Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. H.B. 197 of the 129th G.A. **Date**: December 13, 2012

Status: As Passed by the Senate **Sponsor**: Rep. Slesnick

Local Impact Statement Procedure Required: Yes

Contents: Collection of unpaid court costs, fees, or fines, optional computerization fees charged by court of common pleas, and military added service to the list of factors and information that a court sentencing an offender for a criminal offense must consider in determining the appropriate sentence

State Fiscal Highlights

STATE FUND	FY 2013 – FUTURE YEARS
Victims of Crime/Reparations Fund (Fund 4020)	
Revenues	Potential gain in previously unpaid state court costs, possibly exceeding $100,000 annually
Expenditures	- 0 -
Indigent Defense Support Fund (Fund 5DY0)	
Revenues	Potential gain in previously unpaid state court costs, possibly exceeding $100,000 annually
Expenditures	- 0 -
State Bureau of Motor Vehicles Fund (Fund 4W40)	
Revenues	Potential loss, or delay in collection, of vehicle registration fees, possibly exceeding $100,000 annually
Expenditures	Potential minimal annual increase to administer registration prohibition
State Highway Safety Fund (Fund 7036)	
Revenues	Potential loss, or delay in collection, of vehicle registration fees, possibly exceeding $100,000 annually
Expenditures	- 0 -
Auto Registration Distribution Fund (Fund 7051)	
Revenues	Potential loss, or delay in collection, of permissive local motor vehicle license taxes, possibly exceeding $100,000 annually
Expenditures	Potential decrease in money redistributed to counties, municipalities, and townships, annual magnitude dependent on changes to related revenue stream

Note: The state fiscal year is July 1 through June 30. For example, FY 2013 is July 1, 2012 – June 30, 2013.

- **Unpaid court costs.** State court costs for felonies and misdemeanors that might otherwise have gone uncollected may be collected and deposited to the credit of the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0). The magnitude of this additional revenue could exceed minimal (or $100,000) annually.

- **Bureau of Motor Vehicle expenditures.** It appears that the Bureau of Motor Vehicles will be able to incorporate the bill's duties and responsibilities into its existing registration system with a minimal ongoing operating cost. Any associated costs would likely be paid for with money appropriated from the State Bureau of Motor Vehicles Fund (Fund 4W40).
- **Registration prohibition.** There could be a loss or delay in the collection of vehicle registration fees, the magnitude of which will depend upon the number of persons being subject to the bill's registration prohibition and whether they choose to pay their unpaid court costs, fees, or fines. Vehicle registration fees are deposited in the State Bureau of Motor Vehicles Fund (Fund 4W40) and the State Highway Safety Fund (Fund 7036), with the portion representing local permissive motor vehicle taxes being sent to counties, municipalities, and townships via the Auto Registration Distribution Fund (Fund 7051).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2013 – FUTURE YEARS
Counties, Municipalities, and Townships	
Revenues	Potential gain in previously unpaid court costs, fees, and fines, plus potential loss, or delay in collection, of permissive local motor vehicle license taxes, with net annual effect in any given jurisdiction uncertain
Expenditures	- 0 -
Common Pleas, Municipal, Mayor's, and County Courts	
Revenues	Potential gain in previously unpaid specific purpose costs and fees, annual magnitude uncertain
Expenditures	(1) Potential negligible savings effect from standardization of dates to remit certain moneys; (2) Potential minimal annual increase to incorporate provisions into existing vehicle registration system
Courts of Common Pleas (General Division)	
Revenues	Potential annual gain in computerization fees, significant variance across the state from several thousand dollars in a low volume court to tens of thousands of dollars or more in a high volume court
Expenditures	Potential increase, commensurate with revenue gain

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

- **Uncollected court cost, fee, and fine revenues.** Counties, municipalities, and townships, including common pleas, municipal, mayor's, and county courts, will in all likelihood gain revenues in the form of court costs, fees, and fines that would otherwise have gone uncollected. The additional amounts that certain local jurisdictions collect annually could easily exceed tens or hundreds of thousands of dollars annually.
- **Court remittance and vehicle registration expenditures.** Common pleas, municipal, mayor's, and county courts may incur minimal annual costs to incorporate the bill's registration prohibition provision into their state's existing procedures and practices. The bill also standardizes the date by which the clerks of municipal and county courts must remit certain moneys to the appropriate political

subdivision, which may produce a savings effect by permitting clerks to expend more time and effort on other duties and responsibilities.

