



- **Treatment certifications and offender release information.** The bill requires DRC and the Department of Youth Services (DYS): (1) to adopt rules pertaining to the certification of sex offender treatment programs and maintain a list of certified programs that is open to public inspection, and (2) to provide, before the release of an offender or delinquent child who was in DRC or DYS custody for committing a sexually oriented offense or child-victim oriented offense, the Bureau of Criminal Identification and Investigation (BCII) a physical description of the offender or child. At the time of this writing, it is unclear to what extent these provisions of the bill will create costs to these two state agencies. However, it seems likely that it would not exceed minimal on an annual basis. For the purposes of this fiscal analysis, minimal means an estimated expenditure increase of less than \$100,000 per year for the state.
- **Court cost revenues.** It is possible that some individuals that might have been arrested, successfully prosecuted, and sanctioned for committing certain misdemeanor offenses would, under similar circumstances in the future subsequent to the bill's enactment, be committing a felony offense. Such an outcome creates the possibility that the state may gain some locally collected court cost revenue for the Victims of Crime/Reparations Fund (Fund 402). The amount of money that Fund 402 may gain annually is likely to be minimal at most. For the purposes of this fiscal analysis, minimal means an estimated revenue gain of less than \$100,000 for Fund 402 per year. It is also important to note that collecting court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unwilling or unable to pay.
- **Federal funding opportunities.** The federal Adam Walsh Act includes several provisions outlining federal domestic assistance grants for which various entities may apply, including, but not limited to, states, local jurisdictions, law enforcement agencies, and multi-jurisdictional or regional consortia. The actual monetary amounts available from any given grant program will depend upon the annual enactment of appropriations. Thus, as of this writing, until these authorized moneys have actually been appropriated, and the application period ensues, it is rather problematic to predict the grants, and related annual monetary amounts, that the state of Ohio and its political subdivisions could be awarded. On May 17, 2007, the U.S. Attorney General announced that \$25 million would be made available to assist communities in implementing the proposed federal guidelines.

## ***Local Fiscal Highlights***

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
<b>Counties</b>			
Revenues	(1) Potential gain in court costs and fines; (2) Potential gain in federal Adam Walsh Act grants, magnitude and timing uncertain; (3) Potential gain in service and filing fees and judgments for costs related to eviction proceedings, magnitude uncertain	(1) Potential gain in court costs and fines; (2) Potential gain in federal Adam Walsh Act grants, magnitude and timing uncertain; (3) Potential gain in service and filing fees and judgments for costs related to eviction proceedings, magnitude uncertain	(1) Potential gain in court costs and fines; (2) Potential gain in federal Adam Walsh Act grants, magnitude and timing uncertain; (3) Potential gain in service and filing fees and judgments for costs related to eviction proceedings, magnitude uncertain
Expenditures	(1) Potential increase in criminal and juvenile justice system operating expenses, likely to exceed minimal in some jurisdictions; (2) Potential increase related to eviction proceedings, magnitude uncertain	(1) Potential increase in criminal and juvenile justice system operating expenses, likely to exceed minimal in some jurisdictions; (2) Potential increase related to eviction proceedings, magnitude uncertain	(1) Potential increase in criminal and juvenile justice system operating expenses, likely to exceed minimal in some jurisdictions; (2) Potential increase related to eviction proceedings, magnitude uncertain
<b>Municipalities</b>			
Revenues	(1) Potential loss in court costs and fines; (2) Potential gain in service and filing fees and judgments for costs related to eviction proceedings, magnitude uncertain	(1) Potential loss in court costs and fines; (2) Potential gain in service and filing fees and judgments for costs related to eviction proceedings, magnitude uncertain	(1) Potential loss in court costs and fines; (2) Potential gain in service and filing fees and judgments for costs related to eviction proceedings, magnitude uncertain
Expenditures	(1) Potential decrease in criminal justice system operating expenses; (2) Potential increase related to eviction proceedings, magnitude uncertain	(1) Potential decrease in criminal justice system operating expenses; (2) Potential increase related to eviction proceedings, magnitude uncertain	(1) Potential decrease in criminal justice system operating expenses; (2) Potential increase related to eviction proceedings, magnitude uncertain

