

# Fiscal Note & Local Impact Statement

## 124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
77 South High Street, 9<sup>th</sup> Floor, Columbus, OH 43266-0342 ✧ Phone: (614) 466-3615  
✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. S.B. 3**

DATE: **June 28, 2001**

STATUS: **As Enacted - Effective October 26, 2001  
(Sections 1 and 2 effective January 1, 2002)**

SPONSOR: **Sen. Hottinger**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Applies the Sex Offender Registration and Notification Law to persons adjudicated delinquent children for committing a sexually oriented offense while 14 years of age or older and clarifies that sex offender registration information held by the county sheriff is a public record**

### State Fiscal Highlights

STATE FUND	FY 2002	FY 2003	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	Negligible gain	Negligible gain	Negligible gain
Expenditures	Up to \$370,000 increase	Up to \$300,000 increase	Up to \$300,000 increase
<b>Victims of Crime/Reparations Fund (Fund 402)</b>			
Revenues	Negligible gain	Negligible gain	Negligible gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2002 is July 1, 2001 – June 30, 2002.

- By applying the state's sex offender registration and notification law to certain juveniles, the size of the sex offender registry currently maintained by the Office of the Attorney General would increase appreciably and add up to \$200,000 to that system's annual operating costs. If start-up expenses parallel those incurred for the existing registration system for adult sex offenders, then the Office of the Attorney General will need to cover up to \$70,000 in one-time expenses to get the juvenile component of the sex registry up-and-running.
- The Department of Youth Services will take on a role in collecting and disseminating information on juvenile sex offenders it releases from custody. The annual cost of those tasks is likely to be minimal, which means less than \$100,000 annually.
- There will be at most a negligible annual gain in locally collected state court costs that are generated for the GRF and the Victims of Crime/Reparations Fund (Fund 402) because some juveniles or their parents or legal guardian will be found by a juvenile or adult criminal court to have failed to comply with the juvenile's registration requirements.



## *Local Fiscal Highlights*

LOCAL GOVERNMENT	FY 2001*	FY 2002	FUTURE YEARS
<b>Counties</b>			
Revenues	- 0 -	Gain, minimal at most	Gain, minimal at most
Expenditures	- 0 -	Increase, most likely significant in the more populous counties	Increase, most likely significant in the more populous counties
<b>Municipalities</b>			
Revenues	- 0 -	Gain, minimal at most	Gain, minimal at most
Expenditures	- 0 -	Increase, minimal at most	Increase, minimal at most

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

\*This analysis assumes that local governments will not begin to experience any noticeable fiscal effects resulting from the bill until the start of FY 2002.

- County sheriff departments will incur additional personnel expenditures for administration of the sex offender registration and notification system at the local level. These increases will depend upon county size and the number of juvenile sex offenders residing in each county. LSC fiscal staff believe that some jurisdictions will, as a result, require additional staff or the elevation of part-time staff to full-time status at an annual cost of \$10,000-to-\$20,000 or more.
- The additional fiscal burdens that many of the bill's provisions will place on county juvenile justice systems, in particular juvenile courts, will be greater in more populous jurisdictions where there are likely to be a larger number of juvenile sex offenders. While it is difficult to estimate what the magnitude of those additional fiscal burdens stemming from these provisions will be for juvenile courts around the state, LSC fiscal staff believe that the annual costs of those new fiscal burdens could be significant in many urban areas.
- It is likely that additional cases will be adjudicated in juvenile court and additional cases prosecuted in criminal court because juveniles or their parents or legal guardian fail to comply with the juvenile's registration requirements. These new cases will increase annual county and municipal expenditures related to investigating, prosecuting, adjudicating, defending (if indigent), and sanctioning these juveniles and their parents or legal guardian. LSC fiscal staff believe, however, that on an annual basis the number of new adjudications or criminal prosecutions in a given jurisdiction will be relatively small. Thus, any such increases in county and municipal expenditures related to these new adjudications and criminal prosecutions would likely be no more than minimal.
- Court cost and fine revenue generated for counties and municipalities will be affected by the bill as a result of the provisions that criminalize the failure of juvenile sex offenders and their parents or legal guardian to comply with the juvenile's registration requirements. At this time, LSC fiscal staff believe that a relatively small number of cases will actually be adjudicated in juvenile court or prosecuted in adult criminal court, and thus, at most, a minimal amount of additional court cost and fine revenue will be collected by counties and municipalities annually.

---

## *Detailed Fiscal Analysis*

### **Sex Offender Registration & Notification**

In Ohio, three classes of offenders currently are required to register upon release: sexual predators, habitual sex offenders, and sexually oriented offenders. All are required to provide fingerprints, photographs, criminal histories, and vehicle registration information.

