



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** S.B. 235 of the 128th G.A.

**Date:** April 13, 2010

**Status:** As Introduced

**Sponsor:** Sens. Fedor and Grendell

**Local Impact Statement Procedure Required:** No — Minimal cost

**Contents:** Creates the offense of trafficking in persons

### State Fiscal Highlights

#### STATE FUND

#### FY 2011 – FUTURE YEARS

##### General Revenue Fund (GRF)

Revenues - 0 -

Expenditures Potential, likely no more than minimal, annual incarceration cost increase

##### 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.

- **Incarceration expenditures.** As a result of violations of the bill's prohibition, there could potentially be a relatively small number of additional offenders sentenced to prison or sentenced to a longer prison stay than might otherwise have been the case under current law and practice. Either outcome would, theoretically at least, increase the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures, with the size of any such increase likely to be no more than minimal annually. This is because the number of persons who might be convicted of the new offense in any given year appears likely to be relatively small. For the purposes of this fiscal analysis, "minimal" means an estimated cost in GRF moneys of less than \$100,000 per year for the state.
- **Court cost revenues.** As a result of violations of the bill's 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). If, as assumed, the number of cases in which individuals are convicted of "trafficking in persons" is relatively small, then any additional state court cost revenues collected

will likely be negligible. For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 for either state fund per year.

## Local Fiscal Highlights

**LOCAL GOVERNMENT**

**FY 2010 – 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.

- County criminal justice systems.** The bill appears unlikely to create many, if any, additional human trafficking-related criminal actions or proceedings for county criminal justice systems to process, but may affect the time and effort required to resolve such matters. The new criminal offense 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 fiscal effect on any given county criminal justice system is likely to be minimal, which means an estimated reduction or increase of no more than \$5,000 per year.
- County revenues.** The bill could also increase the amount of court cost and fine revenues collected by counties from offenders. It appears that the number of cases in which an offender will be charged and convicted of "trafficking in persons" is likely to be relatively small. Therefore, the amount of additional court cost and fine revenues that counties may actually collect annually is likely to be no more than minimal. For the purposes of this fiscal analysis, a minimal revenue increase means an estimated gain of no more than \$5,000 for any affected county per year.

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## Detailed Fiscal Analysis

### Overview

For the purposes of this fiscal analysis, the bill most notably creates the offense of "trafficking in persons," a felony of the second degree.

### State fiscal effects

#### State incarceration expenditures

As a result of violations of the bill's prohibition (1) offenders may be sentenced to a prison term that might, absent its enactment, not have been arrested, successfully prosecuted, and so sentenced and (2) offenders that may have been sentenced to a prison term for similar conduct under current law and practice could receive a longer prison term. Either outcome theoretically increases the Department of Rehabilitation and Correction's (DRC's) GRF-funded incarceration costs.

If, as assumed, the number of violations of the bill's prohibition that result in arrests and successful prosecutions will be relatively small, then the resulting number of affected prison-bound offenders would likely be relatively small as well, especially in the context of a prison system currently housing more than 50,000 inmates. This would suggest that the future fiscal effect on DRC would likely be in terms of its marginal cost of incarcerating an offender, which LSC fiscal staff currently estimates at around \$4,314 annually. The annual marginal costs associated with the likely number of affected offenders, to the degree that such costs are actually realized, would be no more than minimal. For the purposes of this fiscal analysis, minimal means an estimated expenditure increase of less than \$100,000 per year for the state.

#### State court cost revenues

As a result of violations of the bill's prohibition, 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 cases in which individuals are convicted of the offense of "trafficking in persons" is relatively small, then any additional state court cost revenues collected will likely be negligible. For the purposes of this fiscal analysis, "negligible" means an estimated revenue gain of less than \$1,000 for either state fund 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 unable or unwilling to pay.

## **Local fiscal effects**

### **Criminal justice system expenditures**

LSC fiscal staff contacted several interested parties while researching the bill's potential fiscal effects. The consensus regarding the new felony prohibition was that its 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 current 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 prohibition 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 offense 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 fiscal effect on any given county criminal justice system is likely to be minimal, which means an estimated reduction or increase of no more than \$5,000 per year.

### **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 it in the county treasury. Given the number of cases in which a violation of the bill's prohibition might apply appears likely to be relatively small, the amount of additional court cost and fine revenues that counties may actually collect annually is likely to be no more than minimal. For the purposes of this fiscal analysis, a minimal revenue increase means an estimated gain of no more than \$5,000 for any affected county per year. 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.