

STATE FUND	FY 2004	FY 2005	FUTURE YEARS
Victims of Crime/Reparations (Fund 402)			
Revenues	Potential gain, minimal at most	Potential gain, minimal at most	Potential annual gain, minimal at most
Expenditures	Potential increase, up to \$1.5 million or more	Potential increase, up to \$1.5 million or more	Potential annual increase, up to \$1.5 million or more

Note: The state fiscal year is July 1 through June 30. For example, FY 2004 is July 1, 2003 – June 30, 2004.

- **Office of the Attorney General.** Based on a conversation with the Office of the Attorney General in relation to the database duties assigned to its Bureau of Criminal Identification and Investigation (BCII) under the bill, it appears that the associated annual operating expenses (staff, maintenance, and equipment) will exceed minimal, which means more than \$100,000 annually. How the Office of the Attorney General might cover those ongoing annual costs is, as of this writing, uncertain. Presumably, the Office of the Attorney General could draw on moneys from any number of its funding streams, including the General Revenue Fund (GRF), the General Services Fund Group, the Federal Special Revenue Fund Group, and the State Special Revenue Fund Group.
- **Incarceration and custody costs.** As a result of the bill's penalty revisions, it is possible that additional offenders may be sentenced to prison or that some offenders will be sentenced to prison for a longer stay than would have occurred under current law. It is also possible that additional juveniles may be committed to the care and custody of the Department of Youth Services or that some juveniles will be committed to the care and custody of the Department of Youth Services for a longer period of time than would have occurred under current law. As of this writing, however, LSC fiscal staff is unable to estimate the potential number of affected adults and juveniles or the possible related increase in DRC's annual GRF-funded incarceration costs or DYS's annual GRF-funded care and custody costs. Based largely on media reports, the failure to comply rate for Ohio's sex offenders in any given county appears to be anywhere from 10% to 30%.
- **Federal funds.** As Ohio has failed to comply with certain federal Sex Offender Registration and Notification (SORN) Law requirements, the federal government has started to withhold 10% of certain federal grant moneys, which, at this point in time, amounts to around \$1.89 million annually. Most of the moneys associated with these federal funds are distributed to local governments. According to the Office of Criminal Justice Services, the withholding of these federal moneys has caused the loss or reduction of funding for some programs on both the state and local level, especially if those affected state and local agencies could not find alternate sources of funding. It also appears that, should Ohio's SORN Law be brought into compliance with these federal requirements, then the state may regain the federal grant moneys that have been withheld to date.
- **Court cost revenues.** The state may gain some locally collected state court cost revenue for the GRF and the Victims of Crime/Reparations Fund (Fund 402) as additional sex offenders may be convicted of felony failure to comply with SORN Law requirements. As of this writing, even though the number of potentially affected adults and juveniles is uncertain, each of those state funds appears unlikely to gain more than a minimal amount of court cost revenues annually.

- **Victims of Crime/Reparations Fund (Fund 402) expenditures.** The bill allows the Office of the Attorney General to use the moneys deposited to the credit of Fund 402 to pay actual costs associated with programs for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims, and caps the amount that may be used for those purposes at 5% of the balance of the fund at the close of the immediately previous fiscal year. In recent years, the fund’s ending, unencumbered cash balance has been around \$30 million. Assuming that were true in the future, then the maximum amount that could be available for these purposes would be around \$1.5 million annually.
- **County sheriff fees.** Permitting a sheriff to charge registered sex offenders certain fees should have no direct fiscal effect on state revenues and expenditures.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2003	FY 2004	FUTURE YEARS
Counties			
Revenues	(1) Potential gain in court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potential one-time gain associated with possible restoration of \$1.89 million in withheld federal grant moneys that would be distributed by the state between various political subdivisions; (4) Potential gain in county sheriff fees, could easily reach \$10,000 to \$20,000 in certain counties	(1) Potential gain in court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potential gain in county sheriff fees, could easily reach \$10,000 to \$20,000 in certain counties	(1) Potential gain in annual court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents annual loss of up to roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potential gain in county sheriff fees, could easily reach \$10,000 to \$20,000 annually in certain counties
Expenditures	(1) Increase in criminal justice system costs associated with SORN Law changes, likely to exceed minimal in some counties; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potentially results in one-time possible gain of \$1.89 million in restored federal grant moneys that would be distributed by the state between various	(1) Increase in criminal justice system costs associated with SORN Law changes, likely to exceed minimal in some counties; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions	(1) Increase in annual criminal justice system costs associated with SORN Law changes, likely to exceed minimal in some counties; (2) Potentially prevents annual decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions

LOCAL GOVERNMENT		FY 2003	FY 2004	FUTURE YEARS
		political subdivisions		
Municipalities				
Revenues	(1) Potential gain in court cost, fling fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys distributed annually by the state between various political subdivisions; (3) Potential one-time gain associated with possible restoration of \$1.89 million in withheld federal grant moneys that would be distributed by the state between various political subdivisions	(1) Potential gain in court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents loss of up to roughly \$1.89 million in federal grant moneys distributed annually by the state between various political subdivisions	(1) Potential gain in annual court cost, filing fee, and fine revenues, not likely to exceed minimal; (2) Potentially prevents annual loss of up to roughly \$1.89 million in federal grant moneys distributed annually by the state between various political subdivisions	
Expenditures	(1) Increase in criminal justice system costs associated with SORN Law changes, possibly exceeding minimal in some municipalities; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions; (3) Potentially results in one-time possible gain of \$1.89 million in restored federal grant moneys that would be distributed by the state between various political subdivisions	(1) Increase in criminal justice system costs associated with SORN Law changes, possibly exceeding minimal in some municipalities; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions	(1) Increase in criminal justice system costs associated with SORN Law changes, possibly exceeding minimal in some municipalities; (2) Potentially prevents decrease of roughly \$1.89 million in federal grant moneys distributed by the state between various political subdivisions	

