



Local Impact Statement Report

For Bills Enacted in 2008

SEPTEMBER 2009

Legislative Service Commission
77 South High Street, 9th Floor
Columbus, Ohio 43215-6136

www.lsc.state.oh.us

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Introduction

R.C. 103.143 requires the Legislative Service Commission (LSC) to determine whether a local impact statement (LIS) is required for each bill that is introduced and referred to committee. An LIS may be required when a bill could result in net additional costs beyond a minimal amount to school districts, counties, municipalities, or townships. An LIS is not required for budget bills or joint resolutions. It is also not required when the bill is permissive or when the bill's potential local costs are offset by additional revenues, offset by additional savings, or caused by a federal mandate. The LIS determination is based solely on the "As Introduced" version of the bill.

R.C. 103.143 also requires LSC to annually compile the final local impact statements completed for laws enacted in the preceding calendar year. The report is to be completed by September 30 each year. This 2009 report covers the 130 bills enacted in calendar year 2008, 12 of which required an LIS. Two of the bills that required an LIS were vetoed, and thus did not become law. The fiscal notes for the enacted versions of the 10 bills requiring an LIS that became law are included in this report. The LIS requirement is met through the detailed analysis of local fiscal effects included in LSC's fiscal notes.

Regardless of whether a bill requires an LIS, the fiscal note for a bill analyzes the bill's fiscal effects on both the state and local government. The difference is that, under R.C. 103.143, when a bill requiring an LIS is amended in a committee, the bill may be voted out of the committee by a simple majority vote with a revised LIS (i.e., an updated fiscal note) or by a two-thirds vote without a revised LIS. Because various bills are exempted from the LIS requirement, this report does not include every bill enacted in 2008 that may have fiscal effects on local government. It should also be noted that the fiscal notes in this report were prepared for the General Assembly's deliberation on pending legislation. Cost estimates included in fiscal notes may thus differ from the actual costs of implementing these laws, as the estimations were made before the enacted legislation was implemented. For those who are interested in the local fiscal effects of all legislation enacted in 2008, please see the LSC fiscal notes for those laws, which are available on the LSC web site (www.lsc.state.oh.us). A list of all bills enacted in 2008 can be found in the appendix to this report.

Beyond this introduction, the report contains two sections and an appendix. First are comments on the report from the County Commissioners' Association of Ohio, the Ohio Municipal League, the Ohio School Boards Association, and the Ohio Township Association. LSC is required to circulate the draft report to these associations for comment and to include their responses in the final report. Next, the main section of the report consists of the final version of the fiscal notes for the bills enacted in 2008 that

required an LIS and became law. Finally, the appendix lists all House and Senate bills enacted in 2008.

This report may be viewed on-line at www.lsc.state.oh.us by clicking on *Publications, Annual & Biennial Reports*, and then *Local Impact Statements*. Alternatively, the report may be purchased at a cost of \$12 per copy, including postage and handling. Please call 614-995-9995 to order a hard copy of this report. For any other inquiries regarding this report, please contact Terry Steele, LSC Budget Analyst, who may be reached by telephone at 614-387-3319 or by e-mail at tsteele@lsc.state.oh.us.

**LOCAL GOVERNMENT ASSOCIATION
COMMENTS**



As noted in the Introduction to this Report, various bills are exempted from the LIS requirement and, consequently, a Local Impact Statement Report inadequately represents the burden of unfunded mandates placed upon county government by the General Assembly.

Unfunded mandates continue to plague all units of local government. Their impact becomes more severe, however, when coupled with the current economic climate. The demands for county government service, most of which the county delivers on the state's behalf, continue to increase while revenue sources for county governments have stagnated or declined. Unfunded mandates continue to erode the foundation of a viable state/county partnership-county fiscal security.

The Local Impact Statement process also does not give a comprehensive and accurate view of unfunded mandates from the perspective of counties because the General Assembly has exempted budget bills from the LIS process and, thus, this Report. While not a budget adoption year, effects upon county government contained in the previous state biennial budget carry over into 2008 with significant impact. Areas of particular concern to counties are reimbursement to the counties for indigent defense; additional earmarking of Title XX and TANF funds which reduced the counties' flexibility to meet local needs with these funding sources; and reduction of funding to help the counties engage in child support enforcement, child protective services, and adult protective services.

CCAO feels that the General Assembly would do itself a greater service and bring to itself a greater awareness of how their decisions have financial implications to counties and other local governments by eliminating the current provisions which exempt certain legislation from the LIS process. A review of all legislation enacted for its impact upon Ohio's local governments would be more appropriate. Only then, will the General Assembly and the public receive the true picture of the impacts of unfunded mandates on local governments.

CCAO thanks the Legislative Service Commission for the opportunity to comment on this report and wishes to acknowledge the professionalism and extreme competence of the LSC staff. Irrespective of the concerns CCAO raises regarding the LIS process, CCAO has always found the work of LSC to be invaluable and much appreciated.



Ohio Municipal League

Our Cities and Villages ★ Bringing Ohio to Life

The Ohio Municipal League has reviewed the draft of the 2009 Local Impact Statement Report and would like to make the following comments. The report has improved with each passing session. The same can be said for the actual fiscal notes and local impact statements.

The report provides helpful information to organization representing local governments, their respective members and the public information that would otherwise be difficult to compile. It shows that numerous pieces of legislation have a potential negative impact on local governments whose officials are already faced with declining revenues. We are always optimistic that this document will gain a larger recognition with state decision makers as they consider imposing additional programs or duties on local government or reducing limited funding.

