



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 262 of the 129th G.A.
(LSC 129 0211-5)

Date: May 15, 2012

Status: In House Judiciary & Ethics

Sponsor: Rep. Fedor

Local Impact Statement Procedure Required: Yes

Contents: Trafficking in persons

State Fiscal Highlights

STATE FUND

FY 2013 – FUTURE YEARS

Various Funds of the Attorney General

Revenues - 0 -

Expenditures Potential minimal annual increase to perform data, training, and public awareness duties

General Revenue Fund (GRF) – Department of Rehabilitation and Correction

Revenues - 0 -

Expenditures Potential minimal annual increase in incarceration costs

Indigent Defense Support Fund (Fund 5DY0)

Revenues Potential negligible annual decrease in locally collected state court costs

Expenditures - 0 -

Victims of Crime/Reparations Fund (Fund 4020)

Revenues Potential negligible annual decrease in locally collected state court costs

Expenditures Potential increase in victim compensation awards, annual magnitude uncertain

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

- The bill may minimally increase the Attorney General's annual operating expenses related to data collection, peace officer training, and public awareness programs.
- The bill's mix of new prohibitions and penalty enhancements are likely to result in a no more than minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs. However, the penalty enhancement for trafficking in persons could lead to an increase in incarceration costs well in excess of minimal if the crime is currently undercharged or if awareness of the conduct leads to additional arrests and convictions.
- As a result of the bill's authorization of juvenile courts to hold a delinquent child complaint in abeyance under certain conditions, a negligible amount of annual revenue in the form of state court costs that may have been collected under current law will not be collected 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 bill may increase compensation expenditures from the Victims of Crime/Reparations Fund (Fund 4020) by expanding the list of persons eligible to receive such compensation.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2012 – FUTURE YEARS

Counties (criminal justice systems)

Revenues	Potential gain in court costs, fees, and fines
Expenditures	Potential increase in criminal and juvenile 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 certain criminal cases. It may generate additional cases requiring resolution or require extra time and effort on similar types of criminal matters that occur under current 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. It is possible that the costs of the bill's diversion program for certain allegedly delinquent children could exceed minimal for certain juvenile justice systems.

Detailed Fiscal Analysis

State fiscal effects

Attorney General (AGO)

The bill both requires and permits the AGO to engage in certain actions specified below. These required and permitted actions closely mirror activities already undertaken by the AGO for other violations of Ohio law and are not expected to generate a more than minimal annual increase in the agency's operating costs. Specifically, under the bill, the Attorney General is:

- Required to annually publish statistical data on trafficking in persons violations;
- Required to provide specified training for peace officers in investigating and handling trafficking in persons; and
- Permitted to prepare public awareness programs designed to educate potential victims of trafficking in persons and their families.

Criminal prohibitions

The following table summarizes the penalty enhancements contained in the bill.

Table 1. Penalty Enhancements for Certain Violations		
Offense	Degree of Offense	
	Current Law	The Bill
Trafficking in persons	Felony 2nd degree	Felony 1st degree (mandatory prison term of 10, 11, 12, 13, 14, or 15 years)
Obstruction of justice*	Felony 3rd degree	Felony 2nd degree
Unlawful sexual conduct with a minor for hire**	Misdemeanor 1st degree, felony 4th degree, felony 3rd degree, felony 2nd degree***	Felony 3rd degree, felony 2nd degree

* If the person who is aided committed aggravated murder, murder, or a first or second degree felony.

** The bill creates the new offense of unlawful conduct with a minor for hire. These violations would likely be charged under the current unlawful sexual conduct with a minor statute.

*** The level of offense is determined by the criminal history of offender and the age difference between the offender and the victim.

Table 2 below summarizes the existing sentences and fines, unchanged by the bill, for felony and certain misdemeanor offenses generally.