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

- **Federal funds.** As Ohio has failed to comply with federal SORN Law requirements, 10% of certain federal grant moneys are being withheld by the federal government, which means the state is losing around \$1.89 million annually. Most of the moneys associated with these federal funds are distributed to local governments. According to the Office of Criminal Justice Services, the withholding of these federal moneys has caused the loss or reduction of funding for some programs on the local level, especially if those affected local agencies could not find alternate sources of funding. The bill: (1) potentially results in the restoration of up to \$1.89 million in federal funds that have already been withheld, and (2) potentially prevents the future of loss of up to \$1.89 million in federal funds annually. Presumably, most of these federal moneys would be distributed by the state to various counties and municipalities to establish local criminal justice projects and programs.
- **County sheriffs.** The bill makes numerous changes to the duties and responsibilities of county sheriffs under the SORN Law, with the most fiscally notable components relating to: (1) aggravated sexually

oriented offenders, (2) victim and community notification duties, (3) address verification options, (4) transportation of offenders to court, (5) information collected from registrants, specifically their school or employment information, (6) additional out-of-county offenders, and (7) requirements of habitual sex offenders. The magnitude of the resulting fiscal effect on certain county sheriffs appears likely to exceed minimal annually, which means more than \$5,000.

- **County criminal justice expenditures.** The bill makes numerous changes to the SORN Law that will affect to varying degrees the operations of common pleas and county courts (and related prosecution, indigent defense, and sanctioning costs), with the most fiscally notable components related to: (1) requiring courts of common pleas to hold a hearing for certain sex offenders incarcerated in a state prison, (2) modifying the definition of sexually oriented offense, (3) creating a category of “presumptive registration-exempt sexually oriented offenses,” (4) revising the penalties associated with the failure to comply with the SORN Law, (5) eliminating the authority of the court to remove or terminate the compliance requirements imposed on certain sex offenders, (6) permitting landlords to evict an offender who is subject to the Law from residential premises within 1,000 feet of any school premises, and (7) removing certain language from the offense of “importuning.” The magnitude of the resulting fiscal effect on certain components of the criminal justice systems in certain counties (adjudication, prosecution, indigent defense, and sanctioning costs) appears likely to exceed minimal annually, which means more than \$5,000.
- **Municipal criminal justice expenditures.** Several provisions of the bill, e.g., criminalizing the failure of an adult sex offender or juvenile sex registrant to send an intent to reside to a county sheriff, will likely increase the number of sex offenders who fail to comply with the requirements of the SORN Law and could then face prosecution and subsequent sanctioning for a misdemeanor failure to comply. If there was an increase in the number of noncompliant persons and additional adults are charged with a misdemeanor failure to comply, then municipal criminal justice expenditures (adjudication, prosecution, indigent defense, and sanctioning costs) would likely increase. The magnitude of that potential increase for any given municipal criminal justice system is difficult to estimate, but two likely important determinants of those annual costs would be: (1) how the municipal criminal justice responds to various failures to comply, and (2) the number of, and frequency with which, sex offenders fail to comply. It is possible that the fiscal effect on some municipal criminal justice systems could exceed minimal annually, which means more than \$5,000.
- **Forcible entry and detainer actions/injunctive relief.** Legislative Service Commission fiscal staff has not gathered any information in the process of researching the bill’s fiscal effects suggesting that its forcible entry and detainer action and injunctive relief provisions would produce a significant burden for local courts and law enforcement. Thus, it would appear that the number of new evictions and injunctive relief actions that may require the involvement of local courts and law enforcement is likely to be relatively small in most, if not all, counties and municipalities with jurisdiction over such matters. Assuming that were true, then the annual cost for counties and municipalities to resolve these eviction and injunctive relief matters would be at most minimal, and it is also likely that counties and municipalities can recover some of those costs through the assessment and collection of service charges, filing fees, and judgments for costs.
- **Civil liability protection.** Presumably, the bill’s liability protection provision relative to the actions of a landlord will prevent the potential filing of such civil actions and thus save adjudication-related expenditures that local courts might otherwise have incurred. It also means that any related filing fee and court cost revenues that might have to an extent offset those adjudication expenditures would not be collected either. Those potential savings and revenue effects appear unlikely to exceed minimal in any given local jurisdiction annually.

