Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 235 of the 128th G.A. **Date**: December 8, 2010

Status: As Enacted **Sponsor**: Sens. Fedor and Grendell

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Trafficking in persons

State Fiscal Highlights

STATE FUND	FY 2011 – FUTURE YEARS
General Revenue Fund (GRF)	
Revenues	- 0 -
Expenditures	Likely incarceration cost increase in the hundreds of thousands of dollars or more annually
Indigent Defense Support Fund (Fund 5DY0)	
Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	- 0 -
Victims of Crime/Reparations Fund (Fund 4020)	
Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2011 is July 1, 2010 – June 30, 2011.

- The bill's mix of new prohibitions and penalty enhancements is likely to result in an increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures, possibly in the hundreds of thousands of dollars or more annually. A precise estimate is problematic to calculate because it is uncertain how the sanctions in human trafficking-related cases will differ from those rendered under preexisting law and sentencing practices.
- As a result of violations of the bill's new prohibitions and penalty enhancements, a negligible amount of annual revenue, in the form of state court costs, may be collected locally and forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2011 – FUTURE YEARS
Counties (criminal justice systems)	
Revenues	Potential, likely no more than minimal, annual gain in court costs and fines
Expenditures	Potential, likely no more than minimal, annual increase in criminal justice system operating costs

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

- The bill may minimally increase the annual costs that a county criminal justice system incurs in processing human trafficking-related cases, as it could generate additional cases requiring resolution or require extra time and effort on similar types of criminal matters that occur under preexisting law and practice. The bill could also generate a minimal annual gain in the amount of court cost and fine revenues collected by counties from offenders.

Detailed Fiscal Analysis

State fiscal effects

State incarceration expenditures

The bill's mix of new prohibitions and penalty enhancements is likely to result in an increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures, possibly in the hundreds of thousands of dollars or more annually. This would be a result of: (1) certain offenders being sentenced to a prison term that might otherwise not have been arrested, successfully prosecuted, and so sentenced, and (2) certain offenders that may have been sentenced to a prison term for similar conduct under preexisting law and practice being sentenced to a longer prison term. Data is not readily available that permits LSC to accurately estimate the number of offenders that would either be prison-bound or sentenced to a longer prison term.

The anticipated number of violations of the bill's new prohibitions that result in arrests and successful prosecutions are expected to be relatively small; therefore the resulting number of affected prison-bound offenders would be relatively small as well. The new prohibitions contained in the bill are arguably illegal behavior under preexisting law, though the bill is designed to make the prosecution of these cases easier. The number of additional offenders suggests that the future fiscal effect on DRC would be in terms of its marginal cost of incarcerating an offender, which LSC fiscal staff currently estimates at around $4,314 annually for each new offender.

The bill also contains penalty enhancements for crimes closely associated with human trafficking. These penalty enhancements will also increase DRC's GRF-funded incarceration costs. Again, the number of offenders that will face additional time in prison annually is expected to be relatively small, though the stacking effect of longer sentences could result in an increase in the prison population causing an impact of more than $100,000 annually.

The combination of these above-described pressures – new prison-bound offenders plus longer prison terms – will trigger an increase in DRC's annual GRF-funded incarceration costs, but the precise magnitude is uncertain. The data to do so is not readily available and the degree of behavioral change in the manner in which such conduct is investigated and prosecuted is difficult to project.

State court cost revenues

As a result of violations of the bill's new prohibitions, additional revenue, in the form of state court costs, may be collected locally and forwarded for deposit in the state treasury to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The state court costs for a felony offense total $60, of which Fund 5DY0 receives $30 and Fund 4020 receives $30. If, as assumed, the number of new cases resulting from violations of the bill's new

prohibitions is relatively small, then any additional state court cost revenues collected will likely be negligible. 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 unable or unwilling to pay.

Local fiscal effects

County criminal justice system expenditures

LSC fiscal staff contacted several interested parties while researching the bill's potential fiscal effects. The consensus regarding the new prohibitions and penalty enhancements was that their impact on county criminal caseloads would be minimal. The reasons regarding this determination include:

- It targets the typically small number of individuals in the upper levels of human trafficking organizations;
- It targets those individuals whose conduct, while potentially already illegal under current law, may be difficult to arrest, charge, and successfully prosecute; and
- It is very similar to activity that is already illegal under Ohio law and is therefore a potentially stackable charge for individuals who would have been arrested, charged, and successfully prosecuted under current law.

The conduct addressed by the bill is arguably prohibited under preexisting law and generally rises to the level of a felony falling under the subject matter jurisdiction of courts of common pleas and county criminal justice systems. Thus, violations of the bill's prohibitions will in all likelihood generally create few, if any, additional criminal actions or proceedings for county criminal justice systems to process, but may affect the time and effort required to resolve such matters. The availability of the new criminal offenses and increased penalties may expedite the bargaining process in some instances, which potentially reduces costs; in other instances, it may slow the bargaining process, which potentially increases costs. That said, the net effect of those possibilities is likely to be a no more than minimal annual increase in any given county criminal justice system's operating costs.

County revenues

Subsequent to a conviction, the court generally imposes court costs and a fine to be paid by the offender, and if collected, deposits in the county treasury. Given the number of cases in which a violation of the bill's new prohibitions and penalty enhancements is likely to be relatively small in the context of a jurisdiction's overall criminal caseload, the amount of additional court cost and fine revenues that counties may actually collect annually will be no more than minimal. As noted, the collection of court costs and fines from certain offenders can be problematic, especially in light of the fact that many are unable or unwilling to pay.