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

- **County sheriffs.** The bill's SORN Law changes may create one-time and ongoing costs to certain county sheriffs that are in excess of minimal. For the purposes of this fiscal analysis, an expenditure increase in excess of minimal means an estimated cost of more than \$5,000 for any affected county entity.
- **Criminal caseloads generally.** From the perspective of local criminal justice systems, the practical effect of the bill's penalty enhancements is likely to be twofold. First, some offenders who would have been convicted of a misdemeanor violation and sanctioned locally will, under similar circumstances in the future subsequent to the bill's

enactment, be convicted of a felony offense and likely sentenced to prison. Second, some offenders who would have been convicted of a felony offense and sentenced to a term in prison will, under similar circumstances in the future subsequent to the bill's enactment, be convicted of a more serious felony offense and sentenced to a longer prison term.

- **County and municipal criminal justice systems.** As a result of the bill's penalty expansion and enhancement provisions, it is possible that local criminal justice systems could be affected in one of two ways: (1) some cases could be moved or elevated from the misdemeanor jurisdiction of a municipal or county court to the felony jurisdiction of a court of common pleas, and (2) with the enhanced felony penalties, some cases could take longer to adjudicate. The practical effect could be to simultaneously: (1) increase county criminal justice system expenditures related to investigating, prosecuting, adjudicating, and defending (if the offender is indigent) certain offenders, while decreasing analogous municipal criminal justice system expenditures, and (2) generate additional court cost and fine revenues for counties, while causing a loss in analogous municipal court cost and fine revenues. As of this writing, LSC fiscal staff does not have the charging and disposition data that would be necessary to assess the potential magnitude of the bill's criminal offense provisions on any affected local criminal justice system.
- **Injunctive relief.** As a result of the bill's provision prohibiting a sex offender or child-victim offender from living within 1,000 feet of a preschool or daycare, new eviction and injunctive relief actions could be generated requiring, at the minimum, the involvement of local courts, law enforcement, and prosecutors. It is possible that an affected local government could recover all, or a portion, of the costs associated with such actions through the assessment and collection of service charges, filing fees, and judgments for costs. The likelihood of collecting such moneys, as well as the magnitude of the revenue collected annually, in any given local jurisdiction is uncertain.
- **Federal funding opportunities.** The federal Adam Walsh Act includes several provisions outlining federal domestic assistance grants for which various entities may apply, including, but not limited to, local jurisdictions, law enforcement agencies, and multi-jurisdictional or regional consortia. The actual monetary amounts available from any given grant program will depend upon the annual enactment of appropriations. Thus, as of this writing, until these authorized moneys have actually been appropriated, and the application period ensues, it is rather problematic to predict the grants, and related annual monetary amounts, that any of the state's political subdivisions will, or could, be awarded.

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## ***Detailed Fiscal Analysis***

### **Overview**

The bill makes comprehensive changes to Ohio's sex offense laws, including the Sex Offender Registration and Notification (SORN) Law.<sup>1</sup> One of the purposes of the bill is to modify Ohio's laws in accordance with various provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 (hereinafter referred to as the Adam Walsh Act), enacted in July 2006.

For background purposes, a brief summary of the Adam Walsh Act is as follows:

The stated purpose of the Adam Walsh Child Protection and Safety Act of 2006 is to protect the public, in particular children, from violent sex offenders via a more comprehensive, nationalized system for registration of sex offenders.

The act states that the [U.S.] attorney general will issue guidelines and regulations in interpretation and implementation of the legislation.

The act calls for state conformity to various aspects of sex offender registration, including information that must be collected, duration of registration requirement for classifications of offenders, verification of registry information, access to and sharing of information, and penalties for failure to register as required. The act states that failure of a jurisdiction to comply with the federal requirements within three years of the implementation of the act will result in a 10 percent reduction to Byrne law enforcement assistance grants.

