

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. S.B. 97** DATE: **June 27, 2007**

STATUS: **As Reported by House Criminal Justice** SPONSOR: **Sen. Stivers**

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

CONTENTS: **Modifies penalties for violations of the Sexual Offender Registration and Notification (SORN) Law, creates the Retained Applicant Fingerprint Database, permits townships to regulate the residency of registered sex offenders and child-victim offenders, modifies the definition of sexually oriented business, modifies the law pertaining to school bus driver background checks, and declares an emergency**

State Fiscal Highlights

STATE FUND	FY 2008 – Future Years
General Revenue Fund (GRF)	
Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	Up to \$5.52 million or more annual increase in incarceration costs
General Reimbursement Fund (Fund 106)	
Revenues	Potential gain in criminal records check fees and database utilization fees, magnitude uncertain
Expenditures	(1) One-time increase of approximately \$40,000 to establish required database; (2) Ongoing operating expenses of approximately \$90,000 to maintain required database; (3) Potential increase to process additional criminal records checks, offset by related fee collections
Victims of Crime/Reparations Fund (Fund 402)	
Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	- 0 -
Office of the Attorney General and Department of Public Safety*	
Revenues	- 0 -
Expenditures	Potential increase, minimal at most annually

Note: The state fiscal year is July 1 through June 30. For example, FY 2008 is July 1, 2007 – June 30, 2008.

* The source of the moneys that the Attorney General or Public Safety's Division of Criminal Justice Services might use to cover any costs associated with duties relative to information contained on the state's existing sex offender registry is uncertain as of this writing.

- **Retained Applicant Fingerprint Database development costs.** The Office of the Attorney General estimates that it will cost approximately \$40,000 to develop a Retained Applicant Fingerprint Database (RAFD), and will require two AFIS (automated fingerprint identification system) operators whose salaries and benefits are expected to total approximately \$90,000 a year. The magnitude of the annual revenue stream that the Attorney General's



Bureau of Criminal Identification and Investigation (BCII) might generate annually if a database utilization fee were to be adopted is uncertain.