- **Motor vehicle registration fees.** There could be a loss, or delay in the collection, of a mix of state and local vehicle registration fees, the magnitude of which will depend upon the number of persons being subject to the bill's registration prohibition and whether they choose to pay their unpaid court costs, fees, or fines or are deemed eligible to engage in community service. The portion representing local permissive motor vehicle taxes is sent to counties, municipalities, and townships via the state's Auto Registration Distribution Fund (Fund 7051).
- **Computerization fees.** The potential is created for the general division of a court of common pleas charging such fees to generate additional revenue for computerization and to use those funds for a purpose that might not be viewed as permissible under current law ("technological advances"). Courts with a relatively large number of case filings (high volume) are likely to be in a position to generate considerably more computerization fee revenue per year than are courts with a comparatively smaller number of case filings (low volume). Thus, the potential annual revenue is likely to vary significantly across the state, from several thousand dollars in a low volume court to tens of thousands of dollars or more in a high volume court.

Detailed Fiscal Analysis

The fiscal analysis is organized around the following four topics:

I. Collection of unpaid court costs, fees, or fines

II. Remittance of fees and other money by certain court clerks

III. Optional computerization fees charged by a court of common pleas

IV. Consideration of military service in criminal sentencing

I. Collection of unpaid court costs, fees, or fines

The bill permits, but does not require, a common pleas, municipal, mayor's, or county court to use a vehicle registration sanction as a means to get a person to pay "unpaid" court costs, fees, and fines or complete community service. A court can trigger this sanction by sending a "failure to pay" notice to the state Registrar of Motor Vehicles. The fiscal effects of this permitted sanction depend on the actions of courts and the responses of people to the imposition of a vehicle registration sanction.

Uncertainties and unknowns

A precise description of the bill's state and local fiscal effects is problematic because of various uncertainties and unknowns, including: (1) the number of offenders that do not pay court costs, fees, and fines in any given year and the amounts unpaid, (2) how any given court will utilize the registration sanction permitted but not required by the bill, (3) the frequency with which the court will allow individuals to complete community service in lieu of paying court costs, and (4) how any given person will respond to a court's actions and the possible registration sanction associated with unpaid court costs, fees, and fines.

For example, how often will a court choose to utilize the bill's vehicle registration sanction? Further, how will that person respond to having to pay court costs, fees, or fines or perform community service before reinstating a vehicle's registration? It is not possible to predict the future decisions of either of the courts or the affected persons and therefore LSC cannot make a definitive prediction as to the bill's state and local fiscal effects. However, the millions of criminal cases heard annually in common pleas, municipal, mayor's, and county courts, as well as the thousands of those convicted who don't or can't pay associated court costs, fees, and fines annually statewide, means that the aggregate effect of those individual decisions will noticeably affect in some manner the revenue streams of certain counties, municipalities, and townships as is detailed below.

These predictive issues aside, we have identified a path by which the bill clearly has a fiscal impact on state and local governments. It is based on the decisions of courts and the response of defendants to those decisions. If the defendant does not pay court costs, fines, and fees in a timely manner, or perform the necessary community service,

the court can elect to try and force payment of the owed amounts by blocking any future vehicle registration activity by the defendant. In this situation, the defendant has one of two choices: to pay or not to pay. It is also possible that, if it is a court's practice to utilize the bill's prohibition, then some defendants may opt to pay in a timelier manner so as to avoid the blocking of any future vehicle registration activity.

Defendant chooses to pay

If the defendant pays the owed amounts, various governmental entities/funds will collect court cost, fee, and fine revenues that might not otherwise have been collected under current law. These entities/funds potentially include counties, municipalities, townships, and the state's Victims of Crime/Reparations Fund (Fund 4020) and Indigent Defense Support Fund (Fund 5DY0). State and local vehicle registration revenues would be unaffected, as the defendant would presumably pay in a timely manner and not be blocked from applying for the registration of a motor vehicle.