A number of new grant programs are authorized to assist states in improving sex offender registration and related requirements of the act.<sup>2</sup>

### **Notable provisions of the bill**

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

- Makes various changes to the SORN Law, generally relative to an offender's registration responsibilities.
- Defines new terms related to the SORN Law, including Tier I, Tier II, and Tier III offenders.
- Requires county sheriffs to provide community notification of the registration of an offender or delinquent child under the SORN Law to certain organizations in which contact with

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<sup>1</sup> The Sex Offender Registration and Notification (SORN) Law imposes a series of duties and restrictions upon a person who is convicted of or pleads guilty to a "sexually oriented offense" that is not a "registration-exempt sexually oriented offense" or to a "child-victim oriented offense." Among the duties and restrictions is the requirement that a person who is convicted of or pleads guilty to any such offense register a residence address and a school, institution of higher education, or work address, provide notice of a change of address and register the new address, and periodically verify the registered address. There is also a restriction against residing within 1,000 feet of any school premises.

<sup>2</sup> Quoted from the National Conference of State Legislatures (NCSL).

minors or other vulnerable individuals might occur or any organization, company, or individual who requests notification.

- Modifies various court procedures related to the adjudication of sex offenders including juvenile sex offenders.
- Requires the Attorney General to include in the State Registry of Sex Offenders and Child-victim Offenders (hereinafter referred to as the "sex offender database") any notice of an order issued under the bill that terminates an offender's or delinquent child's duty to comply with the SORN Law as well as other descriptive information stipulated by the bill.
- Expands the scope of, and makes changes to, the sex offender database.
- Requires the Attorney General to establish and operate a system for the immediate electronic notice of appropriate officials in other states regarding certain information related to offenders.
- Appropriates GRF moneys totaling \$250,000 in each of FYs 2008 and 2009 to assist the Office of the Attorney General with implementation of duties and responsibilities under the Adam Walsh Act.
- Requires the Department of Rehabilitation and Correction (DRC) and the Department of Youth Services (DYS) to adopt rules pertaining to the certification of sex offender treatment programs and maintain a list of certified programs that is open to public inspection.
- Requires DRC and DYS, before the release of an offender or delinquent child who was in DRC or DYS custody for committing a sexually oriented offense or child-victim oriented offense, to provide to the Bureau of Criminal Identification and Investigation (BCII) a physical description of the offender or child.
- Prohibits a person from engaging in menacing by stalking, abduction, unlawful restraint, or criminal child enticement with a sexual motivation (expands the definition of these existing offenses).
- Enhances the penalties of several offenses, including but not limited to, sex offenses or offenses against minors.
- Prohibits a sex offender or child-victim offender from living within 1,000 feet of a preschool or daycare.

This analysis of the bill's state and local fiscal effects is organized under the following four subject matter headings: (I) SORN changes, (II) Criminal offense changes, (III) Federal funding opportunities, and (IV) Injunctive relief.

**(I) SORN changes**

**Local fiscal effects**

Estimating the local fiscal effects of the bill's SORN Law changes, primarily for county sheriffs and courts of common pleas, is rather problematic. Many of the procedures provided for under current law remain the same. However, the bill: (1) creates some new registration and notification duties, and (2) modifies existing procedures to such an extent that the net fiscal effects could be quite significant for some local jurisdictions. Given the rather wide scope of the bill's SORN Law changes, LSC fiscal staff has attempted to identify those points or provisions that are likely to create costs. Where possible, the cost associated with these points is briefly discussed. For purposes of this fiscal analysis, the following illustration explains LSC fiscal staff's use of the term "minimal cost."

**Definition of Term "Minimal Cost"**

**Minimal cost** means that the bill is estimated to result in an aggregate (statewide) annual cost of \$100,000 or less for all affected counties, municipalities, school districts, and townships provided that:

- For small governments: the estimated annual cost is no more than \$1,000 for any affected village or township with a population less than 5,000.
- For larger governments: the estimated annual cost is no more than \$5,000 for any affected county, city, or township with a population 5,000 or more.