The Ohio Municipal League commends the staff of the Legislative Service Commission for the time and effort they put into the individual statements and to this report.



The Ohio Township Association (OTA) would like to thank the Ohio Legislative Service Commission (LSC) for the opportunity to comment on the *2009 Local Impact Statement (LIS) Report*. The LIS Report is an important educational resource for our members and the members of the General Assembly as it highlights the effect certain legislation passed the previous year will have on townships' budgets and keeps legislators and local officials aware of any unfunded mandates created in legislation.

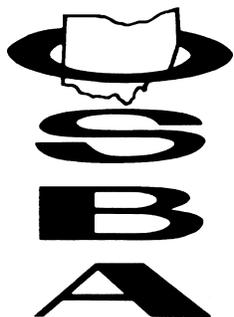
The fiscal impact legislation may have on townships often is underestimated but the Legislative Service Commission has done a nice job of recognizing the impacts on local governments, specifically townships. A total of six bills enacted in 2008 had a fiscal impact on townships, according to the LIS Report. Most notably are Sub. HB 318 (Road Maintenance) and Am. Sub. SB 221 (Energy Standards).

Care and maintenance of the township road system is the largest function of townships today. Townships in Ohio are responsible for more than 40,000 miles of roads across the state. In 2004, legislation (HB 299) was enacted that permitted a township to place a gravel or unimproved road on nonmaintained status if there were no permanent residences on the road and the road was not the exclusive means of access to a piece of property. Sub. HB 318, enacted in 2008, makes changes to these provisions by altering the qualifications for when a road may be placed on nonmaintained status and requiring a township to remove a road from nonmaintained status, thus potentially increasing road costs for townships.

Effective July 31, 2008, Am. Sub. SB 221 revises the state energy policy relative to service price regulation and alternative energy portfolio standards. At first glance the short description of the bill may not indicate a local government impact but townships could be positively and negatively impacted by SB 221. According to the LSC Fiscal Note & Local Impact Statement for SB 221, townships could see potential revenue increase beginning in 2009 due to reduced electric rates but could see increased costs in out years when the alternative energy standards are completely phased-in. Additionally, some townships could see a potential increase in public utility tangible personal property tax revenue should the siting of alternative energy resources take place in the township.

While the *2009 Local Impact Statement Report* offers an analysis of legislation passed in 2008, it is not comprehensive. State budget bills are exempted from local impact statement requirements and, therefore, are not included in this report. The OTA encourages the General Assembly to include budget bills in the LIS report in order to provide a more comprehensive look at how legislation passed affects local governments. A procedure should be established by which local governments can contest new laws that are not fully funded, yet give the General Assembly adequate time to modify or fund the mandates they impose.

Although the actual impact these new laws will have on townships will not be known until the laws are put into practice, the fiscal analyses provide a base for which townships can determine how a new law may affect their budgets. The Ohio Township Association appreciates the opportunity to provide our input and thanks the Legislative Service Commission for all of their hard work in compiling this data, as it is truly beneficial to legislators and local government groups.



The Ohio School Boards Association (OSBA) believes that the 2009 Local Impact Statement Report is a valuable tool provided by the Ohio Legislative Service Commission (LSC) to the members of the Ohio General Assembly and to all Ohioans.

The 2009 Local Impact Statement Report shows that 17 Senate bills and 26 House bills passed in 2008 and became law. Of those bills, two were reported as having a fiscal impact upon school districts in the "As Introduced" versions. OSBA believes it is important to note the fiscal impact that bills have upon school districts within the state. School districts face many unfunded and underfunded mandates from both federal and state passed legislation and it is important to make certain that these are known throughout the legislative process.

An area that remains to be addressed is the section of law that exempts LSC from having to update a local impact statement for the biennial budget, capital appropriation bill or any other budget corrections bill. OSBA would support legislation that would allow the General Assembly to include these bills that are now exempted in Division (F) of RC 103.143 from such local impact statements. OSBA also believes that local impact statements should be required at each phase of the legislative process. This is particularly important as substitute versions and amended substitute versions are often enacted. Legislation can have a huge fiscal impact on local school districts and this should be monitored and made known to all as introduced bills go through the legislative process and become altered by the process.

OSBA would like to salute the Legislative Service Commission on a job well done and we look forward to working with you in the future.

**FISCAL NOTES FOR BILLS ENACTED
IN 2008 REQUIRING
LOCAL IMPACT STATEMENTS**

Summary

Of the 130 bills that were enacted in 2008, 12 required an LIS. These 12 bills are as follows:

- H.B. 138 – modifies the requirements concerning purchases at judicial sales
- H.B. 196 (vetoed) – authorizes income tax credits for investments in motion pictures made in Ohio
- H.B. 280 – modifies human trafficking laws, and enhances various domestic violence penalties
- H.B. 318 – changes provisions that govern how county and township roads are placed on nonmaintained status
- H.B. 471 – requires installation of electronic monitoring devices under certain conditions, and revises the Coroner's Law
- S.B. 17 – modifies OVI-related prohibitions and penalties
- S.B. 84 – enhances options for emergency management financing
- S.B. 163 – modifies foster caregiver background check procedures and makes related changes affecting out-of-home care workers, adoptive parents, foster caregivers, and child day-cares
- S.B. 186 – prohibits insurers, public employee benefit plans, and multiple employer welfare arrangements from denying coverage for routine patient care administered as part of a cancer clinical trial
- S.B. 221 – revises state energy policy principally to address electric service price regulation and alternative energy portfolio standards
- S.B. 304 – increases the maximum age of a child who may be delivered voluntarily by the child's parent under the Safe Haven Law
- S.B. 380 (vetoed) – makes changes to laws concerning absent voter ballots, voter registration verification procedures, and elections oversight

The table below lists the political subdivisions affected by the 12 bills.