*Registration & Verification.* Sex offenders must register with the county sheriff within seven days of entering/establishing residence in any county, and within seven days of an address change. These requirements also apply to out-of-state sex offenders establishing residence in Ohio. The penalties for failure to register in Ohio are dependent upon the sexually oriented offense the offender committed. Offenders who are required to register as the result of committing a misdemeanor sex offense would be charged with a first-degree misdemeanor for failure to register. A first-degree misdemeanor may be sentenced up to six months in jail and fined up to \$1,000. Offenders who are required to register as the result of committing a felony sex offense would be charged with a fifth-degree felony for failure to register. A fifth-degree felon may be sentenced to a prison term of between six and twelve months and may be fined up to \$2,500.

*Notification.* Current law relative to adult sex offenders requires county sheriffs to provide written notices containing specified information, and within a specified period of time, to victims, neighbors, and certain members of the public. The people and entities that have to be notified depend upon whether the individual in question is a sexually oriented offender, a habitual sex offender, or a sexual predator. Sexual predators and a select number of habitual sex offenders are subject to community notification. Most habitual sex offenders and no sexually oriented offenders are subject to notification. The bill does not use the term “sexually oriented offender” in relationship to juvenile offenders, instead the term “juvenile sex offender registrant” is used to designate the lowest level of juvenile sex offenders required by the court to register as a sex offender.

### **Sex Offender Registration & Notification System Duties**

According to information provided by the Office of the Attorney General, there are roughly 3,200 adult sex offenders registered in Ohio. The operation of the Ohio sex offender registry is dependent upon interagency cooperation among many state and local governmental agencies, including the Department of Rehabilitation and Correction (DRC), the Bureau of Criminal Identification and Investigation (BCII), and county sheriff departments. All of these agencies carry a fiscal burden for their legally mandated involvement in the registry program.

*DRC.* At the time of a sex offender’s release from prison, DRC reviews the registry requirements, obtains background information on the offender, including the offender’s intended place of residence, and forwards this information to the county sheriff’s department in the intended area of residence and to BCII. The bill would require the Department of Youth Services (DYS) to function similarly to DRC. Because, however, DHS is smaller than DRC, the annual fiscal burden falling on DHS should be less.

*County Sheriffs.* County sheriffs currently bear the major fiscal burden of the sex offender registration and notification system. Offenders are required to register with the county sheriff, who is in turn responsible, in the case of some offenders, for notifying certain individuals and entities. County sheriffs are also required to forward address verifications and related offender information to BCII.

*Bureau of Criminal Identification and Investigation.* Pursuant to current law, the Office of the Attorney General has established and maintains the State Registry of Sex Offenders, which is housed at BCII. This registry contains all of the sex offender information forwarded from local officials and DRC. BCII also forwards this information to the FBI for inclusion in its National Sex Offender Database.

### **Operation of the Bill and Fiscal Effects**

*Number of Juvenile Sex Offender Registrants.* The bill establishes the term “juvenile sex offender registrant” to distinguish juvenile from adult sex offenders. From information provided by DYS, LSC fiscal staff have ascertained that roughly one-third of the department’s approximately 2,000 juveniles in custody, or around 660, have been adjudicated delinquent due to a sex offense. The department has further estimated that, in any given year, the number of juveniles that would be registering as a result the bill could easily approach 700 or more, many of whom are sanctioned locally and not sentenced into the custody of DYS. Some number of those 700 or more youth will not be required to register, because, unlike adult sex offenders who register for all felonies and certain misdemeanors, the bill requires that the underlying offense committed by a juvenile must be a felony of the fourth degree or higher.

Two things need be noted about the age of the juveniles to whom the bill would apply. First, the bill requires that juveniles must be at least 14 years old for the requirements of registration and notification to be applied to them. Second, juveniles who are 16 or 17 years of age who commit serious sex offenses may already be subject to the existing registration and notification law because they are being bound-over and prosecuted in adult court. As a result of the bill, as well as the state’s existing bind-over law, the juveniles most likely to be subject to the bill will be 14 or 15 years of age. By setting the minimum age for registration at 14, a few juvenile offenders younger than 14 will likely be exempted from registration and possible notification requirements. This is not likely to significantly reduce the overall number of juvenile sex offender registrants because of the relatively small number of juveniles younger than 14 who commit applicable offenses.