**New duty: registration at time of sentencing or disposition.** The bill requires that a law enforcement officer be present at the sentencing hearing or dispositional hearing to immediately transport the subject offender or delinquent child to the sheriff of the county in which the offender or child is convicted, pleads guilty, or is adjudicated a delinquent child. This will be a new duty for local law enforcement agencies and will likely create additional costs exceeding minimal for some jurisdictions, in terms of travel and overtime expenses. Presumably this would affect all local law enforcement agencies across the state.

**Registration procedures and content of registration form.** The bill modifies SORN Law registration procedures. These changes will largely conform to the provisions in the Adam Walsh Act, including the implementation of the new three-tier classification system. The bill also makes several changes to the registration form used by county sheriffs. A few of the new pieces of information that the form is to include are the offender's social security number, type of confinement if applicable, license plate number, driver's license number, DNA specimen, and the name of the sex offense requiring the registration. This provision of the bill will likely create some one-time costs for county sheriffs in order to print new forms and adjust their current administrative procedures. In addition, there could also be some ongoing costs associated with collecting this new information. The net effect of these costs would likely create costs exceeding minimal in most jurisdictions.

**Address verification procedures.** The bill modifies the address verification procedures, including the required frequency, in order to conform to the new Tier I, Tier II, and Tier III offender

classification system. It seems likely that county sheriffs will experience some one-time administrative costs in order to implement these new procedures. However, at the time of this writing, it is unclear if this provision will create ongoing costs for county sheriffs.

**Community notification.** The bill requires county sheriffs to provide community notification of the registration of an offender or delinquent child under the SORN Law to certain organizations in which contact with minors or other vulnerable individuals might occur or any organization, company, or individual who requests notification. As with prior bills that have widened the scope of notification requirements, county sheriffs are certain to experience costs exceeding minimal in order to comply with these new notification requirements.

**Court procedures.** The bill makes several changes to court procedures generally affecting the manner in which certain offenders are classified as sex offenders. At the time of this writing, it is unclear to what extent, if any, courts could experience an increase in operating costs in order to implement these modifications.

### **State fiscal effects**

**Office of the Attorney General.** The bill requires the Office of the Attorney General: (1) to implement several aspects of the Adam Walsh Act related to the SORN Law, including modifying the sex offender database, (2) to include in the sex offender database any notice of an order issued under the bill that terminates an offender's or delinquent child's duty to comply with the SORN Law as well as other descriptive information stipulated by the bill, and (3) to establish and operate a system for the immediate electronic notice of appropriate officials in other states regarding certain information related to offenders.

According to testimony by Attorney General Dann before the Senate Judiciary Committee on Criminal Justice, the Office would be required to: (1) reclassify all 16,000 currently registered offenders and send them notice of their new classification and related duties, and (2) send all county sheriffs a list of the people residing in their county who have been so notified. The Attorney General also stated that the related costs would be "substantial."

Since that time, the Office of the Attorney General has finished a more thorough examination of the bill's fiscal implications and released further information. The estimated number of offenders that will need to be reclassified has been revised upward to approximately 22,000, including 5,000 currently incarcerated offenders. The Office of the Attorney General has also identified specific one-time implementation costs, noted in the table immediately below, that will be incurred in order to perform the related reclassification and notification tasks.

### Attorney General Estimated One-time Implementation Costs

Task	Cost
<b>(1) Reclassification</b> <ul style="list-style-type: none"> <li>• Reclassify 22,000 offenders under the new, three-tier system</li> <li>• Hire 8 to 9 paralegals or legal interns, 40 hrs/week for 6 mos.; average salary/benefits: \$20,250 each</li> </ul>	\$172,125
<b>(2) Offender Notification</b> <ul style="list-style-type: none"> <li>• Notify all registered offenders of their reclassification and rights to appeal</li> </ul>	\$52,020
<b>(3) Equipment Upgrades</b> <ul style="list-style-type: none"> <li>• Collect and distribute new information via the modified SORN registry and e-SORN web site</li> </ul>	\$250,000
<b>Total Estimated One-time Costs</b>	<b>\$474,145</b>

In addition to these one-time implementation costs, there is also an expectation that existing software contracts will experience a related ongoing cost increase. Preliminary discussions with the current SORN registry and e-SORN software provider seem to indicate that the annual cost of existing maintenance agreements will increase by \$85,000. The bill appropriates GRF moneys totaling \$250,000 in each of FYs 2008 and 2009 to assist the Office of the Attorney General with implementation of duties and responsibilities under the Adam Walsh Act.

