



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** Am. Sub. S.B. 70 of the 129th G.A. **Date:** December 12, 2012

**Status:** As Recommended by Conference Committee **Sponsor:** Sen. Schaffer

**Local Impact Statement Procedure Required:** No

**Contents:** Arson registry

### State Fiscal Highlights

#### STATE FUND

#### FY 2014 – FUTURE YEARS

##### General Revenue Fund (GRF)

Revenues - 0 -

Expenditures (1) Minimal one-time FY 2013 increase in costs for the Attorney General to set up arson registry and design notification forms, (2) Potential increase in annual incarceration costs associated with failure to register convictions

##### General Reimbursement Fund (Fund 1060)

Revenues Potential gain of up to \$142,500 in first-time registration fees in first full year of the registry's operation, with these revenues increasing each year as arson offenders reregister annually for life

Expenditures Negligible annual increase to maintain arson registry, likely to be offset by registration fees

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 to June 30, 2014.

- **Attorney General.** The Office of the Attorney General will experience some minimal initial one-time costs to design and build the arson registry and design the forms that will be used by local entities to inform arson offenders of their registration duties. Ongoing maintenance costs of the registry will be negligible. The Attorney General will also experience a gain in revenue associated with annual registration and re-registration fees, potentially reaching \$142,500 during the first year, \$213,750 the second year, and a similar increasing amount each year thereafter.
- **Incarceration expenditures.** There will likely be some number of violations of the registration requirements prescribed in the bill (an F5 offense). Of that number, some violators may be sentenced to prison. Relative to the total number of new incarcerations that occur annually however, any increase to the Department of Rehabilitation and Correction's overall prison population, and resultant expenses, is expected to be minimal.
- **Court cost revenues.** The state might gain a negligible amount of revenue annually in the form of locally collected court costs that are 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**

- County sheriffs may experience an increase in administrative expenditures as a result of registering arson offenders as well as collecting the registration fees and forwarding those fees to the Attorney General four times a year. These additional expenditures are expected to be minimal.
- The judge of the court that convicted the individual or the facility in which the offender is confined will be required to notify arson offenders of their duty to register annually with the county sheriff. These responsibilities will create negligible administrative costs for these local entities.
- As a result of violations of the failure to register criminal prohibition, there could be an increase in the number of cases filed annually for courts of common pleas to adjudicate, thus creating increased costs for county criminal justice systems, including county prosecutors, public defenders, and local detention facilities as well as the courts. Convictions may also generate additional revenue in the form of court costs and fees imposed on offenders by the sentencing court.

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## Detailed Fiscal Analysis

The bill requires the Office of the Attorney General's Bureau of Criminal Identification and Investigation to establish and maintain an arson registry. Any individual convicted of, or pleading guilty to, arson or aggravated arson after the bill's enactment is required to register annually for life in person with the sheriff or designee of the county in which the arson offender resides. Juvenile offenders are exempt from the registration requirements. The initial registration fee is \$50 and thereafter \$25 annually (unless the registrant is deemed indigent). The fee is to be collected by the sheriff and then forwarded to the Attorney General and is to be used for the maintenance of the registry.

### State fiscal effects

#### Attorney General

The Office of the Attorney General will experience some initial one-time costs to design and build the registry and design the forms that will be used by local entities to inform arson offenders of their registration duties. However, these costs are expected to be minimal. The registry will become part of the Ohio Law Enforcement Gateway (OHLEG) and annual maintenance costs will be negligible.

As stated earlier, the bill requires that convicted arson offenders register annually for life with the county sheriff and remit an initial fee of \$50 and a \$25 re-registration fee each year thereafter. The annual amount of revenue that could be generated from the fees will depend on the number of arson and aggravated arson convictions that occur annually. Since lifetime registration is required, these receipts will likely increase annually, as these individuals remit their re-registration fee (\$25) each year thereafter.

For calendar year 2010, FBI data show that there were 2,850 arson incidents reported in the state of Ohio (this number represents data for local jurisdictions covering approximately 90% of the state's population). This number does not represent convictions and a statewide conviction rate for arson is unknown. This number may also contain a certain number of juvenile offenders, who are exempted from the bill's registration requirements. With these caveats in mind, based on this FBI incident data, the maximum amount of revenue that could be generated during the first year of the registry's operation is up to \$142,500 (2,850 registrants x \$50 initial fee). During the second year, assuming the same number of incidents occur, the total could reach \$213,750 (\$142,500 from first-time registrants + \$71,250 from annual registrants (2,850 x \$25)). These annual revenues would likely increase at a similar rate each year. The revenue generated by these fees will be deposited in the state treasury to the credit of the General Reimbursement Fund (Fund 1060).

However, as noted, the above estimates are the maximum amounts that could be generated as they are based on the number of incidents that have been reported to the FBI, including those committed by juveniles. Since the number of successful apprehensions and prosecutions is likely to be lower than the number of incidents, the potential annual revenue that could be generated will be less than the amounts estimated above. Further affecting this estimate is the possibility that certain offenders could be deemed indigent, resulting in a waived fee.

### **Department of Rehabilitation and Correction**

The bill creates a felony of the fifth degree for failing to register. A conviction or guilty plea could result in a definite prison term of 6, 7, 8, 9, 10, 11, or 12 months and a fine of not more than \$2,500.

Since this is a new offense, predicting the number of violations for failing to register is problematic. There will likely be some number of violations annually and of that number, some of those violators may be sentenced to prison. Relative to the size of prison population (close to 50,000) and the number of offenders sentenced to prison (around 22,000 per year) however, the number sentenced to prison for a failure to register violation will be relatively small and the associated incarceration costs minimal. The average annual cost for the Department of Rehabilitation and Correction to incarcerate an offender in an Ohio prison is currently around \$24,870, with the marginal cost of adding an offender estimated at \$3,600.

### **Court cost revenues**

The state might gain a negligible amount of revenue annually in the form of locally collected court costs that are 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). In the case of a felony, the court is generally required to impose state court costs totaling \$60 for a felony, divided as follows: \$30 to Fund 5DYO and \$30 to Fund 4020.

### **Local fiscal effects**

#### **Registration by offenders**

As stated previously, any individual convicted of, or pleading guilty to, arson or aggravated arson after the bill's enactment is required to register annually for life in person with the sheriff or designee of the county in which the arson offender resides. The sheriff or designee is responsible for collecting the registration fees and forwarding those fees to the Attorney General four times a year. County sheriffs may experience an increase in administrative expenditures as a result of these new duties. These additional expenditures are expected to be minimal, however.

### **Notification requirements**

Various local entities will be required to notify arson offenders of their duty to register annually with the sheriff. These entities include the judge of the court that convicted the individual or the facility in which the offender is confined. These responsibilities will create negligible administrative costs for these local entities.

### **Failure to register violations**

As a result of violations of the failure to register prohibition, there could be an increase in the number of criminal cases filed annually with courts of common pleas, thus creating increased costs for these local criminal justice systems, including county prosecutors, public defenders, and local detention facilities as well as the courts. Related court costs and fees could be generated as well.

*SB0070CC / jc*