- **Criminal records checks.** Presumably, as a result of the bill, additional criminal records checks will be requested and performed, and related records check fees will be collected. Currently, the Attorney General charges \$15 per BCII records check and an additional \$24 per FBI national records check (if applicable). The \$24 pays for the \$22 cost from the FBI as well as an additional \$2 to pay for BCII's administrative processing costs. All of this cash flow activity takes place within the Attorney General's General Reimbursement Fund (Fund 106). As of this writing, the number of additional criminal records checks that will be performed is uncertain, as is the magnitude of the effect on Fund 106's annual cash flow activity.
- **SORN-related incarceration expenditures.** To provide an initial estimate of the impact of the bill's registration offense penalty changes on the future size of the Department of Rehabilitation and Correction's (DRC) inmate population, LSC fiscal staff worked from an analysis provided by the Department's Bureau of Research. To summarize, the DRC analysis noted that, relative to the size of the inmate population, when the resulting stacking effect stabilizes, the Department will need a "conservatively" estimated 225 additional beds to house both affected felony registration offenders (an estimated 175 beds) and felony-enhanced misdemeanor offenders (an estimated 50 beds). If DRC's research is a reasonable approximation of the bill's impact on its future inmate population, then the increase in its annual incarceration costs when the stacking effect peaks could conceivably total up to \$5.52 million or more. The Department's research also noted that this stacking effect would probably start to occur in the first year following the bill's effective date and peak within five years.
- **Court cost revenues.** The bill creates the possibility that the state may gain locally collected court cost revenue for the Victims of Crime/Reparations Fund (Fund 402). The amount of money that Fund 402 may gain annually, however, is likely to be negligible. For the purposes of this fiscal analysis, negligible means an estimated revenue gain of less than \$1,000 for Fund 402 per year.
- **Attorney General and Criminal Justice Services.** As of this writing, it appears unlikely that the duties imposed on BCII and the Department of Public Safety's Division of Criminal Justice Services relative to information contained on the state's Internet Sex Offender and Child-victim Offender Database will create more than a minimal ongoing cost for either state entity.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
Townships			
Revenues	Potential gain in civil fines related to sex offender residency enforcement, magnitude uncertain	Potential gain in civil fines related to sex offender residency enforcement, magnitude uncertain	Potential gain in civil fines related to sex offender residency enforcement, magnitude uncertain
Expenditures	Potential increase for sex offender residency enforcement, magnitude uncertain	Potential increase for sex offender residency enforcement, magnitude uncertain	Potential increase for sex offender residency enforcement, magnitude uncertain
Counties			
Revenues	Potential minimal gain in court costs and fines	Potential minimal gain in court costs and fines	Potential minimal gain in court costs and fines
Expenditures	(1) Potential minimal increase in criminal justice system operating expenses; (2) Potential savings in civil justice system operating expenses	(1) Potential minimal increase in criminal justice system operating expenses; (2) Potential savings in civil justice system operating expenses	(1) Potential minimal increase in criminal justice system operating expenses; (2) Potential savings in civil justice system operating expenses
Municipalities			
Revenues	Potential minimal loss in court costs and fines	Potential minimal loss in court costs and fines	Potential minimal loss in court costs and fines
Expenditures	(1) Potential minimal decrease in criminal justice system operating expenses; (2) Potential savings in civil justice system operating expenses	(1) Potential minimal decrease in criminal justice system operating expenses; (2) Potential savings in civil justice system operating expenses	(1) Potential minimal decrease in criminal justice system operating expenses; (2) Potential savings in civil justice system operating expenses
School Districts			
Revenues	Potential gain, if criminal records check fee collected from applicant	Potential gain, if criminal records check fee collected from applicant	Potential gain, if criminal records check fee collected from applicant
Expenditures	Potential criminal records check fee increase, perhaps charged to applicant	Potential criminal records check fee increase, perhaps charged to applicant	Potential criminal records check fee increase, perhaps charged to applicant

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

- ***Townships.*** The bill permits, but does not require, a township to regulate the residency of registered sex offenders and child-victim offenders. If a township adopts such a resolution it may be enforced only by the imposition of civil fines. As of this writing, the cost to enforce such a resolution, and the amount in civil fines that might be collected and used to offset all or a portion of those enforcement costs for any given township is uncertain.

- **RAFD-related civil immunity.** From LSC fiscal staff's perspective, a possible consequence of the bill's civil immunity provision might be to reduce the filing of civil actions alleging harm in the context of a Retained Applicant Fingerprint Database (RAFD), or, if filed, such civil actions might be more promptly adjudicated than might otherwise have been the case. Either outcome theoretically generates some form of operational savings realized in various involved courts resulting from a decrease in judicial dockets and in the related workload of other court personnel. However, the precise magnitude of the resulting potential savings in annual operating costs for any given court of common pleas, municipal court, or county court is, at the time of this writing, a rather problematic calculation.
- **RAFD-related criminal offenses.** As of this writing, LSC fiscal staff does not have any evidence at hand suggesting that a relatively large number of persons would violate these criminal offenses in any given local jurisdiction in any given year. Assuming that were true, then any additional case processing and offender sanctioning costs, and related court cost and fine revenues, generated for any affected municipal or county criminal justice system, would likely be minimal at most. For the purposes of this fiscal analysis, minimal means a change in expenditures or revenues estimated at no more than \$5,000 for any affected county or municipality.
- **SORN-related county criminal justice system expenditures.** It is possible, in the case of registration offense violations, that the threat of a prison term or a longer prison term may affect individual criminal felony cases by speeding some through the bargaining process (potentially saving expenditures). Other felony 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). In addition, it is also possible that certain offenders may be sanctioned under community control rather than be sentenced to a prison term. The county in which the offender resides would incur the associated costs. As these potential expenditure savings and increases may offset one another and the number of cases that might be affected in either manner in any given county is likely to be relatively small in the context of the overall criminal caseload, it appears that the net fiscal effect would be, in the worst case scenario, at most a minimal increase in the annual operating costs of any given county's criminal justice system. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated annual cost of no more than \$5,000 for any affected county criminal justice system.
- **County criminal justice system revenues.** The bill's registration offense penalties create the potential for additional court cost and fine revenues to be collected by county criminal justice systems statewide. Given the likelihood that a court rarely imposes, or if imposed rarely collects, the maximum possible fine for a felony offense, a given county seems unlikely to gain more than a minimal amount of additional court cost and fine revenue annually, if that, from offenders convicted of one of the bill's enhanced penalties. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated annual increase of no more than \$5,000 for any affected county.
- **Municipal criminal justice system revenues and expenditures.** The bill will elevate existing misdemeanor registration offenses to felony registration offenses. As a result, these elevated cases would then be adjudicated under the subject matter jurisdiction of a court of common pleas instead of under the subject matter jurisdiction of a municipal court or a county court. If, as DRC's research suggests, the number of cases that will be elevated in this manner in any given local jurisdiction is likely to be relatively small, then any revenue loss and expenditure decrease for any affected municipality would be minimal. For the purposes of this fiscal analysis, a minimal revenue loss or expenditure decrease means an estimated change of no more than \$5,000 for any affected municipal criminal justice system.