***Departments of Rehabilitation and Correction (DRC) and Youth Services (DYS).*** The bill requires DRC and DYS: (1) to adopt rules pertaining to the certification of sex offender treatment programs and maintain a list of certified programs that is open to public inspection, and (2) before the release of an offender or delinquent child who was in DRC or DYS custody for committing a sexually oriented offense or child-victim oriented offense, to provide to the Bureau of Criminal Identification and Investigation (BCII) a physical description of the offender or child. At the time of this writing, it is unclear to what extent these provisions of the bill will create costs to these two state agencies. However, it seems likely that it would not exceed minimal on an annual basis. For the purposes of this fiscal analysis, minimal means an estimated expenditure increase of less than \$100,000 per year for the state.

Since the bill's introduction, the Department of Youth Services has indicated that, as a result of the bill's reclassification of juvenile sex offenders, it may become more difficult to find appropriate residential placements for certain adjudicated delinquents, the practical effect of which is likely to be increased lengths of stay in state and local juvenile correctional facilities. The cost associated with such an outcome is uncertain.

### **(II) Criminal offense changes**

The bill expands and modifies several existing criminal offenses. The expanded offenses involve the existing offenses of *menacing by stalking, abduction, unlawful restraint, or criminal child*

*enticement*. The bill amends these offenses to include *engaging in the act for a sexual motivation*. The table below illustrates the current penalty structure of these offenses (unchanged by the bill).

The bill also expands the offense of gross sexual imposition by prohibiting a person from intentionally touching the genitalia of another, when the touching is not through clothing, the other person is less than twelve years old, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. Violation of this prohibition is a felony of the third degree.

### Existing Penalty Structure of Criminal Offenses Expanded by the Bill

Prohibition	Current Law Penalty	
<b>Menacing by Stalking*</b>	Generally a misdemeanor of the first degree (M1); felony of the fourth or fifth degree (F4/F5) if certain specified circumstances apply	M1: Maximum of 6 months jail/\$1,000 fine
		F5: Maximum 6 to 12 months prison/\$2,500 fine
		F4: Maximum 6 to 18 months prison/\$5,000 fine
<b>Abduction*</b>	Felony of the third degree (F3)	F3: Maximum 1 to 5 years prison/\$10,000 fine
<b>Unlawful Restraint*</b>	Misdemeanor of the third degree (M3)	M3: Maximum 60 days jail/\$500 fine
<b>Criminal Child Enticement*</b>	Generally a misdemeanor of the first degree (M1); felony of the fifth degree (F5) if the offender was previously convicted of criminal child enticement or any of a list of other specified offenses	M1: Maximum of 6 months jail/\$1,000 fine
		F5: Maximum 6 to 12 months prison/\$2,500 fine

\*The bill adds the offense of engaging in any of these acts for a sexual motivation.

The bill also enhances the penalties of several existing offenses, which are illustrated in the table below.

### Proposed Penalty Enhancements

Prohibition	Current Law Penalty	Bill's Penalty Enhancement
Kidnapping when the victim is under 13 and offender is convicted of or pleads guilty to a sexual motivation specification	Generally F1; F2 if the victim is released in a safe place unharmed	F1 (Mandatory indefinite prison term of 15 years to life imprisonment or 10 years to life if victim is released in a safe place unharmed)
Murder when the victim is under 13 and sexual motivation specification and sexually violent predator specification	Generally imprisoned for an indefinite term of 15 years to life (life without parole if SVP specification)	In cases where life without parole was not given, mandatory indefinite prison term of 30 years to life imprisonment
Murder when offender is under 18 and aggravating specification not proven but victim is under 13 and sexual motivation specification and sexually violent predator specification included	Generally imprisoned for life with parole eligibility after 20 years	Mandatory indefinite prison term of 30 years to life imprisonment

Aggravated murder and sexual motivation specification and sexually violent predator specification included	Generally imprisoned for life with parole eligibility after 20, 25, or 30 years	In cases where life without parole was not given, mandatory indefinite prison term of 30 years to life imprisonment when the victim is less than 13
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\* F1 and F2 refer to felonies of the first and second degree, respectively.

