct the county sheriff or any other appropriate law enforcement agency to install the electronic monitoring device and to monitor the respondent. It is not clear, however, that local law enforcement would have the authority to contract out all or some portion of the associated duties and responsibilities to private sector vendors. Thus, for the purposes of this fiscal analysis, LSC fiscal staff has assumed that local law enforcement authorities will directly perform these duties and responsibilities and incur all of the associated costs. Also unclear is who would be responsible for the billing and collecting of costs from electronically monitored respondents, and if some respondents are deemed indigent, how will those costs be absorbed. Will the state's Victims of Crime/Reparations Fund or the court ordering the electronic monitoring of indigent respondents be required to reimburse the local law enforcement agency for the costs of monitoring such persons?

Table 2
Estimated Statewide Average Daily Electronic Monitoring Costs

Estimated Number of Electronically Monitored Respondents	Average Daily Electronic Monitoring Cost*			
	$5	$9	$12	$18
488	$2,440/$732	$4,392/$1,318	$5,856/$1,757	$8,784/$2,638
813	$4,065/$1,220	$7,317/$2,195	$9,756/$2,927	$14,634/$4,390
2,438	$12,190/$3,657	$21,942/$6,583	$29,256/$8,777	$43,884/$13,165
4,063	$20,315/$6,095	$36,567/$10,970	$48,756/$14,627	$73,134/$21,940
4,875	$24,375/$7,313	$43,875/$13,163	$58,500/$17,550	$87,750/$26,325
7,313	$36,565/$10,970	$65,817/$19,745	$87,756/$26,327	$131,634/$39,490
8,125	$40,625/$12,188	$73,125/$21,938	$97,500/$29,250	$146,250/$43,875
9,263	$46,315/$13,895	$83,367/$25,010	$111,156/$33,347	$166,734/$50,020
12,188	$60,940/$18,282	$109,692/$32,908	$146,256/$43,877	$219,384/$65,815
15,438	$77,190/$23,157	$138,942/$41,683	$185,256/$55,577	$277,884/$83,365

* The calculated amounts in each cell contain two figures separated by a slash as follows: (1) the total average daily electronic monitoring cost based on the estimated number of electronically monitored respondents, (2) the amount of estimated costs in (1) that might not be recovered if one assumes a 30% indigency rate.

Courts of common pleas

From the perspective of the divisions of the courts of common pleas whose subject matter jurisdiction includes ruling on petitions requesting the issuance of a civil protection order, the bill presents several areas of potential fiscal concern, as summarized immediately below.

- The bill appears unlikely to discernibly change the number of civil protection order petitions filed annually in any given court of common pleas. However, it is possible that the additional decision regarding electronic monitoring could lead to longer and more complex hearings.
- The bill: (1) requires the court order the county sheriff or other appropriate law enforcement agency to electronically monitor certain respondents, and (2) requires respondents to pay for the costs of being electronically monitored. LSC fiscal assumes that, based on what appears to be current practice, the local law enforcement agency charged by the court to electronically monitoring certain respondents would also be responsible for establishing and maintaining a system for collecting the costs of electronically monitoring from the respondents. The bill, however, does not clearly assign that duty to either the court or the other appropriate law enforcement agency.
- The bill requires the state's Victims of Crime/Reparations Fund to pay for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent. However, given the questions surrounding the future ability of the fund to meet this requirement, what fiscal exposure does the court of common pleas have regarding these respondents?

- If certain respondents are financially capable of paying the costs associated with electronic monitoring, but chose not to do so, will the court that ordered the electronic monitoring being involved in the matter, how frequently, and at what cost?

From LSC fiscal staff's perspective, quantifying the above-noted areas of concern relative to their effect on the workload and annual operating expenses of courts of common pleas is problematic. Although any affected court of common pleas may be able to reallocate resources and reengineer decision-making processes in an effort to minimize costs, it is not clear how those courts will handle the apparent potential uncertainties surrounding who is responsible for the payment of electronic monitoring costs that, for whatever reason, cannot be collected from the respondent or covered by moneys drawn from the state's Victims of Crime/Reparations Fund.

County sheriff and other local law enforcement agencies

What is not clear from LSC fiscal staff's perspective is whether the cost estimates calculated in Table 2 above incorporate all of the potential costs that a law enforcement agency could incur in establishing and maintaining an electronic monitoring system.

For example, a law enforcement agency would presumably need to purchase equipment, connect respondents, monitor data, reclaim lost or damaged equipment, and enforce protection order violations. Additional potential costs also include: (1) staff to analyze the constant stream of data on the location of all electronically monitored respondents, the amount and timing of which would be a function of the type of electronic monitoring utilized, (2) office space, travel, and storage, and (3) reallocation or redeployment of personnel to handle the likely increase in the number and frequency of respondents appearing to violate the terms of the court order.[3] According to the Maryland Task Force, most "jurisdictions recommended a caseload of anywhere from twenty (20) to twenty-five (25) offenders per agent" for GPS monitoring systems.[4]