- **County sheriffs.** The bill requires BCII and county sheriffs to inform sex offenders and tier III juvenile offender registrants that they may contact the sheriff of the county in which the offender or delinquent child registered an address if the offender or delinquent child believes that information contained on the Internet Sex Offender and Child-victim Offender Database or sheriff's Internet sex offender and child-victim offender database is incorrect. As of this writing, it appears unlikely that the duties imposed on county sheriffs will create more than a minimal ongoing cost.
- **School districts.** If a school district does not currently request a national criminal records check for certain drivers as required by the bill, then that district would have to make such requests in the future. The potential cost for any given school district is uncertain as of this writing, but presumably could be recovered from the job applicant.

Detailed Fiscal Analysis

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

- Creates the Retained Applicant Fingerprint Database.
- Permits townships to regulate the residency of registered sex offenders and child-victim offenders.
- Modifies the definition of sexually oriented business.
- Enhances the penalties for failure to comply with SORN Law duties.
- Requires the Sex Offender and Child-victim Offender Database operated by the Bureau of Criminal Identification and Investigation (BCII) to include a link to educational information for the public.
- Permits county sheriffs that operate their own Internet sex offender and child-victim offender database to include a link to educational information on certain current research and to provide notice to offenders and juvenile registrants regarding incorrect information.
- Requires that BCII and local sheriffs inform offenders and "tier III juvenile offender registrants" that they may contact the sheriff of the county in which the offender or delinquent child registered an address if the offender or delinquent child believes that information contained on the Internet Sex Offender and Child-victim Offender Database or sheriff's Internet sex offender and child-victim offender database is incorrect.
- Modifies the law pertaining to school bus driver background checks.

(I) Retained Applicant Fingerprint Database

Bureau of Criminal Identification and Investigation (BCII)

The bill directs the Superintendent of BCII, an organizational unit of the Office of the Attorney General, to establish and maintain a Retained Applicant Fingerprint Database (herein referred to as RAFD). The database is to be kept separate and apart from all other records maintained by BCII. The purpose of the database is to notify a participating entity when an individual who is licensed by or employed with the participating entity is arrested for or is convicted of any offense. The Superintendent is required to adopt rules relating to the administration of the RAFD, including, but not limited to, the charging of a reasonable fee for utilizing the database.

The Office of the Attorney General estimates that it will cost approximately \$40,000 to develop the RAFD, and require two AFIS (automated fingerprint identification system) operators whose salaries and benefits are expected to total approximately \$90,000 per year.¹ The magnitude of the annual

¹ Salary costs of AFIS Operator II: \$16.05 per hour + 35% benefits = \$45,069 (\$90,137 for two operators).

revenue stream that BCII might generate annually if a database utilization fee were to be adopted is uncertain.