From the perspective of the state and local criminal justice systems, the practical effect of the bill's penalty enhancements is likely to be twofold. First, some offenders who would have been convicted of a misdemeanor violation and sanctioned locally will, under similar circumstances in the future subsequent to the bill's enactment, be convicted of a felony offense and likely sentenced to prison. Second, some offenders who would have been convicted of a felony offense and sentenced to a term in prison will, under similar circumstances in the future subsequent to the bill's enactment, be convicted of a more serious felony offense and sentenced to a longer prison term.

**Local fiscal effects**

**Criminal justice systems expenditures.** As a result of the bill's penalty expansion and enhancement provisions, it is possible that local criminal justice systems could be affected in one of two ways: (1) some cases could be moved or elevated from the misdemeanor jurisdiction of a municipal or county court to the felony jurisdiction of a court of common pleas, and (2) with the enhanced felony penalties, some cases could take longer to adjudicate.

From the fiscal perspective of local governments, elevating some cases could simultaneously: (1) increase county criminal justice system expenditures related to investigating, prosecuting, adjudicating, and defending (if the offender is indigent) certain offenders, while decreasing analogous municipal criminal justice system expenditures, and (2) generate additional court cost and fine revenues for counties, while causing a loss in analogous municipal court cost and fine revenues.

It is also possible that the threat of a prison term or a longer prison term may affect individual criminal cases by speeding some through the bargaining process (potentially saving expenditures). Other cases may slow down, by increasing an offender's desire to pursue a criminal trial to avoid having to face the prison term or reducing the potential length of stay (potentially increasing expenditures).

As of this writing, LSC fiscal staff does not have the charging and disposition data that would be necessary to assess the potential magnitude of the bill's criminal offense provisions on any affected local criminal justice system.

**State fiscal effects**

**Incarceration expenditures.** As a result of the bill's penalty expansion and enhancement provisions, it is possible that some individuals that might otherwise not have been arrested, successfully prosecuted, and sanctioned for committing certain felony or misdemeanor offenses in the future will be arrested, successfully prosecuted, and sanctioned for committing those offenses. It is also possible that the sanctions imposed by the sentencing court would include longer prison terms than currently allowed for under existing law. Presumably, if offenders are: (1) sentenced to prison that, absent the bill, would

not have been sentenced to prison, or (2) prison-bound offenders are sentenced to longer terms, then there is a related increase in the Department of Rehabilitation and Correction's (DRC) annual GRF-funded incarceration costs. From LSC fiscal staff's perspective, it is rather difficult to estimate the number of offenders that might be affected in the above-noted manner in the future. However, based on preliminary discussions with DRC personnel, it appears that the bill could generate a significant increase in the prison system's annual incarceration costs.

**Court cost revenues.** As noted, it is possible that some individuals that might have been arrested, successfully prosecuted, and sanctioned for committing certain misdemeanor offenses would, under similar circumstances in the future subsequent to the bill's enactment, be committing a felony offense. Such an outcome creates the possibility that the state may gain some locally collected court cost revenue for the Victims of Crime/Reparations Fund (Fund 402). This is because the state court cost imposed on an offender and deposited to the credit of Fund 402 is slightly higher for a felony than it is for a misdemeanor: \$30 versus \$9. The amount of money that Fund 402 may gain annually is likely to be minimal at most. For the purposes of this fiscal analysis, minimal means an estimated revenue gain of less than \$100,000 for Fund 402 per year. It is also important to note that collecting court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unwilling or unable to pay.