Bill	Counties	Municipalities	Townships	School Districts
H.B. 138	✓	✓	✓	
H.B. 196*	✓	✓		
H.B. 280	✓	✓	✓	✓
H.B. 318	✓		✓	
H.B. 471	✓	✓		
S.B. 17	✓	✓		
S.B. 84	✓	✓	✓	
S.B. 163	✓	✓		
S.B. 186	✓	✓	✓	✓
S.B. 221	✓	✓	✓	✓
S.B. 304	✓	✓		
S.B. 380*	✓			

* Vetoed by the Governor.

The final version of the fiscal notes for each of these bills, except for H.B. 196 and S.B. 380, which were vetoed by the Governor and thus did not become law, is presented in the following pages.

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615

✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Sub. H.B. 138** DATE: **May 28, 2008**
STATUS: **As Enacted – Effective September 11, 2008** SPONSOR: **Rep. Foley**
LOCAL IMPACT STATEMENT REQUIRED: **Yes** **Local cost in As Introduced version;
Substitute version likely offsets sheriffs' costs
with revenue recovery mechanism**
CONTENTS: **Judicial sales**

State Fiscal Highlights

STATE FUND	FY 2009 – FUTURE YEARS
Low- and Moderate-Income Housing Trust Fund (Fund 646)	
Revenues	Potential increased efficiency in fee collection
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- **Low- and Moderate-Income Housing Trust Fund.** The requirement that a deed be delivered to, and recorded by, the county recorder within 14 days may decrease the average time between the property being purchased at a judicial sale and the date the deed is filed with the county recorder. As a result, in some counties, the county recorder may collect housing trust fees more promptly than might otherwise have been the case under current law and practice. There would not, in all likelihood, be an increase in the amount of housing trust fees collected by the county recorder, but rather those fees may be collected in a more efficient manner.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008 – FUTURE YEARS
County Sheriffs	
Revenues	Gain in filing fees and associated costs collected from purchaser, likely to exceed minimal annually in some jurisdictions
Expenditures	Increase, exceeding minimal annually in some jurisdictions, for filing fees and deed processing, with revenues collected at time of purchase likely to cover expenditure increase
Municipal and County Courts	
Revenues	- 0 -
Expenditures	Potential annual savings relative to foreclosure and housing enforcement cases
Counties, Municipalities, and Townships generally	
Revenues	Potential annual gain in fines and enforcement cost recovery
Expenditures	Potential annual decrease in enforcement costs

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

- **Sheriffs and deed filing fees.** The bill requires the sheriff's department to file the deed with the county recorder within 14 days of confirmation at a judicial sale. In order to record the deed with the county recorder, the county engineer, and the county auditor must first examine and approve the information contained in the deed. Based on LSC fiscal staff's research, it does not appear that the county engineer charges a fee for their services, while the county auditor and the county recorder do charge a fee for their services. The bill requires officers who sell real property at a judicial sale to collect the recording fee and any associated costs to cover the recording from the purchaser or transferee at the time of the sale or transfer. As a result, the sheriff will need to develop and maintain a mechanism to accurately assess, collect, and disburse these moneys.
- **Sheriffs and deed filing process.** The process of physically filing a deed can be time consuming, as it involves stops at the offices of the county engineer, county auditor, and the county recorder, which concerns the Buckeye Sheriffs' Association, as well as individual sheriff's offices contacted for this analysis. Their concern is that existing staffing levels in some sheriffs' offices may not be sufficient to handle the additional deed filing-related workload. In many urban counties, the number of foreclosures subject to judicial sales can be quite large. For example, the Franklin County Sheriff's Office estimates that they process approximately 150 to 200 foreclosures per week, and the Mahoning County Sheriff's Office estimates that they process approximately 40 to 50 foreclosures per week. According to estimates from several county recorders' offices, the processing time for a deed, provided the information contained on the paperwork is complete and accurate, is approximately 20 to 30 minutes. This represents an average increase in workload of up to approximately 73 hours per week for the Franklin County Sheriff's Office and up to approximately 19 hours per week for the Mahoning County Sheriff's Office. According to the Buckeye State Sheriffs' Association, the bill will allow the sheriff to charge and collect from purchasers or transferees all of the fees and costs associated with filing the deed, including any increase in labor costs.
- **Municipal and county courts handling housing enforcement cases.** By ensuring that purchaser information is filed in a timelier manner than might otherwise have been the case under current law and practice, the bill increases the likelihood that building, housing, health, or safety code violation charges are filed against the correct defendant. Presumably, the bill may decrease the number of cases that are being filed against the wrong party and subsequently dismissed by the court. It does not appear that such a result will generate any readily discernible fiscal effect on the prosecutors and courts handling these matters, other than the potential for a difficult to measure savings in the time it might otherwise have taken to identify the legally responsible party and impose a remedy.

- **County, municipal, and township code enforcement generally.** The bill's various provisions appear to be aimed at increasing a local jurisdiction's ability to: (1) ensure a property is safe and secure, (2) conserve public building, housing, health, and safety code enforcement resources, and (3) minimize the amount of time that a property may be left unoccupied or idle.
- **Mediation services.** In an action for the foreclosure of a mortgage, the bill permits the court to require the mortgager and the mortgagee to participate in mediation, the practical effect of which would presumably be to reduce to some degree the amount of time and effort that the court might otherwise have spent in adjudicating such matters.