Criminal offenses

The bill creates two criminal offenses associated with the improper usage of the information contained in the RAFD as follows:

- (1) The offense of unlawful dissemination or use of retained applicant fingerprint database information, a violation of which is a misdemeanor of the fourth degree.²
- (2) The offense of harassment or intimidation using retained applicant fingerprint database information, a violation of which is a misdemeanor of the first degree.³

A misdemeanor violation falls under the subject matter jurisdiction of a municipal court or a county court. Thus, each instance in which a person violates one of the above noted criminal offenses creates an additional case that the municipal or county criminal justice system with jurisdiction over the matter must process. And this processing may include additional costs to prosecute, adjudicate, defend (if the offender is indigent), and sanction the violator. As of this writing, LSC fiscal staff does not have any evidence at hand suggesting that a relatively large number of persons would violate these criminal offenses in any given local jurisdiction in any given year. Assuming that were true, then any additional case processing and offender sanctioning costs generated for any affected municipal or county criminal justice system would likely be minimal at most. For the purposes of this fiscal analysis, a minimal cost means an estimated annual expenditure increase of no more than \$5,000 for any affected county or municipality.

For each guilty plea or conviction for a violation of the bill's RAFD misdemeanor offenses, the county court or municipal court processing the matter may collect related court cost revenues. As for any fines imposed for such violations, the county in which the violation occurred receives any fine revenues collected for a state-created misdemeanor, while fine revenues collected from locally created misdemeanors (local ordinances) are forwarded to the municipality or township where the offense was committed. If, as assumed, the number of violations occurring annually in any given local jurisdiction were not, relatively speaking, large, then the magnitude of that potential revenue would be minimal at most. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated annual increase in court cost and fine collections of no more than \$5,000 for any affected county or municipality.

As a result of violations of the bill's RAFD criminal offenses, the state may gain locally collected court cost revenues that are deposited in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 402). State court costs for a misdemeanor conviction total \$24, with \$9 of that amount being credited to the Victims of Crime/Reparations Fund (Fund 402) and the remainder, or \$15, being credited to the GRF. If, as assumed, the number of violations occurring

² A misdemeanor of the fourth degree is punishable by a jail term of not more than 30 days, a fine of not more than \$250, or both.

³ A misdemeanor of the first degree is punishable by a jail term of not more than six months, a fine of not more than \$1,000, or both.

annually statewide were relatively small, then the magnitude of that potential revenue gain for either state fund would be negligible. For the purposes of this fiscal analysis, a negligible revenue gain means an estimated annual increase in state court cost collections of less than \$1,000 for either state fund.

Civil immunity

From LSC fiscal staff's perspective, a possible consequence of the bill's RAFD immunity provision might be to reduce the filing of civil actions alleging harm in the context of the RAFD, or, if filed, such civil actions might be more promptly adjudicated than might otherwise have been the case under current law and practice. Either outcome theoretically generates some form of operational savings realized in various involved courts resulting from a decrease in judicial dockets and in the related workload of other court personnel. However, the precise magnitude of the resulting potential savings in annual operating costs for any given court of common pleas, municipal court, or county court is, at the time of this writing, a rather problematic calculation.

(II) Township regulation of sex offender residency

The bill permits, but does not require, a township to regulate the residency of registered sex offenders and child-victim offenders. If a township adopts such a resolution it may be enforced only by the imposition of civil fines. As of this writing, the cost to enforce such a resolution, and the amount in civil fines that might be collected and used to offset all or a portion of those enforcement costs for any given township is uncertain.

(III) Definition of sexually oriented business

The bill amends the definition of "sexually oriented business," which was most recently enacted by Sub. S.B. 16 of the 127th General Assembly. Since that bill is not yet effective, this definitional change will have no fiscal effect on the state or any of its political subdivisions.