### **(III) Federal funding opportunities**

The Adam Walsh Act includes several provisions outlining federal domestic assistance grants for which various entities may apply, including, but not limited to, states, Indian tribal governments, local jurisdictions, law enforcement agencies, national nonprofit organizations, and multi-jurisdictional or regional consortia. The attached spreadsheet selectively summarizes the grant programs authorized by the Adam Walsh Act, including the specified annual monetary amounts, if any. The actual monetary amounts available from any given grant program will depend upon the annual enactment of appropriations. Thus, as of this writing, until these authorized moneys have actually been appropriated, and the application period ensues, it is rather problematic to predict the grants, and related annual monetary amounts, that the state of Ohio and its political subdivisions will, or could, be awarded.

If states are considered to be in substantial compliance with the Adam Walsh Act guidelines<sup>3</sup> by a specific date, monetary bonuses may be available. In addition, penalties may be assessed if states opt to not implement the guidelines.

According to NCSL, "states have three years, or until July 2009, to implement the requirements for sex offender registries, and one year from the creation of the software named in Sec. 123 [and] states that fail to comply will lose 10% of funds allocated for that fiscal year under the Omnibus Crime Control and Safe Streets Act of 1968."<sup>4</sup> Generally speaking, the funds that are alluded to in the Omnibus Crime Control and Safe Streets Act of 1968 are known as the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. As the annual magnitude of future awards is

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<sup>3</sup> The guidelines for the Adam Walsh Act were released on May 17, 2007.

<sup>4</sup> National Conference of State Legislatures, NCSL Summary HR 4472 *Adam Walsh Child Protection and Safety Act of 2006*, January 26, 2007 <<http://www.ncsl.org/standcomm/sclaw/walshact.htm>>.

uncertain, it is rather difficult to predict how much federal grant funding the state stands to lose if implementation of this specific provision is not in place by the specified deadline.

The monetary bonuses are related to the implementation of Title I, Section 126, which establishes the Sex Offender Management Assistance (SOMA) Grant Program. Under Section 126, the U.S. Attorney General may award a grant to a jurisdiction to offset the costs of implementing the Sex Offender Management Assistance Program. The chief executive of a jurisdiction desiring a grant under this section is required to submit to the U.S. Attorney General an application annually in such form and containing such information as the U.S. Attorney General may require. The potential magnitude of these annual awards is uncertain. The Act further states that eligible jurisdictions could be awarded bonus payments for prompt compliance. Prompt compliance is defined by a jurisdiction that, as determined by the U.S. Attorney General, has substantially implemented this title not later than two years after the date of the enactment of the Act. There are two levels outlined for these bonus payments as follows:

**Level I.** Ten (10) percent of the total received by the jurisdiction under the SOMA program for the preceding fiscal year, if that implementation is not later than one year after the date of enactment of the Act.

**Level II.** Five (5) percent of such total, if not later than two years after that date.

On May 17, 2007, the U.S. Attorney General announced that \$25 million would be made available to assist communities in implementing the proposed federal guidelines. This is the only monetary award known to LSC fiscal staff that has been made available for this purpose by the federal government thus far. According to the press release announcing the availability of these funds, the purpose of the moneys is to assist "jurisdictions in monitoring and managing sex offenders and ensuring sex offenders' compliance with . . . [the] proposed Guidelines." The funds may be used for "programs that will improve sex offender registries with new software, develop or enhance address verification capacity, improve juvenile sex offender treatment programs, or provide tribal assistance." Presumably, the Office of the Attorney General will apply for these funds, and if an award is made, utilize the moneys to offset a portion, if not all, of the costs associated with modifying the SORN registry and e-SORN web site.

#### **(IV) Injunctive relief**

##### **Prohibition from living within 1,000 feet of a preschool or daycare**

Current law prohibits a sex offender or child-victim offender from residing within 1,000 feet of a school. The bill expands this prohibition to include a preschool or daycare. This expansion would in all likelihood generate new eviction and injunctive relief actions requiring, at the minimum, the involvement of local courts, law enforcement, and prosecutors. It is possible that an affected local government could recover all, or a portion, of the costs associated with such actions through the assessment and collection of service charges, filing fees, and judgments for costs. The likelihood of collecting such moneys, as well as the magnitude of the revenue collected annually, in any given local jurisdiction is uncertain.

Attachment: Adam Walsh Child Protection and Safety Act of 2006 Authorized Federal Grants Programs

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SB0010HR.doc/rh*