In the specific case of Ohio, local law enforcement personnel contacted by LSC fiscal staff noted that installing the appropriate equipment on the respondent would require approximately one hour, and that personnel would need to be available to replace equipment due to malfunctions, battery failures, destruction (accidentally or purposefully) by the respondent, tracking down lost or damaged equipment, and interpreting, analyzing, and responding to data provided by the GPS units. The Maryland Task Force determined that these personnel costs "may well turn out to be the most expensive element of the system."[5]

The annual magnitude of the costs incurred by any affected law enforcement agency will likely be a function of the fixed cost to establish and maintain an electronic monitoring system and the marginal cost, which will be dependent on the number of respondents ordered to be electronically monitored and the length of time that the order is in effect. Presumably, some, but perhaps not all, of these costs will be recovered by the requirement that respondents pay the cost of the installation and monitoring of the electronic monitoring device. That said, it seems likely that the respondent payment stream in certain local jurisdictions will not fully cover the electronic monitoring system's annual operating expenses and that the "gap" between those expenses and the earmarked revenue stream may exceed minimal, perhaps significantly so. For the purposes of this fiscal analysis, a local cost in excess of minimal means an estimated expenditure increase of more than $5,000 for any affected law enforcement agency per year.

Criminal justice systems generally

As noted, the ordering of respondents to be electronically monitored may increase the likelihood that certain respondents will be discovered violating the order, and subsequently arrested, prosecuted, and sanctioned for doing so. Under current law, unchanged by the bill, violating the terms of a stalking/sex offense-related civil protection order is generally a misdemeanor of the first degree, and can be enhanced to a felony of the fifth or third degree depending upon the circumstances present. Misdemeanor offenses generally fall under the subject matter jurisdiction of a municipal court or a county court; felony offenses fall under the subject matter jurisdiction of a court of common pleas.

Expenditures If additional respondents are arrested and prosecuted for violating the terms of a stalking/sex offense-related civil protection order, then the affected local criminal justice system's expenditures may increase, including costs related to investigating, prosecuting, adjudicating, defending (if the person is indigent), and sanctioning the violator. Whether the number of violators in any given county or municipal criminal justice system and associated costs will be sufficient to exceed LSC fiscal staff's "minimal local cost" threshold is uncertain. A minimal local cost means an expenditure increase estimated at no more than $5,000 for any affected county or municipality per year.

Revenues. If additional respondents are convicted of violating the terms of a stalking/sex offense-related civil protection order, then the sentencing court is generally required to order the violator pay a fine and associated court costs. If collected, these revenues may offset all, or a portion of, the expenses incurred in the local criminal justice system's handling of the violation. The magnitude of the revenues that any affected local jurisdiction may collect annually is uncertain.

Coroner's Law revisions

The bill makes several changes to provisions in the Coroner's Law concerning the following areas: (1) coroner records, (2) coroner appointments, (3) use of money in the coroner laboratory fund, and (4) disposition of controlled substances. With the exception of the last item, all of these provisions have fiscal effects.

Coroner records

The bill adds two new types of records to those already not public record under existing law: (1) the records of a deceased individual whose death is believed to be related to the actions of another person and believed to result potentially in the filing of criminal charges or the investigation of which remains ongoing or open, and (2) laboratory reports generated from the analysis of physical evidence by the coroner's laboratory. The bill also specifies that the coroner of the county where a death occurred is responsible for the release of all public records relating to that death, instead of the coroner where the autopsy was performed. Restricting which records are public could result in a minimal decrease in expenses for county coroners if they do not have to produce these records upon request. Clarifying who is ultimately responsible for the public records of a death would mean that any costs associated with maintaining those records that one county coroner might incur would simply be shifted to another county coroner.

Coroner appointments

Current law authorizes the coroner to appoint as a deputy coroner, as a pathologist serving as a deputy coroner, or as a technician, stenographer, secretary, clerk, custodian, investigator, or other employee a person who is an associate of, or who is employed by, the coroner or a deputy coroner in the private practice of medicine in a partnership, professional association, or other medical business arrangement. The bill also allows the coroner to appoint, as an investigator, a deputy sheriff within the county or a law enforcement officer of a political subdivision located within the county. Using law enforcement officers within the county for investigations could reduce the need for a coroner to pay a qualified private sector individual to assist in investigations.

Use of money in coroner's laboratory fund

Current law requires that money derived from fees paid for examinations conducted by a coroner's laboratory be kept in a special fund, for the use of the coroner's laboratory. These funds must be used to purchase necessary supplies and equipment for the laboratory. The bill further allows these funds to be used to pay associated costs incurred in the administration of the laboratory at the coroner's discretion.

Generally, the coroner's office is funded through the fees described above as well as through a county's general fund. By allowing a coroner to use money in the laboratory fund for administrative costs, there could be a reduction in the amount of general fund money that may need to be allocated for that purpose. Presumably, this provision would only be applicable in counties where the coroner has accrued enough fees to pay some administrative costs of the office.

Disposition of controlled substances

The bill authorizes the coroner to secure, catalog, record, and then destroy any dangerous drugs found at the scene of an investigation the coroner conducts, if the dangerous drugs are no longer needed for investigative or scientific purposes. This process has been the standard current practice for coroners. The bill gives express authority for this practice to continue, and has no fiscal impact.

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