- **Court cost and fine revenues.** The amount of local revenues that any given county or municipality could gain annually from the charging and successful prosecution of adult offenders and juvenile sex registrants who fail to comply with the provisions of the bill appears unlikely to exceed minimal on an ongoing basis, as it is very likely that many such persons will be indigent.
- **County sheriff fees.** Based on the number and types of sex offenders registered statewide as of February 2003, and the maximum amounts that a county sheriff would be permitted to collect from registered sex offenders, up to at least \$313,125 or more could be collected annually by county sheriffs statewide and deposited in each county's respective general fund. It is likely that urban counties have higher concentrations of registered sex offenders, which would mean that the county sheriff in one of those jurisdictions could annually collect relatively larger amounts from these sex offender fees than would the county sheriff located in one of the state's more rural counties. The collection of these fees will most likely defray some, but not all, of the annual operating expenses that a county sheriff incurs in handling the sheriff's sex offender registration and notification duties. Presumably, a county sheriff generally would not pursue the collection of these fees if the administrative costs associated with their collection exceeded the revenue that could be gained.
- **Civil actions.** Unpaid fees could be recovered in a civil action. Presumably, this would involve a county prosecutor filing a claim, including the payment of filing fees and court costs, with the small claims division of the municipal or county court having territorial jurisdiction over the matter. A county prosecutor could then recover not only the unpaid fees that were the subject of the claim, but also the filing fee and related court costs as well. At this writing, it does not appear that a large number of claims will be filed in the small claims divisions of municipal and county courts around the state in pursuit of unpaid fees. Thus, the resulting burden on the small claims divisions of municipal and county courts to resolve these matters would not be very costly. The small claims divisions of municipal and county courts would also be collecting additional revenues in the form of filing fees and court costs. The associated costs to municipal and county courts and related revenue gains would certainly not exceed minimal annually. It also seems unlikely that a county sheriff and prosecutor would generally pursue such civil actions if the cost of doing so significantly outweighed the potential benefits (revenues gained).

Detailed Fiscal Analysis

Summary of apparent fiscally notable provisions

The bill makes numerous changes to the existing Sex Offender Registration and Notification (SORN) Law, with the most fiscally notable appearing to be as follows:

- Modifies the definition of aggravated sexually oriented offense to include any rape involving the use or threat of force.
- Renames as a “child-victim oriented offense” certain crimes against children not committed with a sexual motivation that currently subject offenders and delinquent children to the SORN Law. (Hereinafter references to sex offenders and offenses generally refer to sex offenders and offenses and child-victim oriented offenders and offenses.)
- Modifies SORN Law violations to include failure to provide a notice of intent to reside.
- Increases penalties for SORN Law violations.
- Prohibits generally the court from removing or terminating the duty of a sexual predator, habitual offender, or aggravated sexually oriented offender to comply with the SORN Law’s requirements imposed at the time that such an offender was so classified.
- Modifies requirements placed on county sheriffs regarding the time frame in which community notification must occur and clarifies the community notification provisions as applied to multi-unit buildings.
- Modifies the required information that a sex offender must provide and where a sex offender must register, such that a sex offender will need to be registered in the county where that individual works or attends school if that location is different than their county of residence.
- Requires the Office of the Attorney General’s Bureau of Criminal Identification and Investigation (BCII), not later than January 1, 2004, to: (1) establish a searchable, public Internet database of all registered sex offenders in Ohio; and (2) establish and operate an Internet database enabling local law enforcement to remotely search by electronic means certain information maintained by BCII, including the State Registry of Sex Offenders and Child-Victim Offenders.
- Modifies the situations under which a court must conduct a hearing for certain offenders committed to the custody of the Department of Rehabilitation and Correction since the enactment of the SORN Law.
- Prohibits a sexually oriented adult offender from residing within 1,000 feet of any school premises, but establishes no criminal penalty for violating the prohibition.
- Permits a landlord to terminate a rental agreement entered into on or after the bill’s effective date that involves a person who is found to be on the State Registry of Sex Offenders and Child-Victim Offenders in violation of the prohibition and commence a forcible entry and detainer action.

- Provides that a landlord is not civilly liable in damages for injury, death, or loss to person or property that allegedly result from the decision not to terminate a rental agreement.
- Provides that certain owners or lessees of real property have a cause of action for injunctive relief against a person who violates the prohibition.
- Permits the Office of the Attorney General, subject to certain limitations, to use moneys deposited to the credit of the Victims of Crime/Reparations Fund (Fund 402) for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims.
- Declares an emergency.

With regard to charging registered sex offenders certain fees, the bill most notably:

- Permits a county sheriff to charge a fee to register, register a change of residence, or verify a residence address of an adult offender who is required to register under the SORN Law.
- Establishes a limit of \$100 per registration year on the total amount in fees that a county sheriff may collect from an adult offender who is a sexual predator or an aggravated sexually oriented offender.
- Establishes a limit of \$50 per registration year on the total amount in fees that a county sheriff may collect from an adult habitual sex offender subject to community notification.
- Establishes a limit of \$25 per registration year on the total amount in fees that a county sheriff may collect from all other sexually oriented offenders.
- Requires a county sheriff to determine whether the offender is able to pay the fee.
- Requires a county sheriff to waive payment of the fee if the offender's income is less than 125% of the federal poverty level.
- Allows a county sheriff to permit an offender to pay the fee in accordance with a payment schedule established on the offender's ability to pay if the sheriff determines the offender's income is equal to or greater than 125% of the federal poverty level.
- Prohibits a county sheriff from requiring the payment of any fee from a delinquent child until the delinquent child reaches the age of majority.
- Permits unpaid fees to be recovered in a civil action.

Selective summary of current adult SORN Law

Table 1 below provides a selective summary of some of the registration and verification duties placed on adult sex offenders under the current SORN Law.