An additional group of juveniles to whom the bill would apply are those adjudicated delinquent for a sex crime in another state and then move into Ohio. Within seven days of becoming a resident of Ohio, any juvenile who was required to obey a registration law by the state in which they were adjudicated delinquent must register with the county sheriff in their county of residence. In addition, even if not required to register by the state in which they were adjudicated delinquent for a sex crime, a juvenile must register with the county sheriff in their county of residence if they would be a mandatory “juvenile sexual offender registrant” under Ohio law. At this time, LSC fiscal does not believe that a large number of juveniles will be coming into Ohio from other states that would be subject to registration. Thus the cost to county sheriffs due to this provision of the bill should be minimal at most.

Under the bill, juvenile courts are charged with informing juvenile sex offender registrants of their registration requirements, county sheriffs are given information collection and dissemination duties, and the State Registry of Sex Offenders maintained by BCII will grow with the addition of juvenile sex offender registrants. In addition, DYS will be required to forward to BCII information on juvenile sex offenders it releases, and, although the bill appears to be silent on the matter, will likely feel compelled to disseminate information to the affected juveniles and their parents or legal guardian, juvenile courts, and county sheriffs.

*DYS.* As was just mentioned, DYS will assume additional information dissemination duties that will be triggered each and every time it releases a juvenile sex offender. Our best estimate at this time is that the number of juveniles being released by DYS annually that would be affected by the bill could be in the range of 100-to-200. A conversation with the department on this matter led us to believe that the additional administrative burden associated with releasing these juveniles will create at most a minimal increase in its annual operating expenditures.

The bill also specifies that sex offenders committed to DYS be given treatment to decrease the likelihood that these juveniles would commit future sex offenses. This should not create additional costs for DYS, as the department already provides rehabilitative treatments to all sex offenders sent to its institutions.

*BCII.* Based upon information provided by the Office of the Attorney General, LSC fiscal staff have estimated that BCII's current annual operating costs in relation to maintaining the State Registry of Sex Offenders can be detailed as follows:

- Salaries and fringe benefits total approximately \$143,000 annually for two full-time administrative and support positions, two part-time trainers, and one part-time Automated Fingerprint Identification System (AFIS) operator;
- An additional 18% of the salary cost for equipment and space (\$25,740); and
- Forms to be distributed to law enforcement total approximately \$5,000 annually.

From these numbers, LSC fiscal staff have been able to ascertain that BCII's annual operating cost for the State Registry of Sex Offenders currently totals close to \$200,000. In addition, LSC fiscal staff have learned that the one-time initial set-up costs for this state registry totaled around \$70,000.

The addition of 700 or more juvenile offenders annually to the existing State Registry of Sex Offenders will increase BCII's operational costs. Drawing again from a conversation with the Office of the Attorney General, LSC fiscal staff believe that the additional annual operating cost for BCII as a result of the bill will total less than \$200,000, which includes up to two additional staff and related maintenance and equipment expenses. It is also likely that BCII will incur a one-time start-up cost similar to that for the existing State Registry of Sex Offenders containing adult sex offenders. What is unknown is whether the Office of the Attorney General will wish to integrate the State Registry of Sex Offenders into AFIS. If they plan to do so, it could markedly alter the projected cost of system integration.

*County Sheriffs.* County sheriffs already have an assortment of information collection and dissemination duties under the state's existing adult sex offender registration and notification law. Under the bill, these duties will be expanded to be generally applicable to juvenile sex offenders. Internet dissemination of information on juvenile sex offender registrants would be restricted to only the most serious of felony sex-related offenses; however, the number of those juveniles that would be eligible for internet posting should be very small, as many are probably already being prosecuted and registered as adult sex offenders. County sheriffs are also, under the bill, required to give notice to the principal where the juvenile sex offender attends school.

LSC fiscal staff are unable to precisely estimate the fiscal consequences of this additional duty that would be placed on county sheriff departments. LSC fiscal staff do believe, however, that in certain areas of the state the cumulative effects of having to keep track of an increasing number of juvenile sex offenders will increase a county sheriff's operating requirements to the point that an additional part- or full-time person has to be assigned or hired to handle these sex offender registration and notification tasks. The annual cost of adding another part- or full-time person could easily hit \$10,000-to-\$20,000 or more.

*Courts.* The bill also contains the following four provisions that will increase the burdens on county juvenile justice systems, in particular juvenile courts. First, juvenile courts are required to: (1) determine if a juvenile is an offender subject to registration, which would most likely include a psychological examination, and (2) notify juveniles of their registration requirements. These hearings would be held before disposition if the juvenile, regardless of age, has a prior record for a sexual offense. However, for juveniles with no previous adjudication for a sexual offense, the registration determination is made after the juvenile completes the sanction handed down by the court (if that sanction involves sentencing to a secure facility, otherwise the hearing would be held at the time of disposition).