Defendant chooses to not pay

If the defendant does not pay the owed amounts and is subsequently blocked from applying for the registration of a motor vehicle, the governmental entities/funds receiving money from vehicle registrations lose revenue as compared to current law. These entities/funds include the State Highway Safety Fund (Fund 7036), the Auto Registration Distribution Fund (Fund 7051), the Bureau of Motor Vehicles Fund (Fund 4W40), and townships, municipalities, and counties levying permissive taxes on vehicle registrations.

Revenues

Court costs, fees, and fines

As a result of the bill's vehicle registration prohibition, the state and local governments will likely collect money owed (court costs, fees, fines) that would otherwise have gone uncollected. Court cost, fees, and fines are distributed to a mix of state and local funds/political subdivisions, with the magnitude and distribution dependent upon the manner in which the court of record is financed and the charging decisions of law enforcement and prosecutors. The magnitude of the potential gain in revenues for either the state or local governments is uncertain, but could be significant, as there appear to be millions of dollars in uncollected court costs, fees, and fines statewide.

State court costs. In the case of the state, additional revenue would be generated from state court costs imposed on a person convicted of a misdemeanor or a felony. In the case of a misdemeanor, the state court costs generally total $29, $20 of which is credited to the Indigent Defense Support Fund (Fund 5DY0) and $9 is credited to the Victims of Crime/Reparations Fund (Fund 4020). In the case of a felony, the state court costs total $60, $30 of which is credited to Fund 5DY0 and $30 is credited to Fund 4020. It is also possible that the state could gain revenue from fines whose distribution is subject to special crediting provisions. For example, under current law, an additional

$10 in court costs is imposed for traffic violations, of which $8.50 is apportioned between the Indigent Defense Support Fund, the Drug Law Enforcement Fund (Fund 5ET0), and the Justice Programs Services Fund (Fund 4P60).

Local court costs, fees, or fines. In the case of local governments, common pleas, municipal, mayor's, and county courts will collect court costs and special project fees, municipalities and townships will collect fines for violations of local ordinances, and counties will collect fines for violations of state law.

Vehicle registrations

Under the bill, a person who is subject to the vehicle registration sanction would be prohibited from being issued, renewing, or transferring a vehicle registration until that person paid the court costs, fees, and fines due. The effect of this prohibition could be to either: (1) delay the collection of vehicle registration fees until the person has paid the owed amounts, or (2) lead to a loss in vehicle registration fees if the person chooses not to pay the owed amounts and no registration is issued. The impact on vehicle registration revenues is uncertain as we do not know how many persons will be subjected by the court to the bill's vehicle registration sanction, nor the number of persons that would choose to either pay the owed amount or forego their vehicle registration. The paragraphs immediately below describe the vehicle registration fee and its distribution.

Under current law, the vehicle types on which the annual registration fee must be paid, subject to certain exceptions, include passenger cars, motorcycles, house and travel trailers, transit buses, noncommercial trucks, commercial trailers and semi-trailers, commercial trucks and tractors, noncommercial trailers, motor buses, and farm trucks. The base registration fee paid varies and is a function of the type of vehicle, and in some cases, the weight of the vehicle as well.

The annual registration fees for a passenger vehicle totals between $34.50 and $54.50; the maximum is determined by the number of applicable local permissive motor vehicle taxes. The distribution of those fees is depicted in the table below.

Distribution of Typical Annual Passenger Car Registration Fees	
Fee Component	**Amount**
State Bureau of Motor Vehicles Fund (Fund 4W40)	$20.00
Local Permissive Motor Vehicle Taxes	Up to $20.00
State Highway Safety Fund (Fund 7036)	$11.00
Deputy Registrar Service Fee	$3.50
Total	**$34.50-$54.50**

As the above table depicts, the annual motor vehicle registration fee for a passenger car can be viewed as a four-component package of fees and/or taxes technically referred to as the motor vehicle license tax. Those four components and their distribution can be described as follows:

1. The base annual registration fee for a passenger car is $20. It is forwarded for deposit in the state treasury to the credit of the State Bureau of Motor Vehicles Fund (Fund 4W40) and appropriated to pay the expenses of administering the law relative to the powers and duties of the Registrar of Motor Vehicles. Base annual registration fee revenues collected in excess of the cash needs of Fund 4W40 are paid into the Auto Registration Distribution Fund (Fund 7051) and subsequently redistributed to counties, municipalities, and townships.
2. A possible set of permissive local motor vehicle license taxes totaling up to $20 levied that is credited to the state's Auto Registration Distribution Fund (Fund 7051) and, subject to certain exceptions, redistributed by a statutory formula to counties, municipalities, and townships for the purpose of planning, construction, and maintenance of public highways, roads, streets, or bridges. Counties have the authority to enact up to $15 in motor vehicle license taxes in three separate increments of $5 each. If the county has not enacted a motor vehicle license tax, then the municipality has the authority to enact up to $20 in motor vehicle license taxes in four separate increments of $5 each. Townships may levy an additional $5 motor vehicle license tax, regardless of any action by the county. The total permissive tax paid by a person cannot exceed $20 per taxing district and can be levied in a combination of the following:
    a. Counties may levy up to $15;
    b. Municipalities may levy up to $20, depending on the amount levied by the county; and
    c. Townships may levy $5.
3. An $11 fee is added to every vehicle registration and subsequent to its collection is forwarded for deposit in the state treasury to the credit of the State Highway Safety Fund (Fund 7036). This fee is imposed for the purpose of defraying the State Highway Patrol's costs associated with the administration and enforcement of motor vehicle and traffic laws.
4. A $3.50 fee that the deputy registrar is permitted to charge and retain for its services.

Expenditures

Common pleas, municipal, mayor's, and county courts

It is likely that common pleas, municipal, mayor's, and county courts will be able to easily incorporate the bill's vehicle registration prohibition into their existing system with little if any additional cost.

Bureau of Motor Vehicles

The bill requires the Bureau of Motor Vehicles to develop and distribute various notification forms and to administer the vehicle registration sanction. Bureau staff has indicated that the associated costs will not be significant and these duties and responsibilities can be readily incorporated into its ongoing automated license and registration system. Some costs are expected to develop the relevant forms and to train staff, however, the anticipated transitional and ongoing administrative costs will be minimal at most. The Bureau's operating costs are largely paid with money appropriated from the State Bureau of Motor Vehicles Fund (Fund 4W40).

II. Remittance of fees and other money by certain court clerks

The bill creates a standard deadline (the 20th day of each month) by which the clerk of a municipal or county court must send costs, fees, fines, bail, and other money to the appropriate political subdivision. This deadline decreases the administrative burden of having multiple deadlines in certain jurisdictions and will likely have some savings effect on the operations of certain clerks of courts.

III. Optional computerization fees charged by a court of common pleas

The bill: (1) raises the ceilings on the optional additional fees that the general division of a court of common pleas may charge to fund court computerization of the court clerk's office, (2) authorizes use of the additional clerk's fees to fund technological advances in the clerk's office, and (3) authorizes new fees to fund computerization of, or technological advances in, the clerk's office.

Current law allows the general division of a court of common pleas to charge two separate computerization fees not to exceed $3 and $10, respectively, on certain actions. The bill: (1) increases these "not to exceed" amounts to $6 and $20, respectively, and (2) expands the use of the second fee to include making "technological advances." As a result, the potential is created for a court charging such fees to generate additional revenue for computerization and to use those funds for a purpose that might not be viewed as permissible under current law. Courts with a relatively large number of case filings (high volume) are likely to be in a position to generate considerably more computerization fee revenue per year than are courts with a comparatively smaller number of case filings (low volume). Thus, the potential annual revenue is likely to vary significantly across the state, from several thousand dollars in a low volume court to tens of thousands of dollars or more in a high volume court.

IV. Consideration of military service in criminal sentencing

The bill modifies current criminal sentencing law to require a court to consider information related to an offender's service in the United States armed forces when determining an appropriate sentence for a criminal offense. Current law already requires a court to consider a series of specific factors and other information when sentencing an offender and permits a court to consider any other factors that are relevant to the purposes and principles of the criminal sentencing law. Presumably

then, the bill codifies the current practice of certain courts to consider military service as an "other factor," and in the case of certain other courts, will require the judge to do so. In the case of the latter, there will be no discernible direct fiscal effect on the state or its political subdivisions, as the ability of the court to dispose of a criminal case in a timely manner will not be materially affected.

As a potential indirect effect of the bill, to the extent that a court is not considering this factor and information, the manner in which certain offenders are sanctioned may change to some degree. Whether the associated expenditures for the state or any given county or municipality will increase or decrease will depend on the cost of the sanctioning compared to what might otherwise have occurred under current practice.

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