Table 1 - Selective Summary of Adult SORN Law		
SORN Designation	Current SORN Law	Number of Registrants*
Sexual Predator	Lifetime duty; Verification every 90 days; Judicial status change permitted	1,085 (12%)
Aggravated Sexually Oriented Offender	Lifetime duty; Verification every 90 days; Permanent classification	Not Available
Habitual Sex Offender	20 year duty; Verification annually; Judicial status change permitted	135 (1%)** 233 (3%)***
Sexually Oriented Offender	10 year duty; Verification annually; Judicial status change permitted	7,682 (84%)
Total Number Adult Sex Offender Registrants		9,135

* As of February 2003.

** With community notification requirement.

*** Without community notification requirement.

State fiscal effects

From the state's perspective, it appears that any of the fiscal effects generated by the bill will largely fall on the following four state agencies: (1) the Office of the Attorney General and its Victims of Crime/Reparations Fund, (2) the Office of the Attorney General's Bureau of Criminal Identification and Investigation (BCII), (3) the Department of Rehabilitation and Correction (DRC) and (4) the Department of Youth Services (DYS).

Office of the Attorney General (Victims of Crime/Reparations Fund)

The bill expands the purposes for which moneys deposited to the credit of the Victims of Crime/Reparations Fund (Fund 402) can be used. The primary purpose for the use of this fund's moneys is to provide payments to certain crime victims for certain losses associated with their victimization. In recent years, there have been minor expansions for the allowable uses of the moneys deposited to the credit of the fund. This expansion allows the Office of the Attorney General to use moneys in the fund to pay actual costs associated with the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims, and caps the amount that may be used for those purposes at 5% of the balance of the fund at the close of the immediately previous fiscal year. In recent years, the fund's ending, unencumbered cash balance has been around \$30 million. Assuming that were true in the future, then the maximum amount that could be available for these purposes would be around \$1.5 million annually.

BCII costs

Sex offender databases. The bill requires BCII to: (1) establish a searchable, public Internet database of all registered sex offenders in Ohio, (2) provide technical assistance to county sheriffs in establishing their own Internet sex offender database, (3) modify its database to include additional information such as an offender's work and/or school address, and (4) establish and operate an Internet database enabling local law enforcement to remotely search by electronic means certain information maintained by BCII, including the State Registry of Sex Offenders and Child-Victim Offenders. The two Internet databases that BCII must establish pursuant to the bill are required to be operational not later than January 1, 2004.

Public Internet database. Based on a conversation with the Office of the Attorney General on the matter of establishing a public Internet database of all registered sex offenders in Ohio, it appears that the annual operating expenses (staff, maintenance, and equipment costs) associated with these duties will be at least \$100,000 annually. How the Office of the Attorney General might cover those ongoing annual costs is, as of this writing, uncertain. Presumably, the Office of the Attorney General could draw on moneys from any number of its funding streams, including the General Revenue Fund (GRF), the General Services Fund Group, the Federal Special Revenue Fund Group, and the State Special Revenue Fund Group.

Law enforcement Internet database. The requirement that BCII establish and operate an Internet database enabling local law enforcement to remotely search by electronic means certain information maintained by BCII, including the State Registry of Sex Offenders and Child-Victim Offenders was added to the bill subsequent to its introduction. As of this writing, the Office of the Attorney General is still studying the cost implications of this local law enforcement database duty.

Child-victim oriented offender classification. The bill renames as "child-victim oriented offenses" certain crimes against children not committed with a sexual motivation. An offender committing such a crime is currently subject to the SORN Law. As a result of the new "child-victim" terms, BCII will have to modify: (1) its existing sex offender registry, and (2) prescribed forms that are made available to judges, officials, and sheriffs. As of this writing, the Office of the Attorney General is uncertain as to what the magnitude of these essentially one-time costs might be.

Information sharing. The bill expands the list of persons who may inspect the materials in the possession of BCII to also include the Registrar of Motor Vehicles, or an employee of the Registrar, for the purpose of verifying and updating any of the information so provided, upon the request of BCII. This provision essentially permits the two state agencies to share certain information and appears likely to generate little, if any, costs for BCII or the Registrar of Motor Vehicles.

DRC offender evaluation costs

The bill requires DRC to evaluate all offenders in its custody who were convicted, plead, or sentenced before January 1, 1997⁸ of a qualifying offense. In January 2003, as a result of the recommendations of the Governor's Sex Offender Registration and Notification Task Force, DRC conducted an in-house evaluation of 7,899 offenders. That being the case, then one would

⁸January 1, 1997 is the effective date of Ohio's Sex Offender Registration and Notification Law.

assume that DRC should not experience any fiscal effect from this provision of the bill. The bill also requires that the Department forward any risk assessment to a county prosecutor prior to an offender's determination hearing. The Department reports that it does not believe this will be a costly task, as the Department will only forward such a risk assessment if one has already been conducted. In their opinion, the bill does not require the Department to conduct a risk assessment if one has not already been conducted.

DRC incarceration and DYS care and custody costs

The bill revises the penalties associated with the failure of a sex offender to comply with their SORN Law requirements. Under the bill, the penalty associated with a violation would generally be the same as the level of seriousness as the underlying sexually oriented offense, up to a felony of the third degree, which is the maximum level of seriousness for a violation. For a repeat offender, a violation would generally be one degree higher than the level of seriousness as the underlying sexually oriented offense, up to a felony of the third degree, which is the maximum level of seriousness for a violation.