(IV) Penalty structure for failure to comply with SORN Law duty

The bill enhances the penalties for a violation of any prohibition in the SORN Law that prohibits a person from failing to comply with the Law's address registration, notice of intent to reside, change of address, and address verification duties (hereinafter referred to as "registration offenses"). Table 1 attached summarizes current law's penalty structure for registration offenses and the bill's proposed enhancements to that penalty structure.

Under current law, a registration violation is generally an offense of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration requirement. If, however, (1) the offender has prior registration violations, and (2) the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration requirement is either a felony of the fourth or fifth degree, or a misdemeanor of the first, second, third, or fourth degree, then a registration violation is an offense of the next highest degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration requirement.

The bill enhances the penalties for these registration offenses such that each first time violation is a felony of the fourth degree or higher and any subsequent violation is a felony of the third degree or higher. In addition, in the case of a felony-level offender who commits a subsequent registration violation, the court is required to impose a definite prison term of no less than three years.

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 registration violation and sanctioned locally will, under similar circumstances in the future subsequent to the bill's enactment, be convicted of a felony registration offense and likely sentenced to prison. Second, a larger number of offenders who would have been convicted of a felony registration 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.

State fiscal effects

Elevated misdemeanants. Based on research performed by the Department of Rehabilitation and Correction's (DRC) Bureau of Research, it does not appear that misdemeanor offenders comprise a significant portion of the overall population of SORN Law registrants in any single county. From the Bureau's research, it appears that the misdemeanor portion of such registrants represents less than 5% of the total population.⁴ The Bureau's research also noted that, "even if several of those [misdemeanor offenders] were to be shifted to the prison system, it is unlikely to be the single greatest factor having an impact as a result of the bill."⁵ It is also important to keep in mind that an even smaller subset of these misdemeanor registrants is likely to actually commit a registration offense.

Prison population stacking effect. From DRC's perspective, the majority of costs created by the bill will be attributed to the longer prison stays for felony registration offenders that are already being sentenced to prison under current law. The graph on the following page illustrates the increase in the number of felony registration offenders that have been admitted to DRC over the last six years. As can be seen in the graph, the number of offenders admitted to prison continued to rise from one year to the next.

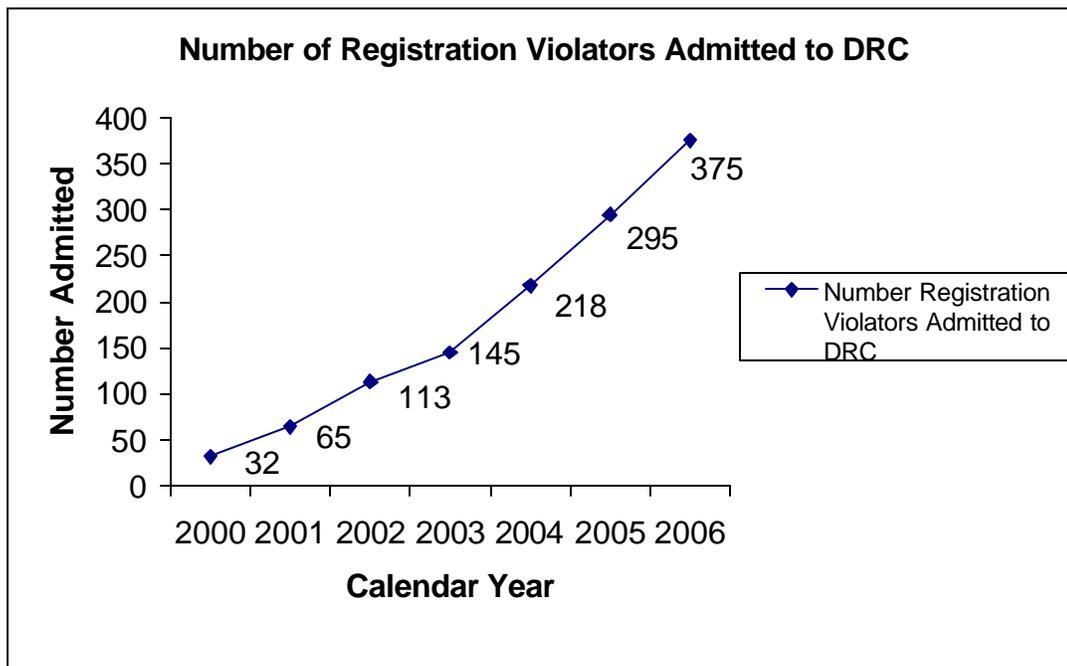
By extending prison stays beyond what the amount of time served would have been under current law, the bill will trigger a "stacking effect," which refers to the increase in the inmate population that occurs as certain offenders stay in prison longer and the number of offenders entering the prison system does not decrease. Estimating the likely increase in DRC's annual incarceration costs is complicated by the fact that the stacking effect triggered by the bill will reflect numerous underlying changes in the length of prison sentences served by offenders committing different registration offenses.