Table 2. Existing Sentences and Fines for Offenses Generally		
Offense Level	Fine	Maximum Term
Felony 1st degree	Up to \$20,000	3, 4, 5, 6, 7, 8, 9, 10 years' definite prison term
Felony 2nd degree	Up to \$15,000	2, 3, 4, 5, 6, 7, 8 years' definite prison term
Felony 3rd degree	Up to \$10,000	1, 2, 3, 4, 5 years' definite prison term
Felony 4th degree	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 months' definite prison term
Felony 5th degree	Up to \$2,500	6, 7, 8, 9, 10, 11, 12 months' definite prison term
Misdemeanor 1st degree	Up to \$1,000	6-month jail stay

The bill also: (1) eliminates the prohibition against charging a person with both compelling prostitution and engaging in a pattern of corrupt activity by engaging in human trafficking if the same conduct is the basis of both charges and (2) eliminates a provision in the trafficking in persons statute that trafficking in persons and another offense based on the same conduct by the same offender and involving the same victim are allied offenses of similar import.

Department of Rehabilitation and Correction (DRC)

The bill's expansion of existing prohibitions and related penalty enhancements is likely to result in no more than a minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures. This is a result of certain offenders that may have been sentenced to a prison term for similar conduct under current law and practice being sentenced to a longer prison term under the bill. The number of additional inmate beds that would be needed as a result of these longer stays in prison is expected to be around 20, with each bed carrying a marginal cost estimated at between \$3,000 and \$4,000 annually.

However, if trafficking in persons is currently undercharged or the awareness of the conduct leads to additional arrests, the stacking effect of longer sentences for trafficking in persons could result in an increase in the prison population and related annual incarceration cost increase well in excess of minimal.

State court cost revenues

As a result of the bill's authorization of a juvenile court to hold a delinquent child complaint in abeyance under certain conditions, a negligible amount of annual revenue in the form of state court costs may not 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. As few abeyances are expected to be granted by the juvenile court, the decrease in state court cost revenues will likely be negligible. It is also important to note that any potential reduction in this revenue is further minimized by the acknowledgement that 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.

The bill provides that nothing in the statute that lists persons ineligible for compensation from Fund 4020 is applicable for claimants whose claim is based on being a victim of trafficking in persons if the claimant was less than 18 years of age when the criminally injurious conduct occurred. The potential resulting increase in the number of applicants for victim compensation and the magnitude of those awards is uncertain.

Local fiscal effects

Juvenile courts

Juvenile courts are currently handling relatively few cases that would be subject to the bill's abeyance procedure. This procedure is a diversion program and is already used by juvenile courts under certain conditions. As part of the diversion, the court may order protective supervision, some sort of community detention such as house arrest or monitoring, or temporary custody to a community services board. The diversion process can be more expensive than a traditional case in juvenile court and it is possible under the bill that if juvenile courts experience an increase in these types of cases they could see a more than minimal annual increase in expenditures.

County criminal justice system expenditures generally

The bill's impact on the county criminal justice system's caseloads and related expenditures is expected to be minimal. The conduct addressed by the bill is prohibited under current law and generally rises to the level of a felony falling under the subject matter jurisdiction of courts of common pleas. 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. 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 local 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 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.

Prevalence of human trafficking in Ohio

The Ohio Trafficking in Persons Study Commission, Research and Analysis Sub-Committee reports that an estimated 3,437 foreign-born persons in Ohio may be at risk for labor or sex trafficking. Of that total, 783 foreign-born persons are estimated to be trafficked into the labor or sex trade in Ohio. In addition, the Sub-Committee reported that in Ohio an estimated 2,879 American-born youth are at risk for sex trafficking and an additional 1,078 American-born youth are trafficked into the sex trade over the course of a year. Aside from those estimates, from 2007 to 2009 in Ohio, seven cases of

international labor trafficking were identified by the Sub-Committee. For cases of American-born youth, Toledo has identified 60 child victims of sex trafficking since the Northwest Ohio Innocence Lost Task Force was organized in 2006.¹

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¹ Celia Williamson et. al., Ohio Trafficking in Persons Study Committee, Research and Analysis Sub-Committee, *Report on the Prevalence of Human Trafficking in Ohio* (2010).