As a result of these penalty revisions, it is possible that additional offenders may be sentenced to prison or that some offenders will be sentenced to prison for a longer stay than would have occurred under current law. It is also possible that additional juveniles may be committed to the care and custody of the Department of Youth Services or that some juveniles will be committed to the care and custody of the Department of Youth Services for a longer period of time than would have occurred under current law. As of this writing, however, LSC fiscal staff is unable to estimate the potential number of affected adults and juveniles or the possible related increase in DRC's annual GRF-funded incarceration costs or DYS's annual GRF-funded care and custody costs. Based largely on media reports, the failure to comply rate for Ohio's sex offenders in any given county appears to be anywhere from 10% to 30%.

State revenues

The state may gain some locally collected state court cost revenue for the GRF and the Victims of Crime/Reparations Fund (Fund 402) as additional sex offenders may be convicted of felony failure to comply with SORN Law requirements. As of this writing, even though the number of potentially affected adults and juveniles is uncertain, each of those state funds appears unlikely to gain more than a minimal amount of court cost revenues annually.

Local fiscal effects

Based on LSC fiscal staff's review of the bill, any of the local fiscal effects generated by the bill will fall largely on the following entities: (1) county sheriffs, and (2) common pleas, municipal, and county courts (and related local prosecutorial, indigent defense, and sanctioning systems).

County sheriffs

The bill makes numerous changes to the duties and responsibilities of county sheriffs under the SORN Law, with the most fiscally notable components relating to: (1) aggravated sexually oriented offenders, (2) victim and community notification duties, (3) address verification options, (4) transportation of offenders to court, (5) information collected from registrants, specifically their school or employment information, (6) additional out-of-county offenders, and (7) requirements of habitual sex offenders.

(1) Aggravated sexually oriented offenders. The bill modifies the definition of aggravated sexually oriented offender to include an offender convicted of rape under force or the threat of force. Under current law, an aggravated sexually oriented offender is required to comply with virtually the same requirements as sexual predators, i.e., lifetime registration, community notification, permanent classification, and address verification every 90 days.

Information obtained from BCII indicates that a sizeable portion of offenders who are currently registered as sexually oriented offenders were convicted of a rape offense. That data, summarized in Table 2 below, appears to suggest that this provision could result in an increase of as many as 2,300 or so more sex offenders who would be subject to community notification (sexually oriented offenders plus habitual sex offenders without community notification). It is unclear as to how many of these sex offenders were convicted of a rape involving force or the threat of force.

An increase in the number of offenders classified as aggravated sexually oriented offenders will add to the ongoing SORN Law duties and associated annual administrative costs for a county sheriff. As of this writing, it is difficult to estimate the associated annual administrative costs. What appears more certain, however, is those costs will likely rise over time, as the number of offenders registering as aggravated sexually oriented offenders grows.

Sexual Predator	1,425
Habitual Sex Offender (with community notification)	42
Habitual Sex Offender (without community notification)	122
Sexually Oriented Offender	2,209
Total Number of Registered Sex Offenders Sentenced for Rape	3,798
Total Number Registered Sex Offenders (any sexually oriented offense conviction)	8,873

*Numbers were extracted in November 2002.

(2) Victim and community notification duties. The bill eases some of the duties related to the requirement that a county sheriff notify the community and victims of the whereabouts of specified sex offenders and juvenile sex registrants. Currently, a county sheriff must notify not later than 72 hours (3 days); the bill expands that deadline to not later than 5 days. This likely should somewhat ease the burden on a county sheriff to ensure timely notice, including perhaps overtime costs. The Buckeye State Sheriffs' Association has indicated that this provision will enable a county sheriff to use the postal service to deliver the necessary notification, as the longer period of time should be sufficient to ensure timely notice.

(3) Address verification. The bill allows a county sheriff to request certain persons verify that a sex offender or juvenile sex registrant is residing at an address. According to the Buckeye State Sheriffs' Association, when a sex offender registers a county sheriff generally does not question the accuracy of the information provided by that offender, and that, although this provision is permissive, a county sheriff may feel compelled to seek such verifications where applicable. The bill further compels the person from whom the address verification is requested to cooperate with the county sheriff's request. This provision may help a county sheriff to more easily verify the addresses of sex offenders who are living in multi-resident units, e.g., homeless shelters or apartment buildings.

(4) Transporting DRC prisoners. Upon enactment, the bill requires the sentencing court of common pleas to conduct a hearing for any offender incarcerated in a state prison who is convicted of an offense that qualifies as a sexually oriented offense. As of this writing, it appears that as many as 7,000 incarcerated offenders will have to be transported from their resident prison to the common pleas court that sentenced that offender, and, following their scheduled hearing to determine their status under SORN Law, transported back to their resident prison. Based on conversations with DRC and the Buckeye State Sheriffs' Association, it also appears the transportation duty and the associated costs will be borne by county sheriffs.

(5) Collecting additional information. As a result of a conversation with the Buckeye State Sheriffs' Association, it appears that, in most local jurisdictions, a county sheriff already collects registration and periodic address verification information from sexually oriented offenders in relation to their attendance at school or an institution of higher education or their place of employment. Thus, in most counties, the provision of the bill related the collection of this additional information largely codifies existing practice, and, as a result, is not likely to create any costly ongoing registration and verification burdens for most county sheriffs.