For juveniles who are 16 or 17 years of age, this hearing is mandatory. If the juvenile in question is 14 or 15 years of age, the hearing is up to the discretion of the judge, and the judge may decide based a number of factors whether the juvenile should be subject to juvenile sex offender registrant requirements. This means that a single hearing will be needed to determine registration status. It is unclear what kind of fiscal impact this requirement will have on juvenile courts. Because of the likely number of cases involved and the difficult nature of the decisions being made, registration determinations in many jurisdictions will likely create annual costs for juvenile courts that exceed minimal.

Second, the bill requires juvenile courts to be responsible for notifying the following parties about the registration requirements of a particular juvenile: the juvenile, the juvenile's parents or legal guardian, BCII, and the county sheriff of the juvenile's county of residence. The bill is silent on how that notification is to be made. LSC fiscal staff believe that the method used will most likely involve some kind of form letter that will be delivered or mailed to the appropriate parties (except the juvenile and their parents or legal guardian who will receive copies in court).

Third, juvenile courts are also given authority over reclassification and declassification of juvenile sex offender registrants. A juvenile sex offender registrant has the option of appealing their status to the juvenile court that had original jurisdiction over their case. The first of these appeals can be made three years after the post-sanction hearing. The second appeal can be made three years after the first appeal,

and then every five years after that appeal as long as the registration requirements apply. This means that, even after a person passes their age of majority, they would return to juvenile court to have their registration requirements modified or removed. A juvenile required to register as a sexual predator (which compels lifetime compliance with registration requirements) could file for a modification to be made every five years until they die. However, in a single hearing, the lowest level of classification that a sexual predator would ever declassify to is juvenile sex offender registrant status. The declassification out of sex offender registrant status would have to be done in a separate hearing.

Habitual sex offenders would be permitted in a single hearing to have the burden of registering as a sex offender removed entirely, thus skipping the level of juvenile sex offender registrant. When looking at adult data, it is obvious that there are relatively few sexual predators; therefore, the more costly mandatory multiple hearing declassification process will be fewer in number. Because it is at the judge's discretion whether to grant a total declassification at the first hearing, it is extremely unclear what the ultimate cost of this provision would be. One thing is certain, however, sexual predators will always have at least one more hearing in their declassification process than will habitual sex offenders.

Fourth, the bill extends adult rights to juveniles subject to the juvenile sexual offender registration and notification provisions contained in the bill. Those rights include the opportunity to testify, present evidence, call and examine witnesses and expert witnesses, cross-examination of witnesses and expert witnesses, and the right to counsel and appointed counsel if indigent.

The additional annual fiscal burdens that these four provisions of the bill will place on county juvenile justice systems will be greater in more populous jurisdictions where there are likely to be a larger number of juvenile sex offenders. While it is difficult to estimate what the magnitude of those additional fiscal burdens stemming from these provisions will be for juvenile courts around the state, LSC fiscal staff believe that those annual costs could be significant in many urban areas.

It should also be noted that the bill includes language clarifying that a magistrate in the juvenile justice system can perform the same duties as a juvenile judge with regard to these registration and classification determinations. This clarification may in effect decrease some of the adjudicatory costs for the juvenile justice system, as a magistrate's time is going to be less expensive than that of a juvenile judge.

*Failure to Comply.* It is likely that additional cases will be adjudicated in juvenile court and additional cases prosecuted in criminal court because juveniles or their parents or legal guardian fail to comply with the juvenile's registration requirements. These new cases will increase annual county and municipal expenditures related to investigating, prosecuting, adjudicating, defending (if indigent), and sanctioning these juveniles and their parents or legal guardian. LSC fiscal staff believe, however, that on an annual basis the number of new adjudications or criminal prosecutions in a given jurisdiction will be relatively small. Thus, any such increases in county and municipal expenditures related to these new adjudications and criminal prosecutions would likely be no more than minimal.

*State & Local Revenue.* Court cost and fine revenue generated for counties, municipalities, and the state will be affected by the bill as a result of the provisions that criminalize the failure of juvenile sex offenders and their parents or legal guardian to comply with the juvenile's registration requirements. At this time, LSC fiscal staff believe that a relatively small number of these cases will actually be adjudicated in juvenile court or prosecuted in adult criminal court, and thus, at most, a minimal amount of additional court cost and fine revenue will be collected by counties and municipalities annually. The amount of additional locally collected state court cost revenue that would be collected and deposited to the credit of the state GRF and the Victims of Crime/Reparations Fund (Fund 402) will be negligible.

*LSC fiscal staff: Laura A. Potts, Budget Analyst*

*FN124\SB0003EN.doc*

