



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Sub. H.B. 309 of the 130th G.A.](#)

Date: June 4, 2014

Status: As Reported by Senate Civil Justice

Sponsor: Reps. Pelanda and Antonio

Local Impact Statement Procedure Required: No

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

State and Local 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. Additionally, 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.

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, and (2) 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. **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.

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.

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
<u>Type of Assistance: Formula/Nondiscretionary</u>						
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
<u>Type of Assistance: Project/Discretionary</u>						
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.

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.