(6) Additional registrants. Under the bill, (1) certain offenders attending school or working in Ohio or in a different county than their county of residence, and (2) certain offenders as a result of expanding the definition of sexually oriented offense will be required to register. These provisions will increase county sheriff registration lists, but, at this point, LSC fiscal staff has found no information that might suggest what the magnitude of that increase could be for any given county sheriff.

(7) Habitual sex offenders. The bill will require some habitual sex offenders to register and periodically verify their residence with a county sheriff for as long as that offender is living. Under current law, the required registration and address verification duty is imposed for a period of 20 years. Thus, as a result of this provision, county sheriff registration and verification systems will be somewhat larger in the future than otherwise might have been the case under current law.

Local courts and related systems

The bill makes numerous changes to the SORN Law that will affect to varying degrees the operations of common pleas, municipal, and county courts (and related prosecution, indigent defense, and sanctioning costs), with the most fiscally notable components related to: (1) requiring courts of common pleas to hold a hearing for certain sex offenders incarcerated in a state prison, (2) modifying the definition of a sexually oriented offense, (3) creating a category of "presumptive registration-exempt sexually oriented offenses," (4) revising the penalties

associated with the failure to comply with the SORN Law, (5) eliminating the authority of the court to remove or terminate the compliance requirements imposed on certain sex offenders, (6) permitting landlords to evict an offender who is subject to the Law from residential premises within 1,000 feet of any school premises, and (7) removing certain language from the offense of “importuning.”

(1) Imprisoned offenders. The bill requires that courts of common pleas conduct a hearing for certain offenders who were convicted, plead, or sentenced for certain offenses before the SORN Law became effective on January 1, 1997 and are imprisoned upon the enactment of S.B. 5 for the purpose of determining the status of those offenders under the SORN Law.

There are three situations under which a court of common pleas will be required to conduct such a hearing as follows.

- (1) If an offender committed certain non-sexual offenses as defined by the bill, the court is required to hold a hearing to determine if the offense was committed to gratify the sexual desires of the offender.
- (2) If an offender is deemed by DRC to be a sexual predator, the court is required to hold a hearing to determine if it concurs.
- (3) If an offender is not deemed to be a sexual predator by DRC, the court is required to hold a hearing to determine if the offender is a habitual sex offender.

According to DRC, it currently houses approximately 7,000 incarcerated offenders for whom these hearing requirements could apply. Based on this estimate, it appears that the one-time adjudication, prosecution, and indigent defense costs associated with these hearings for a given county might easily exceed minimal, which means in excess of \$5,000.

(2) Sexually oriented offense. The bill modifies the list of offenses that are included under the definition of sexually oriented offense to include importuning. A first-time offender would likely be: (1) classified as a sexually oriented offender, and (2) required to register for 10 years. No community notification would be required.

(3) Presumptive registration-exempt sexually oriented offense. The bill creates a category of presumptive registration-exempt sexually oriented offenses that includes sexual imposition, voyeurism, and menacing by stalking with a sexual motivation. These offenses do not require automatic registration of first time offenders whose victims are over the age of 18. The bill, however, provides that a judge may remove the exemption and require the offender to register, if the judge deems that it is in the interest of public safety and justice. If such an offender committed a sexually oriented offense or presumptive registration-exempt sexually oriented offense in the future, the offender would automatically be eligible for categorization as at least a habitual sex offender. This new category of presumptive registration-exempt sexually oriented offenders will in all likelihood increase the size of county sheriff registration lists, but the magnitude of such increase for any given county sheriff is uncertain at this time.

(4) Failure to comply with SORN Law. Several provisions of the bill, e.g., criminalizing the failure of a sex offender or juvenile sex registrant to send an intent to reside to a county sheriff, will likely increase the number of sex offenders and juvenile sex registrants who fail to comply with the requirements of the SORN Law and could then face prosecution and subsequent sanctioning that might involve a jail or prison stay. If there were an increase in the number of

non-compliant persons and additional adults and juveniles are charged with the failure to comply, then county and municipal criminal justice expenditures (adjudication, prosecution, indigent defense, and sanctioning costs) would likely increase. The magnitude of that potential increase for any given local criminal justice system is difficult to estimate, but two likely important determinants of those annual costs would be: (1) how the local criminal justice responds to various failures to comply, and (2) the number of, and frequency with which, offenders and juveniles fail to comply. Additional failure to comply cases also means that counties and municipalities may gain court cost and fine revenues. The amount of these local revenues that any given county or municipality could gain annually, however, appears unlikely to exceed minimal on an ongoing basis, as it is very likely that many adults and juveniles will be indigent.

(5) Removal or termination of compliance requirements for certain sex offenders. The bill removes existing law allowing the court to consider removing or terminating the compliance requirements for certain SORN registrants. Following the bill's enactment, sexual predators, habitual sex offenders, and aggravated sexually oriented offenders will not be permitted to file for a change in their registration status. This likely means some possible savings in the local costs that might otherwise have been incurred to adjudicate such matters (including any related prosecution and defense costs). As of this writing, the magnitude of the potential annual savings to any given local jurisdiction is uncertain.