To provide an initial estimate of the impact of the bill's penalty changes on the future size of DRC's inmate population, LSC fiscal staff again worked from an analysis provided by the Department's Bureau of Research. To summarize, the DRC analysis noted that, relative to the size of the inmate population, when the resulting stacking effect stabilizes, the Department will need a "conservatively"

⁴ At the time of this writing, LSC fiscal staff has not had an opportunity to independently verify these estimates.

⁵ DRC Bureau of Research internal memorandum dated March 23, 2007.

estimated 225 additional beds to house both affected felony registration offenders (an estimated 175 beds) and felony-enhanced misdemeanor offenders (an estimated 50 beds).⁶



According to DRC's web site, the annual incarceration cost per inmate in April 2007 was \$24,554. If DRC's research is a reasonable approximation of the bill's impact on its future inmate population, then the increase in its annual incarceration costs when the stacking effect peaks could conceivably total around \$5.52 million or more. The Department's research also noted that this stacking effect would probably start to occur in the first year following the bill's effective date and peak within five years.

Two caveats are important to note: (1) the estimate is based on DRC's current incarceration cost per inmate per year (presumably the cost will continue to rise over time), and (2) the estimate assumes all other conditions that could affect the size and cost of running the state's prison system will remain the same over time, which seems highly unlikely.

Court cost revenues. As noted, it is possible that some individuals that might have been arrested, successfully prosecuted, and sanctioned for committing certain misdemeanor registration offenses would, under similar circumstances in the future subsequent to the bill's enactment, be committing a felony registration offense.

⁶ This statement reflects the penalty structure proposed in the As Introduced and As Passed by the Senate versions of the bill. The House Criminal Justice Committee amended the bill's penalty structure relating to subsequent registration violations by misdemeanor offenders, by lessening the penalty for subsequent violations from an F3 to an F4 and by removing the mandatory three-year determinate prison sentence. However, since this portion of the offender population is so small relative to the overall population of registration offenders, LSC fiscal staff presumes that DRC's initial estimate of 50 additional beds remains a reasonable approximation.

Such an outcome creates the possibility that the state may also 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, however, is likely to be negligible, as DRC's research suggests that the number of affected offenders will be relatively small annually statewide. For the purposes of this fiscal analysis, negligible means an estimated revenue gain of less than \$1,000 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.

Local fiscal effects

As previously stated, the bill will elevate existing misdemeanor registration offenses to felony registration offenses. As a result, these elevated cases would then be adjudicated under the subject matter jurisdiction of a court of common pleas instead of under the subject matter jurisdiction of a municipal court or a county court. Relative to a misdemeanor, a felony is generally a more expensive criminal matter to resolve, as the potential sanctions faced by an individual are more serious, including the possibility of a prison term.

From the fiscal perspective of local governments, elevating such 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. In addition, it is also possible that certain offenders may be sanctioned under community control rather than be sentenced to a prison term. The county in which the offender resides would incur the associated costs. However, if, as DRC's research suggests, the number of cases that will be elevated in this manner in any given local jurisdiction is likely to be relatively small, then any revenue loss and expenditure decrease for any affected municipality would be minimal. For the purposes of this fiscal analysis, a minimal revenue loss or expenditure decrease means an estimated change of no more than \$5,000 for any affected municipal criminal justice system.

