Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. H.B. 309 of the 130th G.A. **Date**: February 21, 2014

Status: As Passed by the House **Sponsor**: Reps. Pelanda and Antonio

Local Impact Statement Procedure Required: No

Contents: Charging and collection of fees in connection with protection orders, interpreters, and civil actions

State Fiscal Highlights

- **Federal grants**. If Ohio fails to comply with the federal protection order fee prohibition, and becomes ineligible to receive certain federal Violence Against Women (VAWA) grants, then the state stands to lose an amount estimated at up to approximately $5.8 million annually.
- **Civil case filing fees**. The bill's additional civil case filing fees could generate as much as $3.5 million annually for deposit in the state treasury, with $3.4 million of that amount going into the Legal Aid Fund (Fund 5740) and around $140,000 going into the Civil Case Filing Fee Fund (Fund 5CX0).

Local Fiscal Highlights

- **Federal grants**. If, as noted above, Ohio becomes ineligible to receive certain federal grants, then units of local government will lose access to project specific grants awarded through the state or directly from the federal government. Statewide, that annual loss is estimated at in excess of $2.0 million.
- **Civil case filing fees**. Clerks of the court of common pleas will be required to collect additional civil case filing fees for the state, and permitted to retain up to 1% of the amount collected for their administrative expenses. The amount that could be retained statewide is estimated at around $35,000.

Detailed Fiscal Analysis

Overview

The bill:

1. Provides that no fee, cost, deposit, or money may be charged to a person who seeks a protection order or for the modification, enforcement, dismissal, or withdrawal of a domestic violence, anti-stalking, sexually oriented offense, or other type of protection order or consent agreement, or for the service of a witness subpoena;
2. Eliminates exemptions from additional filing fees for domestic relations and certain juvenile matters;
3. Prohibits taxation of interpreter's fees upon the indigent and eliminates the requirement that the court evaluate the qualifications of an interpreter before appointing them.

Protection order fees

Petitioners

The bill extends the prohibition against charging a petitioner in connection with a protection order or consent agreement to include modification, enforcement, dismissal, or withdrawal, or witness subpoena. This change appears largely intended to comply with certain provisions of the federal Violence Against Women Reauthorization Act (VAWA) of 2013.

Federal grants

If Ohio fails to comply with the VAWA provisions as described in the preceding paragraph, it appears that the state and its local governments could be ineligible to receive financial assistance from the following four federal grant programs in the future: (1) STOP (Services, Training, Officers, and Prosecutors), (2) Rape Prevention and Education, (3) Sexual Assault Services, and (4) Grants to Encourage Arrest Policies and Enforcement of Protection Orders. The grant amounts awarded annually to the state and its local governments from these four federal grant programs from 2009 through 2013 are displayed in Table 1 below. The table also identifies the recipient(s) of each grant and whether the type of assistance awarded was a formula/nondiscretionary grant or a project/discretionary grant.[1] The table's information for each of these four grant programs can be summarized as follows:

[1] Discretionary grants are generally awarded to eligible recipients at the discretion of the awarding agency and formula grants are awarded on the basis of a statutorily created formula.

1. **STOP**. This formula/nondiscretionary grant is awarded directly to the Department of Public Safety's Office of Criminal Justice Services, with the annual amount ranging between $3.9 million and $4.4 million. Most, if not all, of those annual amounts are distributed as competitive project specific subgrant awards, with over 50% going to units of local government.
2. **Rape Prevention and Education**. This formula/nondiscretionary grant is awarded directly to the Department of Health, with the annual amount ranging between $1.2 million and $1.5 million.
3. **Sexual Assault Services**. This formula/nondiscretionary grant is awarded directly to the Department of Health, with the annual amount ranging between roughly $236,000 and $366,000.
4. **Arrest and Enforcement of Protection Orders**. This discretionary program is used by the federal government to competitively award project-specific grants for which both state of Ohio agencies and local governments are eligible. The amounts awarded, the purposes, and the recipients are highly variable from year to year.