(6) Forcible entry and detainer actions and injunctive relief

(6)(a) Rental agreement terminations and injunctive relief actions. Generating a reasonably precise estimate of the potential local government fiscal effects of permitting: (1) a landlord to terminate certain rental agreements, and (2) certain persons to file a cause of action for injunctive relief is complicated by several difficult-to-measure variables. More specifically, LSC fiscal staff has no knowledge of any easy or readily available means of knowing: (1) how many sexually oriented offenders would already be in violation of the prohibition once it became law, (2) how many sexually oriented offenders might knowingly or unknowingly violate the prohibition in the future, (3) the frequency with which landlords are aware or will become aware of having entered into a rental agreement with a sexually oriented offender who is violating the prohibition, (4) the frequency with which landlords will opt to terminate such rental agreements, (5) the frequency with which landlords will actually have to go to court to evict a sexually oriented offender in violation of the prohibition, (6) the frequency with which certain owners or lessees of real property will file an action for injunctive relief, and (7) the frequency with which local law enforcement will have to physically evict a person in violation of the prohibition.

Despite these aforementioned uncertainties, LSC fiscal staff has not gathered any information in the process of researching the bill's fiscal effects suggesting that it would produce a significant burden for local courts and law enforcement. Thus, it would appear that the number of new evictions and injunctive relief actions that may require the involvement of local courts and law enforcement is likely to be relatively small in most, if not all, counties and municipalities with jurisdiction over such matters. Assuming that were true, then the annual cost for counties and municipalities to resolve these eviction and injunctive relief matters would be at most minimal, and it is also likely that counties and municipalities can recover some of those costs through the assessment and collection of service charges, filing fees, and judgments for costs.

(6)(b) Civil liability protection. The bill provides that a landlord is not liable in a tort or other civil action in damages for injury, death, or loss to person or property that allegedly results from the decision to not terminate a rental agreement or tenancy. Presumably, this provision will prevent the potential filing of such civil actions and thus save adjudication-related expenditures that local courts might otherwise have incurred. It also means that any related filing fee and court cost revenues that might have to an extent offset those adjudication expenditures would not be collected either. Those potential savings and revenue effects appear unlikely to exceed minimal in any given local jurisdiction annually.

(7) Importuning. The bill modifies the offense of importuning to remove certain language involving a person who solicits a person of the same sex to engage in sexual activity with the offender. This language was held by the Supreme Court of Ohio to be unconstitutional. Thus, the bill codifies the Court’s ruling. The likely affect of the Court’s ruling and this modification of the offense is that the number of importuning charges filed annually in Ohio would presumably decline from what might otherwise have been the number of such charges filed under current practice. At this time, however, it is unclear as to what the magnitude of that decline might be.

Federal compliance

Federal funds

The federal government had ordered Ohio and 13 other states to amend their SORN laws to comply with federal requirements by October 2001 or risk reductions in certain federal grant moneys. In June 2001, the federal Bureau of Justice Assistance stated that non-complying states, such as Ohio, would have 10% of certain grant moneys withheld each year if that state failed to be in compliance by October 2, 2001. That compliance deadline was extended for Ohio to October 1, 2002 for a portion of the federal requirements. The state also failed to bring Ohio’s SORN Law into compliance with other federal requirements that did not require state compliance until mid-November 2002. Table 3 below summarizes the federal compliance areas. According to the Office of Criminal Justice Services, the bill brings Ohio’s SORN Law into compliance with these federal requirements.

Table 3 - Guidelines for Federal Compliance	
Subject Area	Federal Requirement
Habitual Sex Offenders	Requires lifetime registration
Aggravated Offenses	Requires lifetime registration
Termination of Sex Offender Designation	Prohibits termination of any designation that requires an offender to register for life
Out-of-State Offender Registration	Offenders must register in the state if: (1) working in a state for more than 14 days or for an aggregate period exceeding 30 days in a calendar year; or (2) enrolled in any type of school on a full- or part-time basis
Offenders: Students or Employees at Institutions of Higher Education	Must register with the law enforcement agency having jurisdiction over the campus, including status updates on enrollment or employment termination

The specific federal grants that were affected by Ohio's failure to comply with federal requirements include the Byrne Memorial Criminal Justice Block Grant (CFDA #16.579) and the Local Law Enforcement Block Grant (CFDA #16.592). Between the two federal block grant programs, the state receives roughly \$18.9 million a year. These moneys are handled by the state's Office of Criminal Justice Services and are deposited in federal Fund 3L5, Justice Programs.

As Ohio failed to comply with federal law, the federal government is withholding 10% of the aforementioned federal grant moneys. This amounts to around \$1.89 million annually. Most of the moneys associated with these grant programs are distributed to local governments. According to the Office of Criminal Justice Services, the withholding of these federal moneys has caused the loss or reduction of funding for some programs on both the state and local level, especially if those affected state and local agencies could not find alternate sources of funding. It also appears that, should Ohio's SORN Law be brought into compliance with these federal requirements, then the state may regain the federal grant moneys that have been withheld to date.