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 these potential expenditure savings and increases may offset one another and the number of cases that might be affected in either manner in any given county is likely to be relatively small in the context of the overall criminal caseload, it appears that the net fiscal effect would be, in the worst case scenario, at most a minimal increase in the annual operating costs of any given county's criminal justice system. For the purposes of this fiscal analysis, a minimal expenditure increase means an estimated annual cost of no more than \$5,000 for any affected county criminal justice system.

The bill creates the potential for additional court cost and fine revenues to be collected by county criminal justice systems statewide. Given the likelihood that a court rarely imposes, or if

imposed rarely collects, the maximum possible fine for a felony offense, a given county seems unlikely to gain more than a minimal amount of additional court cost and fine revenue annually, if that, from offenders convicted of one of the bill's enhanced penalties. For the purposes of this fiscal analysis, a minimal revenue gain means an estimated annual increase of no more than \$5,000 for any affected county.

(V) Link to educational information

The bill provides that, by January 1, 2008, BCII, with the assistance of the Office of Criminal Justice Services,⁷ must include on the Internet Sex Offender and Child-victim Offender Database (known as eSORN) a link to educational information for the public on current research about sex offenders and child-victim offenders. The bill also states that each sheriff who has established on the Internet a sex offender and child-victim offender database *may* include on the database a link of that nature.

State fiscal effects

At the time of this writing, the Office of the Attorney General has not completed its assessment of the potential fiscal impact of this provision of the bill. However, according to the testimony offered by Attorney General Marc Dann before the Senate Committee on Criminal Justice, the office is already working on an educational link of this nature. Therefore, it is arguable that, when enacted, the bill may in fact be codifying current practice, and that any costs generated for BCII and Criminal Justice Services would be no more than minimal.

Local fiscal effects

The bill permits, but does not require, the county sheriff to establish a link to educational information. If a sheriff opts to do so, the cost to establish and maintain such a link would likely be no more than minimal, if that.

(VI) Notice to offenders and juvenile registrants

The bill provides that, by January 1, 2008, BCII and county sheriffs that operate any Internet-based sex offender databases are required to inform offenders and "tier III juvenile offender registrants"⁸ via their web sites that they may contact the sheriff of the county in which the offender or delinquent child registered an address if the offender or delinquent child believes that information contained on the Internet Sex Offender and Child-victim Offender Database or sheriff's Internet sex offender and child-victim offender database is incorrect.

State and local fiscal effects

⁷ The Bureau of Criminal Identification and Investigation is operated by the Office of the Attorney General. The Office of Criminal Justice Services is a division of the Ohio Department of Public Safety.

⁸ Tier III offenses, not defined in this bill, are sex offenses punishable by imprisonment for more than one year and comparable to or more severe than the following federal offenses: sexual abuse or aggravated sexual abuse; abusive sexual contact against a minor less than 13 years old; offense involving kidnapping of a minor (parent or guardian excepted); or any offense that occurs after one has been designated a tier II sex offender.

As a result of this provision of the bill, the Office of the Attorney General and county sheriffs may experience some increase in workload in order to process additional inquiries regarding the accuracy of the information contained in these databases, but it seems likely that such inquiries are, or could be, made under current law. That said, as of this writing, it would not appear that the administrative burden and related cost that might be generated by this notification requirement would exceed minimal.

(VII) School bus driver background checks

Under current law, applicants for employment with any school district, educational service center, or school in which the person will be responsible for the care, custody, or control of a child must undergo a background check. Such checks are performed by the Attorney General's Bureau of Criminal Identification and Investigation (BCII). If an applicant cannot prove five years of Ohio residency, a more intensive background check is required. The FBI performs this additional check. The bill mandates that regardless of the period of residency in Ohio, the more intensive FBI check is required for all individuals applying to be employed as a driver of a school bus or motor van.