Detailed Fiscal Analysis

Fiscally notable provisions of the bill

For the purposes of this fiscal analysis, the bill most notably:

- Requires purchasers of real property at a judicial sale to provide certain identifying information.
- Allows municipalities and townships to conduct inspections of property subject to a writ of execution.
- Requires judicial sales to be confirmed within 30 days of sale.
- Requires officers who sell real property at a judicial sale to collect the recording fee and any associated costs to cover the recording from the purchaser or transferee at the time of the sale or transfer and file the deed within 14 days of confirmation.
- Authorizes courts and county boards of revision to transfer certain tax delinquent lands subject to judicial foreclosure without appraisal or sale.
- Permits summary property descriptions to be read at a judicial sale.
- Permits the court to require the mortgagor and mortgagee to participate in mediation.
- Offers property that did not sell at a judicial sale to a political subdivision before forfeiture to the state.

Local fiscal effects

From a local perspective, the bill may directly affect in varying degrees a host of public entities, largely local agencies and officials associated with counties and municipalities, including, but not limited to, the sheriff, the county treasurer, the county auditor, the county engineer, the court of common pleas, the county board of revision, the municipal court, the county court, and the municipal and township building and zoning enforcement unit.

County sheriffs

This bill contains several provisions that increase the sheriff's administrative responsibilities pertaining to judicial sales as discussed in more detail immediately below.

Purchaser information. The bill requires that personal information of the purchaser be collected by the sheriff and included as part of the sheriff's record of proceedings and as part of the court of common pleas record. LSC fiscal staff contacted several sheriffs' departments to discuss this requirement and discerned that: (1) the required purchaser information is already collected in those jurisdictions, and (2) that practice was believed to be widespread across the state. Assuming that were true, then the collection and inclusion of this information in sheriff and court records will not create any significant additional work or related operating expenses, as this requirement appears to largely codify current practice in many, if not all, counties.

Property description reading. The bill permits a reading of a summary property description to be read at a judicial sale, which clarifies the sheriff's responsibility with regard to this specific aspect of the judicial sale process. It allows the sheriff to save significant time by reading abbreviated property descriptions and foregoing the more cumbersome process of reading the property's legal description. Several sheriffs' departments reported to LSC fiscal staff that they used some type of shortened property description when addressing properties at judicial sales. It does not appear that this provision will generate any readily discernible fiscal effect, other than the potential for a difficult to measure savings if the time it takes to execute a particular judicial sale is expedited.

Deed filing fees. The bill requires the sheriff's department to file the deed with the county recorder within 14 days of confirmation at a judicial sale. In order to record the deed with the county recorder, the county engineer and the county auditor must first examine and approve the information contained in the deed. Based on LSC fiscal staff's research to date, it does not appear that the county engineer charges a fee for their services, while the county auditor and the county recorder do charge a fee for their services. The bill requires officers who sell real property at a judicial sale to collect the recording fee and any associated costs to cover the recording from the purchaser or transferee at the time of the sale or transfer. As a result, the sheriff will need to develop and maintain a mechanism to accurately assess, collect, and disburse these moneys.

Through conversations with the offices of several county auditors, LSC fiscal staff has learned that they may charge up to \$4 per \$1,000 of the sale price and \$0.50 per parcel for conveyance and transfer fees. Additional conversations with the offices of several county recorders revealed a fee structure of \$28 for the first two pages and \$8 for each additional page to record the deed.

Deed filing process. The process of physically filing a deed can be time consuming, as it involves stops at the offices of the county engineer, county auditor, and the county recorder. In many urban counties, the number of foreclosures subject to judicial sales can be quite large. For example, the Franklin County Sheriff's Office estimates that they process approximately 150 to 200 foreclosures per week, and the Mahoning County Sheriff's Office estimates that they process approximately 40 to 50 foreclosures per week. Available information also indicates that foreclosure activity in Ohio is relatively high and continues to increase.

According to estimates from several county auditors' offices, the processing time for a deed, provided the information contained on the paperwork is complete and accurate, is approximately 20 to 30 minutes. Based on the estimates in the immediately preceding paragraph, this represents an average increase in workload of up to approximately 73 hours per week for the Franklin County Sheriff's Office and up to approximately 19 hours per week for the Mahoning County Sheriff's Office. According to the Buckeye State Sheriffs' Association, the

bill will allow the sheriff to charge and collect from purchasers or transferees all of the fees and costs associated with filing the deed, including any increase in labor costs.

It is possible that, subsequent to the bill's enactment, the involved entities in any affected county – the sheriff, engineer, auditor, and recorder – may develop a procedure to streamline the deed filing process. That said, the sheriff would still have an increased workload and related costs associated with creating the files to record a deed, gathering accurate and complete information when a file is deficient, traveling to and from the county offices of the engineer, auditor, and recorder, and paying various service fees. By allowing the sheriff to recover these associated costs, the ongoing expenses to the sheriff that would otherwise easily exceed LSC fiscal staff's threshold for a minimal local cost would likely be avoided.

Municipal and county courts handling housing enforcement cases

The provision requiring sheriffs to file a deed with the county recorder within 14 days is designed to ensure that counties, municipalities, and townships can more promptly identify the individual or business that is legally responsible for maintaining a property that was purchased at a judicial sale. By ensuring that such purchaser information is filed in a timelier manner than might otherwise have been the case under current law and practice, the bill increases the likelihood that building, housing, health, or safety code violation charges are filed against the correct defendant.