County sheriff fees

Ohio's SORN system is growing and will continue to grow for at least several more years before any of the currently registered sex offenders will even be eligible for deletion from the system. One factor that will spur that growth is the enactment of Am. Sub. S.B. 3 of the 124th General Assembly, which, effective January 1, 2002, applied the SORN Law to children adjudicated delinquent for committing a sexually oriented offense. It appears that the number of delinquent children that could be subject to annually registering as sex offenders as a result of Am. Sub. S.B. 3 could easily approach 700 or more. Under the bill, a county sheriff cannot start collecting any SORN fees from a delinquent child until the child reaches their age of majority.

The Office of the Attorney General's Bureau of Criminal Identification and Investigation, which maintains the State Registry of Sex Offenders, has reported that, as of February 2003, there were 9,135 sex offenders registered in Ohio. Table 4 below provides a breakdown of those registered sex offenders, including their classification level, registration duties, and whether that offender's presence is subject to community notification.

Table 4 - Sex Offender Registrants				
Classification	Registration Duty*	Community Notification	S.B. 9 Maximum Annual Fees	Number of Registrants Statewide**
Sexual Predator	Lifetime duty; Verification every 90 days	Required	\$100	1,085 (12%)
Aggravated Sexually Oriented Offender	Lifetime duty; Verification every 90 days	Required	\$100	Not Available
Habitual Sex Offender	20-year duty; Verification annually	Discretion of sentencing judge	\$50	Notification 135 (1%)
			\$25	No Notification 233 (3%)
Sexually Oriented Offender	10-year duty; Verification annually	Not required	\$25	7,682 (84%)
Total Number of Sex Offender Registrants				9,135

*Under existing law, duties to register and provide notices regarding change of residence address within certain timeframes are imposed on sex offenders who are required to register with the appropriate county sheriff.

**Data as of February 2003.

Based on: (1) the number and types of sex offenders summarized in Table 4 above, and (2) the maximum amounts that a county sheriff would be permitted to collect from registered sex offenders, up to at least \$313,125 or more could initially be collected annually by county sheriffs statewide and deposited into each county's respective general fund. Presumably, urban counties have higher concentrations of registered sex offenders, which would mean that the county sheriff in one of those jurisdictions could annually collect relatively larger amounts from these sex offender fees than would the county sheriff located in one of the state's more rural counties.

Several caveats need to be attached to this \$313,125 annual estimate of additional county revenues as follows:

- (1) This estimate assumes all registered sex offenders would pay the maximum allowable annual amounts.
- (2) The bill simply permits a county sheriff to collect these fees; it does not require these fees be collected.
- (3) Some registered sex offenders will likely refuse to pay these fees. Some offenders will not pay, just as some will not adhere to their registration requirements.
- (4) The number of registered sex offenders will continue to rise for some time, and thus the amount of fee revenues that could be collected annually would increase as well.
- (5) It assumes that all sex offender incomes would be equal to or greater than 125% of the federal poverty level.⁹

⁹The federal poverty level is a function of: (1) the size of the family unit, and (2) the location of their residence. For example, in federal FY 2003, the federal poverty level for a one-person family unit that resides in Ohio is \$8,980. Therefore, under the bill, a sex offender's income would need to be less than \$11,225 (125% of \$8,980) for the county sheriff to waive fee payments.

Based on a conversation with the Buckeye State Sheriffs' Association, it appears that the collection of these fees will most likely defray some, but not all, of the annual operating expenses that a county sheriff incurs in handling the sheriff's sex offender registration and notification duties. For example, during testimony delivered in March 2002, Summit County Sheriff Drew Alexander reported that it cost his department \$60,000 annually to run their county Sex Offender Registration and Notification (SORN) system for 500 sex offenders: 430 sexually oriented offenders, 35 habitual sex offenders (13 with community notification), and 35 sexual predators. Based on that previously reported data, if Summit County charged the maximum allowable amount in fees, it could collect up to at least \$16,000 or more annually, which would only partially offset the more than \$60,000 that Summit County is spending annually to run its existing sex offender registration and notification system. As the number of registered sex offenders in Summit County is likely to have increased in the last year, the amount in fees that Summit County could collect annually would probably be larger.

It is uncertain as to how aggressively a county sheriff might pursue the collection of these fees if the administrative costs, such as tracking how much offenders have paid and determining their ability to pay, exceeded the revenues that could be gained.

Civil actions. Related to the issue of collection costs, under the bill, unpaid fees could be recovered in a civil action. Presumably, this would involve a county prosecutor filing a claim with the small claims division of the municipal or county court having territorial jurisdiction over the matter. Under current law, at the time of the commencement of such a civil action, a plaintiff is required to pay both of the following: (1) a filing fee, and (2) court costs. A county prosecutor could then recover not only the unpaid fees that were the subject of the claim, but also the filing fee and related court costs as well.

At this writing, it does not appear that a large number of claims will be filed in the small claims divisions of municipal and county courts around the state in pursuit of unpaid fees. Thus, new claims may be filed, but the number should not be extremely large, and the resulting burden on the small claims divisions of municipal and county courts to resolve these matters would not be very costly. The small claims divisions of municipal and county courts would also be collecting additional revenues in the form of filing fees and court costs. The associated costs to municipal and county courts and related revenue gains would certainly not exceed minimal annually.

It also seems unlikely that a county would generally pursue such civil actions if the cost of doing so significantly outweighed the potential benefits (revenues gained). One would think that a county sheriff and prosecutor would be somewhat selective in their use of a civil action, opting to use this court collection mechanism mostly when it involves a sex offender registrant that clearly has the financial means to pay the fees.

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