State fiscal effects

Currently, the Attorney General charges \$15 per BCII records check and an additional \$24 per FBI national records check (if applicable). The \$24 pays for the \$22 cost from the FBI as well as an additional \$2 to pay for BCII's administrative processing costs. All of this cash flow activity takes place within the Attorney General's General Reimbursement Fund (Fund 106). Presumably, as a result of the bill, additional criminal records checks will be requested and performed, and related records check fees will be collected. As of this writing, the number of additional criminal records checks that will be performed is uncertain, as is the magnitude of the effect on Fund 106's annual cash flow activity.

Local fiscal effects

School districts and other miscellaneous public education-related entities may experience an increase in expenditures associated with requesting criminal records checks for a portion of their existing school bus or motor van driver applicants. At the time of this writing, LSC fiscal staff has determined that the net fiscal effect of the bill's provision will depend on two factors: (1) the number of such applicants that are currently subject to the criminal records check requirement annually statewide, and (2) of this number, how many are not currently subject to the more intensive FBI background check. Both of these two factors are difficult to quantify with any certainty based on the number of variables, unrelated to the bill, which could affect each.

For those school districts and other affected public educational entities that currently pay the cost of such background checks, and depending on the number of additional FBI checks that will now be required under the bill, related expenditures could be expected to rise. However, since current law already gives these entities permissive authority to request the more intensive background checks through the FBI it is also possible, and likely, that these FBI checks are already being requested by these hiring authorities.

LSC fiscal staff: Jamie L. Duskocil, Senior Budget Analyst

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Table 1
Proposed Penalty Structure for Registration Offenses

Qualifying Offense Level	Current Law First Registration Offense Conviction	S.B. 97 Proposal First Registration Offense Conviction	Current Law Subsequent Registration Offense Conviction	S.B. 97 Proposal Subsequent Registration Offense Conviction
Aggravated Murder	F3 1 to 5 years prison	Same Degree as Qualifying Offense (i.e., Aggravated Murder)	F3 1 to 5 years prison	Same Degree as Qualifying Offense (i.e., Aggravated Murder); Definite prison term of no less than 3 years
Murder	F3 1 to 5 years prison	Same Degree as Qualifying Offense (i.e., Murder)	F3 1 to 5 years prison	Same Degree as Qualifying Offense (i.e., Aggravated Murder); Definite prison term of no less than 3 years
Felony 1 (F1)	F3 1 to 5 years prison	F1 3 to 10 years prison	F3 1 to 5 years prison	F1 3 to 10 years prison; Definite prison term of no less than 3 years
Felony 2 (F2)	F3 1 to 5 years prison	F2 2 to 8 years prison	F3 1 to 5 years prison	F2 2 to 8 years prison; Definite prison term of no less than 3 years
Felony 3 (F3)	F3 1 to 5 years prison	F3 1 to 5 years prison	F3 1 to 5 years prison	F3 1 to 5 years prison; Definite prison term of no less than 3 years
Felony 4 (F4)	F4 6 to 18 months prison	F4 6 to 18 months prison	F3 1 to 5 years prison	F3 1 to 5 years prison; Definite prison term of no less than 3 years
Felony 5 (F5)	F5 6 to 12 months prison	F4 6 to 18 months prison	F4 6 to 18 months prison	F3 1 to 5 years prison; Definite prison term of no less than 3 years
Misdemeanor 1 (M1)	M1 6 months jail	F4 6 to 18 months prison	F5 6 to 12 months prison	F4 6 to 18 months prison
Misdemeanor 2 (M2)	M2 90 days jail	F4 6 to 18 months prison	M1 6 months jail	F4 6 to 18 months prisons
Misdemeanor 3 (M3)	M3 60 days jail	F4 6 to 18 months prison	M2 90 days jail	F4 6 to 18 months prison
Misdemeanor 4 (M4)	M4 30 days jail	F4 6 to 18 months prison	M3 60 days jail	F4 6 to 18 months prison