Apparently, as the pace of foreclosure and judicial sales activity has increased in Ohio, so has the number of instances in which a deed is not being filed, or filed in a timely manner, with the county recorder. The result, in some municipal courts and county courts, is that the presiding judge is moving to dismiss a larger number of cases related to building, housing, health, or safety code violation charges, as it becomes clear to the judge that the person brought before the court is no longer responsible for the maintenance of the property in question.

Presumably, the bill may decrease the number of cases that are being filed against the wrong party and subsequently dismissed by the court. It does not appear that such a result will generate any readily discernible fiscal effect on the prosecutors and courts handling these matters, other than the potential for a difficult to measure savings in the time it might otherwise have taken to identify the legally responsible party and impose a remedy.

County, municipal, and township code enforcement generally

The bill also contains several provisions, for example, allowing municipalities and townships to conduct inspections of property subject to a writ of execution, authorizing courts and county boards of revision to transfer certain tax delinquent lands subject to judicial foreclosure without appraisal or sale, and offering property that did not sell at a judicial sale to a political subdivision before forfeiture to the state, aimed at increasing a local jurisdiction's ability to: (1) ensure a property is safe and secure, (2) conserve public building, housing, health, and safety code enforcement resources, and (3) minimize the amount of time that a property may be left unoccupied or idle.

Presumably, if a local jurisdiction gains access to, or acquires legal control in some manner of, a property more quickly than might otherwise have been the case under current law and practice, any potential damage to the property and the surrounding neighborhood is contained. Corrective actions may be undertaken sooner, thus ensuring that property values of

nearby homes are protected, and that criminal elements are prevented from occupying a vacant property, increasing crime and social problems in the area. As a result, the property tax base is maintained and law enforcement may be able to redirect limited resources, as individuals have fewer readily available idle or vacant properties from which to engage in or conduct criminal activities.

Additionally, the provisions ensuring the deed is promptly filed with the county recorder following a judicial sale may generate additional revenues and/or decrease enforcement costs for certain local jurisdictions. By ensuring the current legal owner of the property is on file with the county recorder, the local jurisdiction may be able to more easily and readily levy and collect fines for building, housing, health, and safety code violations. It is also the case that, by being able to identify the current owner financially responsible for a property's maintenance, the local jurisdiction may be able to recoup some of its enforcement expenses, including costs incurred to ensure that a property is safe and secure. Moreover, the possible threat of being assessed these costs and penalties may entice some property owners to ensure their properties are properly maintained following a judicial sale, which, theoretically, saves the local jurisdiction property maintenance expenses that might otherwise be incurred.

Mediation services

In an action for the foreclosure of a mortgage, the bill permits the court to require the mortgagor and the mortgagee to participate in mediation, the practical effect of which would presumably be to reduce to some degree the amount of time and effort that the court might otherwise have spent in adjudicating such matters.

State fiscal effects

Low- and Moderate-Income Housing Trust Fund (Fund 646)

Pursuant to section 317.36 of the Revised Code, when certain documents are filed, for example, a deed or certificate, the county recorder collects a fee that is forwarded to the state for deposit to the credit of the Low- and Moderate-Income Housing Trust Fund (Fund 646). Moneys credited to Fund 646 are used to provide grants and loans for qualifying housing projects serving low- and moderate-income persons, involving the construction of new housing, renovation of existing housing, and supportive services.

The requirement that a deed be delivered to, and recorded by, the county recorder within 14 days may decrease the average time between the property being purchased at a judicial sale and the date the deed is filed with the county recorder. As a result, in some counties, the county recorder may collect housing trust fees more promptly than might otherwise have been the case under current law and practice. There would not, in all likelihood, be an increase in the amount of housing trust fees collected the county recorder, but rather those fees may be collected in a more efficient manner.

LSC fiscal staff: Matthew L. Stiffler, Budget Analyst

HB0138EN/sle

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615

✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. H.B. 280** DATE: **December 17, 2008**

STATUS: **As Enacted – Effective April 7, 2009** SPONSOR: **Rep. Schneider**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **To require facilities that perform abortions to display a sign; to enhance the criminal penalty for causing or attempting to cause physical harm to a family or household member who was pregnant at the time of the offense; and to make other changes to the law regarding human trafficking and assault on a pregnant woman**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010 and Future Years
General Revenue Fund		
Revenues	- 0 -	- 0 -
Expenditures	Minimal increase for the Department of Health for web site modification	- 0 -
	Potential increase, totaling several hundred thousands of dollars for human trafficking provisions for the Department of Rehabilitation and Correction	Prison population stacking effect generating incarceration cost increase totaling up to several million or more dollars annually for human trafficking provisions for the Department of Rehabilitation and Correction
	Potential increase for the Department of Rehabilitation and Correction of uncertain magnitude related to incarceration costs for cases involving assault and domestic violence against a pregnant woman	
	Potential minimal increase for the Office of the Attorney General for establishing commission	
Operating Expenses (Fund 5D60)		
Revenues	- 0 -	- 0 -
Expenditures	Potential minimal increase for the State Medical Board of Ohio	
Victims of Crime/Reparations Fund (Fund 4020)		
Revenues	Gain potentially exceeding minimal	
Expenditures	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- **Department of Health.** The bill requires the Department of Health to publish a notice on its Internet web site in a manner that can be copied and produced in poster form. The cost would likely be minimal.