Table 1. Potentially Ineligible Federal Grant Programs for Ohio's State and Local Governments, Recipients, and Amounts Awarded from 2009-2013

Grant Program Title	Recipient	2009	2010	2011	2012	2013
Type of Assistance: Formula/Nondiscretionary						
STOP (Services, Training, Officers, and Prosecutors)	Ohio Office of Criminal Justice Services	$8,583,799*	$4,400,403	$4,406,549	$4,269,625	$4,269,625
Rape Prevention and Education	Ohio Department of Health	$1,544,552	$1,525,802	$1,383,356	$1,363,276	$1,201,654
Sexual Assault Services	Ohio Department of Health	$337,454	$237,227	$236,404	$358,219	$366,396
Formula Grants Subtotal		**$10,465,805**	**$6,163,432**	**$6,026,309**	**$5,991,120**	**$5,837,675**
Type of Assistance: Project/Discretionary						
Grants to Encourage Arrest Policies and Enforcement of Protection Orders	State agencies	$0	$174,335	$0	$0	$0
	Cities and Counties	$0	$0	$3,306,871	$0	$874,985
Project Grants Subtotal		**$0**	**$174,335**	**$3,306,871**	**$0**	**$874,985**
TOTAL		**$10,465,805**	**$6,337,767**	**$9,333,180**	**$5,991,120**	**$6,446,470**

*The 2009 STOP grant award included $4.6 million in supplemental funding available from the American Recovery and Reinvestment Act of 2009 (ARRA).

Fees collected from petitioners

In terms of the effect of the bill's expanded fee prohibition on current revenue collections, it appears that clerks of common pleas, municipal, and county courts generally do not charge petitioners under current practice. Thus, it seems unlikely that any loss of revenue in the form of fees or other charges that might have been assessed a petitioner under current practice will be significant.

Respondents

The bill expands the circumstances under which a court is permitted to assess a respondent costs. The majority of the clerks of courts with whom this matter was discussed indicated the court currently did not assess a respondent costs. Whether the bill will result in more widespread use of this permissive authority is uncertain, as is the amount of revenue that might be generated annually. In courts that do assess respondent costs, those costs appear to range from roughly $100 to $200 per motion.

Additional filing fees

The bill: (1) removes exemptions from an existing additional $26 filing fee for proceedings concerning annulments, divorces, legal separation, spousal support, marital property or separate property distributions, support, or other domestic relations matters, and (2) requires an additional $15 filing fee for proceedings in the juvenile division of the court of common pleas involving custody, visitation, and parentage actions.

Annual reports by the Supreme Court of Ohio indicate that the filing trends for these types of proceedings have held stable in recent years. For calendar year 2012, the most recent year for which data has been compiled, LSC fiscal staff estimates that as many as 102,464 filings were exempted from the $26 filing fee and 58,466 filings would have been subject to the bill's $15 filing fee. If the bill's additional filing fees had been in effect at that time, and collected in all of the applicable proceedings, then a total of $3.5 million would have been collected statewide.

Under current law, that estimated total of $3.5 million would have been distributed as follows:

1. Up to 1% may be retained to cover administrative expenses of the clerk of the court of common pleas incurred in the collection and distribution of the filing fee;
2. The remainder is transmitted to the state with 96% being deposited in the Legal Aid Fund (Fund 5740) and 4% being deposited in the Civil Case Filing Fee Fund (Fund 5CX0).[2]

[2] Fund 5740 is used to support operations of the Ohio Legal Assistance Foundation (OLAF), which is a nonprofit entity charged with administering funds for Ohio's legal aid societies. Fund 5CX0 is used for operating expenses of the Office of the State Public Defender.

The amounts that could have been collected by the domestic relations and juvenile divisions of the courts of common pleas and the manner in which those amounts would have been distributed are summarized in Table 2 below. As that table shows, the state would have received virtually all of the above-estimated $3.5 million, with counties statewide retaining around $35,000 for expenses of the clerks of the courts of common pleas.

Table 2. Additional Annual Filing Fees Revenue

Recipient	Domestic Relations Division	Juvenile Division	Total
State Fund 5740	$2,531,926	$833,491	**$3,365,418**
State Fund 5CX0	$105,497	$34,729	**$140,226**
Counties	$26,641	$8,770	**$35,411**
TOTAL	**$2,664,064**	**$876,990**	**$3,541,054**

Totals may not add due to rounding.

Interpreter's fees and qualifications

The bill's prohibition from taxing interpreter's fees as costs under certain circumstances involving an indigent person codifies what is current practice in many courts. The annual cost of this restriction in counties or municipalities where such fees are taxed to indigent persons is not expected to be significant.

The bill also removes a requirement that courts evaluate the qualifications of an interpreter before their appointment to assist a party or witness, but retains the requirement that the court appoint a qualified interpreter. The removal of this evaluation requirement may save the court time and effort.

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