



Ohio Legislative Service Commission

Jim Ramey

Fiscal Note & Local Impact Statement

Bill: H.B. 262 of the 129th G.A.

Date: January 20, 2012

Status: As Introduced

Sponsor: Rep. Fedor

Local Impact Statement Procedure Required: Yes

Contents: To make changes to the law regarding a minor who is a victim of trafficking in persons

State Fiscal Highlights

- **Provision of appropriate services.** The bill requires that victims of human trafficking be provided with "appropriate services." The bill would likely result in the identification of additional victims of human trafficking. As a result, GRF expenditures for the Ohio Medicaid Program could increase. About 64% of any additional Medicaid costs would be reimbursed by the federal government.
- **Specialized services.** The bill requires the departments of Health and Mental Health to develop procedures for providing specialized services to human trafficking victims. As a result of this requirement, the departments would experience an increase in costs.
- **National Human Trafficking Resource Center (NHTRC) hotline poster.** The bill requires the Department of Commerce to create a poster that contains information for the NHTRC hotline, to provide copies of the poster to certain establishments, and to publish the poster on its web site. Any other appropriate regulatory authority would also have to provide copies of the poster to certain establishments and to publish the poster on its web site. The Department of Commerce and any affected regulatory authority will experience an increase in costs. Also, the Department of Transportation would be required to display the poster at highway rest areas. Therefore, the Department of Transportation will experience an increase in costs.
- **State court costs.** The bill creates a criminal penalty for owners and operators of certain establishments who fail to conspicuously display the NHTRC hotline poster. Any offenders convicted under this provision would be required to pay state court costs totaling \$29. Court costs are forwarded to the state treasury and credited as follows: \$20 to the Indigent Defense Support Fund (Fund 5DYO) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020). Any additional revenue as a result of the bill would likely be minimal, as the number of violations is expected to be few.
- **Reunification with family.** The bill requires the Ohio Department of Job and Family Services (ODJFS) to develop procedures for reuniting a minor victim of

human trafficking with family members in the minor's country of origin or destination. As a result of this requirement, ODJFS would experience an increase in costs.

Local Fiscal Highlights

- **Exemption from offense of solicitation.** The bill specifies that an individual is not guilty of soliciting if, at the time of the violation, they were a minor and under duress or coercion that resulted from being a victim of trafficking in persons. According to a spokesperson for the Ohio Judicial Conference, the number of minors currently arrested for soliciting, who then become involved with the juvenile justice system, is likely very small. However, if additional victims are identified as a result of the bill, the juvenile justice system¹ could realize cost savings.
- **Provision of appropriate services.** The bill requires that victims of human trafficking be provided with "appropriate services." The bill would likely result in the identification of additional victims of human trafficking. Therefore, the costs for providing "appropriate services" would increase for local public children services agencies (PCSAs) and alcohol and drug addiction and mental health services boards. According to a spokesperson for the Public Children Services Association of Ohio (PCSAO), the cost increase for providing "appropriate services" could easily total more than \$5,000 for any affected county (i.e., the LSC threshold for a "yes" local impact determination).
- **Criminal penalty.** The bill creates a criminal penalty for failing to display the NHTRC hotline poster. A person found guilty of failing to display the poster could be sentenced to ten days in jail and a local fine of up to \$1,000. According to a spokesperson for the Ohio Judicial Conference, in these types of cases, the most likely sanction imposed by the court would be a fine and a waiving of any jail time. The number of cases that would result from this provision would likely be few. Any increase in costs to courts may be partially offset by any local court cost and fine revenue collected.
- **Reunification with family.** PCSAs are currently responsible for placing children in other states. If a PCSA were responsible for reuniting victims of human trafficking with their families, the PCSA could experience an increase in costs of greater than \$5,000 per year, or for total costs to exceed \$100,000 each year statewide (i.e., the LSC threshold for a "yes" local impact determination). However, any potential increase in costs to PCSAs is ultimately dependent upon the procedures developed by ODJFS.

¹ The organizations within the juvenile justice system could include county sheriffs, police departments, prosecutors, public defenders, juvenile courts, and sanctioning systems, which may include residential services, intensive supervision, or probation.

Detailed Fiscal Analysis

Exemption from offense of solicitation

The bill specifies that an individual is not guilty of soliciting if, at the time of the violation, they were a minor and under duress or coercion that resulted from being a victim of trafficking in persons. According to a spokesperson for the Ohio Judicial Conference, the number of minors currently arrested for soliciting, who then become involved with the juvenile justice system, is likely very small. However, if additional victims are identified as a result of the bill, the juvenile justice system² could realize cost savings.

Often times, minor victims of human trafficking who are arrested for soliciting do not identify themselves as victims. A minor may not identify himself or herself as a victim because the minor is unruly or delinquent, unaware that he or she is a victim of human trafficking, fearful of violence from his or her trafficker, and in the cases of foreign born persons, afraid of what might happen if it is discovered he or she is in the country illegally. If a minor victim does not identify himself or herself as a victim, the bill would result in no change from current practice, and thus, have no fiscal effect. According to a spokesperson for the Ohio Judicial Conference, in solicitation cases, the minor could be determined to be delinquent by a juvenile court judge and temporarily placed into a locally operated juvenile detention facility or shelter care, pending disposition. Minors could also be placed in a community diversion program or be required to complete community service. It is also possible that in solicitation cases, the minor could be determined to be abused, neglected, or dependent, in which case the minor would be referred to the local public children services agency (PCSA).

Provision of appropriate services

The bill requires that a victim of trafficking in persons³ who is a minor be provided with "appropriate services." The services may include an explanation of the victim's rights, privacy, housing, care, and age-appropriate support and rights. Victims of human trafficking may be served by different public entities, but are primarily served through the child welfare system.