- **State Medical Board of Ohio.** The State Medical Board of Ohio could realize an increase in administrative and possible investigative and adjudication costs as a result of the bill. It is likely that these costs would be minimal; however, the total costs would be dependent on the number of physicians who violate the provisions in the bill.
- **Department of Rehabilitation and Correction.** Additional offenders might be sentenced to prison subsequent to the bill's enactment, and thus, there could be an increase in the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. The bill enhances the penalties for domestic violence cases against pregnant women when the offender knew the victim was pregnant. Additionally, the bill imposes mandatory minimum sentencing in some domestic violence cases and assault cases when the offender knew the woman was pregnant. Mandatory minimum sentences can increase incarceration times for violators, thus, increasing costs for DRC.
- **Department of Rehabilitation and Correction.** Based on a preliminary analysis provided by DRC, the bill's human trafficking penalty enhancement provisions appear likely to increase its annual incarceration costs, the magnitude of which could total up to several million or more dollars annually in subsequent years.
- **Attorney General.** The bill encourages the Office of the Attorney General to establish a Trafficking in Persons Study Commission. If the Attorney General were to establish this commission, the ongoing annual operating expenses for the state appears unlikely to exceed minimal, which means an estimated cost of less than \$100,000 per year.
- **Victims of Crime/Reparations Fund.** Given the shifting of certain domestic abuse cases from the misdemeanor to the felony level, the Victims of Crime/Reparations Fund could collect an additional \$21 compared to the revenue generated from the misdemeanors under current law. Thus, as a result of perhaps as many as 7,400 offenders being convicted of, or pleading guilty to, the penalty enhanced conduct, the state may gain an additional \$21 in locally collected state court costs for each such instance for deposit in Fund 402. The magnitude of this potential gain could exceed the minimal threshold for the state, which is \$100,000.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 and FUTURE YEARS
Counties	
Revenues	Gain of uncertain magnitude
Expenditures	Increases possibly exceeding minimal in some jurisdictions
Municipalities	
Revenues	Loss of uncertain magnitude
Expenditures	Decrease

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

- **Counties and municipalities.** Certain domestic abuse cases will be elevated to the status of felonies, thus shifting such cases out of municipal and county courts into the more expensive felony component of county criminal justice systems. This shifting of cases may result in the following fiscal effects: (1) increase county criminal justice system expenditures related to investigating, prosecuting, adjudicating, and defending (if the offender is indigent) certain offenders, while decreasing analogous municipal criminal justice system expenditures, and (2) generate additional court cost and fine revenues for counties, while causing a loss in analogous municipal court cost and fine revenues.

- **Counties.** The bill imposes mandatory minimum sentences for aggravated assault, felonious assault, and assault if the offender is convicted of a specification that the victim was a woman that the offender knew was pregnant at the time of the offense. The bill also imposes some mandatory minimum sentences in domestic violence cases if the offender knew the woman was pregnant. The mandatory minimum sentencing cases may complicate county court costs and thus increase county court investigative, prosecuting, and defending costs. Incarceration costs for felony cases would be paid by the state. The bill imposes mandatory minimum sentences of at least 30 days in jail for misdemeanor assault if the offender is convicted of a specification that the victim was a woman that the offender knew was pregnant at the time of the offense. This could increase incarceration and prosecutorial costs for counties.
- **Counties.** The bill will not create additional human trafficking-related criminal actions or proceedings for county criminal justice systems to process, but may affect the time and effort required to resolve such matters. The penalty enhancement provisions may expedite the bargaining process in some instances, which potentially reduces costs; in other instances, the penalty enhancement provisions may slow the bargaining process, which potentially increases costs. That said, the net fiscal effect on any given county criminal justice system is likely to be minimal, which means an estimated reduction or increase of no more than \$5,000 per year.
- **Counties.** The bill would make certain individuals who are required to report child abuse or neglect liable for compensatory and exemplary damages resulting from a civil action. It is assumed that any civil actions would be handled in a county court of common pleas. As a result, county courts of common pleas would realize an increase in court costs. However, courts would receive a gain in revenue for things such as civil filing fees that should offset, or partially offset, these court costs.

Detailed Fiscal Analysis

Display of notice by offices or facilities where abortions are performed or induced

The bill requires the Department of Health to publish a notice on its Internet web site in a manner that can be copied and produced in poster form. The notice must state: (1) that no one can force another person to have an abortion, (2) that an abortion cannot be legally performed on anyone, regardless of her age, unless she voluntarily consents to having the abortion, (3) that before an abortion can legally be performed, the pregnant female must sign a form indicating that she consents to having the abortion voluntarily and without coercion by any person, and (4) that if someone is trying to force another person to have an abortion against the other person's will, the other person should not sign a consent form, and, if the other person is at an abortion facility, should tell an employee of the facility that someone is trying to force the other person to have an abortion.

The bill requires each office or facility at which abortions are performed or induced to post the notice in a conspicuous location in an area of the office or facility that is accessible to all patients, employees, and visitors. The notice specifies the poster dimensions and the minimum typeface required. The bill explicitly requires an "ambulatory surgical facility" that performs or induces abortions to comply with that requirement. The bill specifies that the notice-posting requirement does not apply to an office or facility at which abortions are performed or induced due only to a "medical emergency." As used in this provision, "medical emergency" means a condition of a pregnant woman that, in the reasonable judgment of the physician who is

attending the woman, creates an immediate threat of serious risk to the life or physical health of the woman from the continuation of the pregnancy necessitating the immediate performance or inducement of an abortion.

