

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 56** DATE: **April 17, 2007**
STATUS: **As Introduced** SPONSOR: **Sen. Coughlin**
LOCAL IMPACT STATEMENT REQUIRED: **Yes**
CONTENTS: **SORN Law license plate**

State Fiscal Highlights

STATE FUND	FY 2007*	FY 2008	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	Potential gain in locally collected state court costs, likely to be minimal at most	Potential gain in locally collected state court costs, likely to be minimal at most
Expenditures	- 0 -	Potential incarceration cost increase, magnitude uncertain	Potential incarceration cost increase, magnitude uncertain
Victims of Crime/Reparations Fund (Fund 402)			
Revenues	- 0 -	Potential gain in locally collected state court costs, likely to be minimal at most	Potential gain in locally collected state court costs, likely to be minimal at most
Expenditures	- 0 -	- 0 -	- 0 -
State Bureau of Motor Vehicles Fund (Fund 4W4)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential increase, likely to be no more than minimal	Potential increase, likely to be no more than minimal

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

*This analysis assumes that any fiscal effects created for the state as a result of the bill will occur no earlier than FY 2008.

- **State Bureau of Motor Vehicles Fund (Fund 4W4).** According to Public Safety's fiscal services personnel, the Bureau of Motor Vehicle's ongoing costs to produce and issue SORN Law license plates will be unlikely to exceed minimal. For the purposes of this fiscal analysis, minimal means an estimated cost of less than \$100,000 per year. The Department's State Bureau of Motor Vehicles Fund (Fund 4W4) would mostly be the source of the moneys necessary for the ongoing license plate production and issuance costs.
- **Incarceration expenditures.** As a result of the bill, it is possible in the future that: (1) offenders that might not otherwise have been prison-bound under current law and sentencing practices will be sentenced to a prison term, and (2) offenders that would have been prison-bound under current law and sentencing practices will be sentenced to a longer prison term. Assuming all other conditions remain the same, either outcome, theoretically at least, increases the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. As LSC fiscal



staff is uncertain as to the number of offenders that might be affected in either manner annually, any potential increase in DRC's annual incarceration costs is uncertain as well.

- **Court cost revenues.** As of this writing, although LSC fiscal staff is unable to estimate the number of misdemeanor cases in which state court costs totaling \$24 will be imposed and collected as a result of violating one of the bill's misdemeanor prohibitions, it appears unlikely that the amount of additional revenue that might be generated for either the GRF or Fund 402 will exceed minimal annually. For the purposes of this fiscal analysis, minimal means a revenue gain estimated at less than \$100,000 per year for either state fund. If collected, \$15 of the \$24 amount will be deposited in the state treasury to the credit of the GRF and the remainder, or \$9, will be deposited in the state treasury to the credit of the Victims of Crime/Reparations Fund (Fund 402).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential gain in court costs and fines	Potential gain in court costs and fines	Potential gain in court costs and fines
Expenditures	Potential increase in criminal justice system operating expenses, possibly exceeding minimal in some jurisdictions	Potential increase in criminal justice system operating expenses, possibly exceeding minimal in some jurisdictions	Potential increase in criminal justice system operating expenses, possibly exceeding minimal in some jurisdictions

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

- **Criminal justice system expenditures.** As of this writing, LSC fiscal staff has not been able to discern the degree to which any given county or municipal criminal justice system's workload and operating costs related to investigating, prosecuting, adjudicating, sanctioning, and, if indigent, defending persons will be affected by the bill's prohibitions. This means that whether the impact of handling these criminal cases on any given county or municipal criminal justice system will exceed minimal is uncertain. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated cost of no more than \$5,000 for any affected county or municipal criminal justice system per year.
- **Court cost and fine revenues.** As of this writing, although LSC fiscal staff is unable to estimate the number of misdemeanor cases in which local court costs and fines will be imposed and collected, it appears unlikely that the amount of additional revenue that might be generated will exceed minimal annually. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated increase of no more than \$5,000 for any affected county or municipal treasury per year. Available evidence also suggests that courts rarely impose the maximum fine, and that many offenders are unwilling or unable to pay associated court costs and fines.

Detailed Fiscal Analysis

Overview

From a fiscal perspective, the bill most notably does the following:

- Creates a SORN Law license plate to be displayed on motor vehicles operated by registered sexual offenders.
- Authorizes a judge to decide whether or not to require certain convicted sexual offenders to display the SORN Law license plate (i.e., "presumptive registration-exempt" sexually oriented offenses).
- Prohibits certain conduct, and dependent upon the circumstances of the act, requires the imposition of a prison term or a jail term and specifies other violations as either a misdemeanor of the first degree or a minor misdemeanor.

Sex offender license plates

The bill requires the Department of Public Safety's Bureau of Motor Vehicles (BMV) to: (1) create a SORN Law license plate, and (2) issue such a plate for any vehicle registered in the name of, or to be operated by, a person convicted of a sexually oriented offense or child-victim oriented offense that has been ordered by a court order to display SORN Law license plates. The requirement is subject to certain exceptions and can only be imposed on an offender who is sentenced on or after the bill's effective date.

According to Public Safety's fiscal services personnel, BMV's ongoing costs to produce and issue SORN Law license plates will be unlikely to exceed minimal. For the purposes of this fiscal analysis, minimal means an estimated cost of less than \$100,000 per year. The Department's State Bureau of Motor Vehicles Fund (Fund 4W4) would likely be the source of the moneys necessary for the ongoing license plate production and issuance costs.