According to a spokesperson for the Public Children Services Association of Ohio (PCSAO), the bill would likely result in an increase in the number of victims identified. If the bill results in the identification of additional victims, costs would increase for PCSAs and for local alcohol and drug addiction and mental health services

² The organizations within the juvenile justice system could include county sheriffs, police departments, prosecutors, public defenders, juvenile courts, and sanctioning systems, which may include residential services, intensive supervision, or probation.

³ This includes victims of both sex and labor trafficking.

(ADAMHS) boards in order to provide "appropriate services" to victims. According to the spokesperson for PCSAO, the cost increase for providing "appropriate services" could easily total more than \$5,000 for any affected county (i.e., the LSC threshold for a "yes" local impact determination).

Federal benefits

Victims of human trafficking who are minors are eligible for certain federal benefits. These benefits include refugee cash and medical assistance, Temporary Assistance for Needy Families, food stamps, the State Children's Health Insurance Program, and Medicaid, among others. In order for minor victims of human trafficking to be eligible for benefits, the minor's advocate (typically the PCSA or law enforcement, whichever first determines the minor is a victim) must apply for and receive a letter of eligibility from the U.S. Department of Health and Human Services.⁴ Any increase in GRF expenditures for Ohio's Medicaid Program for medical, mental health, or alcohol or drug addiction services would be partially reimbursed by the federal government at the federal medical assistance percentage (FMAP) rate. The FMAP rate is currently about 64%. Certain mental health and alcohol or drug addiction treatment services may not be covered by Medicaid; in these instances, costs for services would be the responsibility of local ADAMHS boards.

Procedures for specialized services

The bill requires the departments of Health and Mental Health to develop procedures for providing specialized physical and mental health services to victims. As a result of this requirement, the departments would experience an increase in costs.

National Human Trafficking Resource Center (NHTRC) hotline poster

The bill requires the Director of Commerce to create an 8.5" x 11" poster that provides information regarding the NHTRC hotline. The poster must include certain information specified in the bill and be printed in English and Spanish, and in any other language that would be required for a county under the Voting Rights Act of 1965. The bill also requires the Director of Commerce, or the appropriate regulatory authority, to provide notice of this requirement and copies of the poster to certain entities listed in the bill.⁵ In addition, the poster must be made available on the Department of Commerce's web site and on the web site of any other agency that has regulatory authority over the certain entities specified by the bill.

⁴ U.S. Department of Health and Human Services, *Victim Assistance Fact Sheet* (January 12, 2012), http://www.acf.hhs.gov/trafficking/about/victim_assist.html.

⁵ For a listing of these entities, please refer to the LSC bill analysis or O.R.C. 4113.72(C) in the bill.

The Department of Commerce will experience an increase in costs to create the different versions of the poster, to provide copies, and to publish the poster on its web site. Furthermore, any other affected government agency would experience an increase in costs to provide copies of the poster and to publish the poster on its respective web site.

The bill also requires the Director of Transportation to conspicuously display the poster at each rest area located along interstate highways and other state highways. The Department of Transportation would experience an increase in costs to comply with this requirement.

Criminal penalty

The bill creates a fourth degree misdemeanor criminal penalty for owners and operators of certain entities if they fail to conspicuously display the NHTRC hotline poster in a place where customers, patients, or students have access. A person found guilty of failing to display the poster could be sentenced to a stay in jail of up to ten days and be required to pay state and local court costs and a local fine of up to \$1,000. According to a spokesperson for the Ohio Judicial Conference, in these types of cases, the most likely sanction imposed by the court would be a fine and a waiving of any jail time. The number of cases that would result from this provision would likely be few. Therefore, this provision will likely have a negligible to minimal fiscal effect on the criminal justice system. Any increase in costs to courts may be partially offset by any local court cost or fine revenue collected.

State court costs

State court costs are statutorily specified amounts collected by local courts and forwarded for deposit in the state treasury. For a misdemeanor, the court is generally required to impose state court costs totaling \$29. That \$29 amount is forwarded to the state treasury and credited as follows: \$20 to the Indigent Defense Support Fund (Fund 5DYO) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020). Since the number of cases is expected to be few, any additional revenue to these funds as a result of the bill would likely be minimal.

Reunification with family

The bill requires the Ohio Department of Job and Family Services (ODJFS) to develop procedures for reuniting a minor who is a victim of trafficking in persons with family members in their country of origin or destination whenever it is possible and safe to do so. As a result of this requirement, ODJFS would experience an increase in costs.

PCSAs currently have the responsibility for placing children in other states.⁶ If a PCSA were responsible for reuniting victims of human trafficking with their families, the PCSA could experience an increase in costs of greater than \$5,000 per year, or for total costs to exceed \$100,000 each year statewide (i.e., the LSC threshold for a "yes" local impact determination). However, any potential increase in costs to PCSAs is ultimately dependent upon the procedures developed by ODJFS.

Background

Am. Sub. H.B. 280 of the 127th General Assembly strongly encouraged the Attorney General to create a Trafficking in Persons Study Commission to study and review the problem of trafficking in persons and the relevant criminal law and to develop recommendations. Commission members were appointed by the Attorney General and were required to have relevant education or experience. Members include elected officials, law enforcement, prosecutors, survivors, advocates, and service providers. The Commission first met in July 2009 and formed six sub-committees to study human trafficking issues. In 2010, each sub-committee developed and published a comprehensive report. Since that time, the Legal and Legislative Sub-Committee has reported on developments in Minnesota, New York, and Texas regarding how minor victims of human trafficking are treated by the criminal justice system.⁷

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 2006.⁸

HB0262IN / lb

⁶ O.A.C 5101:2-52.

⁷ Ohio Trafficking in Persons Study Commission, *2010 Year End Report* (December 2010).

⁸ 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).