Fiscal effect of notice display

The Department of Health will realize an increase in costs related to creating the notice and posting it on their web site. The cost is expected to be minimal as long as they only have to post the form.

There are currently 22 government-owned hospitals in Ohio. These hospitals are owned by counties or the state. According to the Ohio Hospital Association, it is believed that abortions are performed in hospitals only in the case of medical emergencies. If this is indeed the case, then hospitals would not be required to post the notice and there would be no cost associated with this provision on government-owned hospitals.

Under the bill, ambulatory surgical facilities that perform or induce abortions must comply with the notice-posting requirement. An ambulatory surgical facility may be either hospital-operated or independent. If an ambulatory surgical facility is affiliated with one of the 22 government-owned hospitals, then that facility and hence the government-owned hospital itself, may experience an increase in administrative costs related to the notice-posting requirement. This increase in costs should be minimal. LSC staff randomly checked ambulatory surgical facility web sites. It appears from the facilities' web sites that most facilities are owned by physicians or health care groups and are not affiliated with government-owned hospitals.

Disciplinary actions

Under the bill, the State Medical Board, by an affirmative vote of not fewer than six members and to the extent permitted by law, must limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under the bill.

Fiscal effect of disciplinary actions

The State Medical Board of Ohio could realize an increase in administrative and possible investigative and adjudication costs as a result of the bill. It is likely that this cost would be minimal; however, the total costs would be dependent on the number of physicians who violate the provisions in the bill.

Assault cases when the victim is pregnant

The bill requires a mandatory jail term or mandatory prison term for felonious assault, aggravated assault, and assault if the offender is convicted of a specification that the victim was a woman that the offender knew was pregnant at the time of the offense.

Penalty for domestic violence when the victim is pregnant

Prohibitions

Existing law prohibits a person from doing any of the following:

- (1) Knowingly causing or attempting to cause "physical harm" to a "family or household member";
- (2) Recklessly causing "serious physical harm" to a family or household member; or
- (3) By threat of force, knowingly causing a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

Current penalties

A violation of any of the prohibitions listed above is the offense of "domestic violence." The existing penalty for the offense of "domestic violence" is as follows:

- (1) Except as otherwise described in subsequent paragraphs, a violation of the prohibition described above in clause (3) under "Prohibitions" is a misdemeanor of the fourth degree, and a violation of the prohibition described above in clause (1) or (2) under "Prohibitions" is a misdemeanor of the first degree.
- (2) Except as otherwise provided in paragraph (3), below, if the offender previously has pleaded guilty to, or been convicted of, domestic violence, a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is substantially similar to domestic violence, a violation of R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of the prohibition described above in clause (1) or (2) under "Prohibitions" is a felony of the fourth degree, and a violation of the prohibition described above in clause (3) under "Prohibitions" is a misdemeanor of the second degree.
- (3) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in clause (2), above, involving a person who was a family or household member at the time of the violations or offenses, a violation of the prohibition described above in clause (1) or (2) under "Prohibitions" is a felony of the third degree, and a violation of the prohibition described above in clause (3) under "Prohibitions" is a misdemeanor of the first degree.

Penalties under the bill

The bill enhances criminal penalties for the offense of "domestic violence" when the offender knew the victim was pregnant at the time of the offense. Additionally, there are mandatory prison terms for some cases.

Fiscal effect of enhanced penalties

The Pregnancy Risk Assessment Monitoring System Data Summary (PRAMS) is a joint surveillance project between the Department of Health and the U.S. Centers for Disease Control and Prevention. PRAMS is a mail survey with a telephone follow-up of a random sample of recent mothers of live-born infants. According to PRAMS approximately 5% of women have been physically abused during pregnancy by a husband, partner, or anyone else – these women may or may not have reported this abuse to authorities. In 2006, there were approximately 148,000 births in Ohio. If 5% of these women were abused during pregnancy, this means that up to 7,400 pregnant women were abused by a husband, partner, or anyone else. For the purposes of this fiscal note, LSC staff assumes that the majority of these cases were perpetuated by a family or household member and thus could be tried with the enhanced penalties.

Local government fiscal effects

The bill's penalty enhancement carries the potential to elevate certain domestic abuse cases that, based on current law, would most likely be adjudicated as a misdemeanor under the subject matter jurisdiction of a municipal court or a county court to a felony under the subject matter jurisdiction of a court of common pleas. Relative to a misdemeanor, a felony is generally a more expensive criminal matter to resolve.

Certain domestic abuse cases that would have been misdemeanors under current law will be elevated to the status of felonies, thus shifting such cases out of municipal and county courts into the more expensive felony component of county criminal justice systems. From the fiscal perspective of local governments, this elevation of certain domestic violence cases may simultaneously: (1) increase county criminal justice system expenditures related to investigating, prosecuting, adjudicating, and defending (if the offender is indigent) certain offenders, while decreasing analogous municipal criminal justice system expenditures, and (2) generate additional court cost and fine revenues for counties, while causing a loss in analogous municipal court cost and fine revenues.

The bill imposes mandatory minimum sentences for aggravated assault, felonious assault, and assault if the offender is convicted of a specification that the victim was a woman that the offender knew was pregnant at the time of the offense. The bill also imposes some mandatory minimum sentences in domestic violence cases if the offender knew the woman was pregnant. The mandatory minimum sentencing cases may complicate county court costs and thus increase county court investigative, prosecuting, and defending costs. Additionally, the imposition of a mandatory minimum sentence for a misdemeanor assault with a specification that the victim was a woman that the offender knew was pregnant at the time of offense could increase incarceration and prosecutorial costs for municipalities.