Criminal penalties

Relative to the criminal sentencing law, the bill:

- (1) Provides mandatory prison and jail terms for persons who are subject to a SORN Law license plate order, commit a sexually oriented or child-victim oriented offense, and, in the commission of the offense, use a motor vehicle without SORN Law license plates.
- (2) Provides that a violation of an order issued under the dot point immediately above is a misdemeanor of the first degree.
- (3) Expands the offense of "wrongful entrustment of a motor vehicle," a misdemeanor of the first degree, to include a person permitting a motor vehicle owned by the person or under

the person's control to be driven by another that the person knows or had reasonable cause to believe was not authorized to operate that vehicle without displaying SORN Law license plates.

- (4) Prohibits any person operating a motor vehicle displaying sex offender license plates from knowingly disguising or obscuring the color of the license plates, a violation of which is a minor misdemeanor.

Table 1 below: (1) summarizes the bill's SORN Law license plate prohibitions, and (2) shows the associated penalty and sentencing structure.

Table 1			
Penalties and Sentences for Violating SORN Law License Plate Prohibitions			
Prohibition	Penalty	Fine	Term of Incarceration
Use Vehicle Without Plates to Commit Sexually or Child-Victim Oriented Offense	Unclassified Offense	No fine; imposed for underlying offense(s)	<p><u>Felony offenses</u> Mandatory five year prison term to be served consecutively to and prior to any prison term imposed for the underlying offense(s)</p> <p><u>Misdemeanor offenses</u> Mandatory one-year jail term to be served consecutively to and prior to any jail term imposed for the underlying offense(s) and consecutively to any other mandatory term imposed in relation to the offense(s)</p>
Violating Display Order	Misdemeanor of the 1st degree	Up to \$1,000	Not more than 6 month jail term
Wrongful Entrustment	Misdemeanor of the 1st degree	Up to \$1,000	Not more than 6 month jail term
Knowingly Disguise or Obscure Plates	Minor Misdemeanor	Up to \$150	Citation; no arrest; no incarceration

Local fiscal effects

Criminal cases generally. The bill may primarily affect county and municipal criminal justice systems in at least two ways. First, certain offenders who would have been prosecuted and sanctioned under existing law for committing a sexually oriented or child-victim oriented offense may, as a result of the bill's mandatory term of incarceration, face a more serious punishment than might otherwise have been the case under current law and sentencing practices. Second, new criminal cases will in all likelihood be generated in some local jurisdictions as some persons will violate prohibitions (2), (3), or (4) listed above. Depending upon the nature of the offense and any related underlying offenses, felony-related matters would be processed by a court of common pleas; a municipal court or a county court would process misdemeanor-related matters.

Criminal justice system expenditures. As of this writing, LSC fiscal staff has not been able to discern the degree to which any given county or municipal criminal justice system's workload and operating costs related to investigating, prosecuting, adjudicating, sanctioning, and, if indigent, defending

persons will be affected by the bill's prohibitions. This means that whether the impact of handling these criminal cases on any given county or municipal criminal justice system will exceed minimal is uncertain. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated cost of no more than \$5,000 for any affected county or municipal criminal justice system per year. A potentially costly feature for jurisdictions operating or utilizing local full-service jails could, theoretically at least, be the requirement a one- year jail term be imposed on certain offenders, to be served consecutively to and prior to any jail term imposed for the underlying offense(s) and consecutively to any other mandatory term imposed in relation to the offense(s).

Court cost and fine revenues. In the future, whenever a person is convicted of or pleads guilty to violating either prohibition (2), (3), or (4) listed above, all of which are misdemeanors, the court may impose on the offender, unless determined to be indigent, court costs and fines that, if collected, would be deposited in the appropriate county or municipal treasury. As of this writing, although LSC fiscal staff is unable to estimate the number of misdemeanor cases in which local court costs and fines will be imposed and collected, it appears unlikely that the amount of additional revenue that might be generated will exceed minimal annually. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated increase of no more than \$5,000 for any affected county or municipal treasury per year. Available evidence also suggests that courts rarely impose the maximum fine, and that many offenders are unwilling or unable to pay associated court costs and fines.

State fiscal effects

Incarceration expenditures. As a result of the bill, it is possible in the future that: (1) offenders that might not otherwise have been prison-bound under current law and sentencing practices will be sentenced to a prison term, and (2) offenders that would have been prison-bound under current law and sentencing practices will be sentenced to a longer prison term. Assuming all other conditions remain the same, either outcome, theoretically at least, increases the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. As LSC fiscal staff is uncertain as to the number of offenders that might be affected in either manner annually, any potential increase in DRC's annual incarceration costs is uncertain as well.

Court cost revenues. In the future, whenever a person is convicted of or pleads guilty to violating either prohibition (2), (3), or (4) listed above, all of which are misdemeanors, the court will impose on the offender, in addition to other financial sanctions, unless determined to be indigent, \$24 in locally collected state court costs. If collected, \$15 of the \$24 amount will be deposited in the state treasury to the credit of the GRF and the remainder, or \$9, will be deposited in the state treasury to the credit of the Victims of Crime/Reparations Fund (Fund 402). As of this writing, although LSC fiscal staff is unable to estimate the number of misdemeanor cases in which state court costs will be imposed and collected, it appears unlikely that the amount of additional revenue that might be generated for either the GRF or Fund 402 will exceed minimal annually. For the purposes of this fiscal analysis, minimal means a revenue gain estimated at less than \$100,000 per year for either state fund.

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