State government fiscal effects

By enhancing certain domestic abuse cases under the above-noted circumstances from a misdemeanor to a felony, the bill creates the possibility that a person who could not otherwise have been sentenced to a prison term under current law can theoretically, at least, be sentenced to a prison term in the future. As a result, additional offenders might be sentenced to prison subsequent to the bill's enactment, and there could be an increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs. Additionally, the imposing of mandatory minimum sentences could increase incarceration costs, since judges would have no discretion in terms of sentencing.

In addition to any local fines and court costs, offenders can be ordered to pay locally collected state court costs. State court costs for a felony conviction total \$45, with \$30 of that amount being credited to the Victims of Crime/Reparations Fund (Fund 4020) and the remainder, or \$15, being credited to the GRF. State court costs for a misdemeanor conviction total \$24, with \$9 of that amount being credited to the Victims of Crime/Reparations Fund and the remainder, or \$15, being credited to the GRF. Thus, the GRF gains \$15 irrespective of whether an offender is convicted of or pleads guilty to a misdemeanor or a felony. In the case of a felony, the Victims of Crime/Reparations Fund could collect an additional \$21 compared to its potential take from a misdemeanor. Thus, as a result of a person being convicted of, or pleading guilty to, the penalty enhanced conduct, the state may gain an additional \$21 in locally collected state court costs for each such instance for deposit in Fund 4020.

Factors in determination

Please note that there are several factors that could have an impact on this estimate. First, it is likely that not all of these women would report the abuse to authorities. Thus, fewer court cases would be prosecuted and the enhanced penalty costs and mandatory minimum costs would be reduced. Second, the offender would need to know the victim of the violation was pregnant at the time of the violation. This may be hard for prosecutors to prove. Third, the cases that move from a misdemeanor offense to a felony offense in the bill will likely see a partial offset in court costs and possible incarceration expenses for certain governmental entities.

Penalties for committing offenses in the furtherance of human trafficking

Relative to its human trafficking provisions, the bill most notably:

- (1) Requires a mandatory prison term for kidnapping, abduction, compelling prostitution, promoting prostitution, illegal use of a minor in nudity-oriented material or performance, endangering children; and
- (2) Increases the penalty for engaging in a pattern of corrupt activity if committed in the furtherance of human trafficking.

Offense levels for certain prohibited conduct under current law

The existing offense levels for the prohibited conduct addressed by the bill are summarized in Table 1 immediately below.

Table 1 Offense Levels for Certain Prohibited Conduct Under Current Law	
Type of Offense	Level of Offense
Kidnapping	Felony of the first or second degree depending on circumstances present
Abduction	Felony of the third degree
Compelling prostitution	Felony of the third degree generally; Felony of the second degree under certain circumstances
Promoting prostitution	Felony of the fourth degree generally; Felony of the third degree under certain circumstances
Illegal use of a minor in nudity-oriented material or performance	Felony of the second, fourth, or fifth degree depending on circumstances present
Endangering children	Misdemeanor of the first degree generally; Felony of the second, third, fourth, or fifth degree under certain circumstances
Engaging in a pattern of corrupt activity	Felony of the second degree generally; Felony of the first degree under certain circumstances

Prison terms generally and under the bill

Table 2 immediately below displays the prison term associated with the bill's prohibited conduct under current law and compares it to the enhanced mandatory prison term that the court would impose under the bill.

Table 2 Prison Terms Generally and Under the Bill		
Level of Offense	Prison Term Under Current Law	Mandatory Prison Term Under the Bill
Felony 1st degree	3, 4, 5, 6, 7, 8, 9, 10 years definite	5, 6, 7, 8, 9, 10 years definite
Felony 2nd degree	2, 3, 4, 5, 6, 7, 8 years definite	3, 4, 5, 6, 7, 8 years definite
Felony 3rd degree	1, 2, 3, 4, 5 years definite	3, 4, 5 years definite
Felony 4th degree	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 months definite	18 months definite
Felony 5th degree	6, 7, 8, 9, 10, 11, 12 months definite	12 months definite

State fiscal effects

The bill will likely affect the state in two ways related to the annual incarceration costs incurred by the Department of Rehabilitation and Correction (DRC). In the short-term, some offenders that might not otherwise have been sentenced to prison under current law and practice may, under similar circumstances in the future, receive a mandatory prison term. In the long-term, some offenders that would have been sentenced to a prison term under current law and practice, under similar circumstances in the future, may receive a longer prison term than might otherwise have been the case. Either outcome increases DRC's annual incarceration costs, as the practical effect is to increase the size of the prison population.

Short-term incarceration costs. Generally, the bill's human trafficking penalty enhancements appear unlikely to noticeably increase DRC's short-term incarceration costs, because they affect offenders likely to have been sentenced to some prison time under current law and practice. The one potential exception to this is the mandatory prison term required for offenses of the fourth and fifth degree when the human trafficking specification is attached. Under the bill, these offenders must be sentenced to the maximum term for their offense. Under current law, the presumption for these offenders is that they will not receive prison time. The result is that some additional offenders in this category will receive mandatory maximum prison sentences who would otherwise have been sentenced to community control or some lesser amount of prison time. The potential increase in DRC's incarceration costs related to these fourth- and fifth-degree felons could total several hundred thousands of dollars annually.

Long-term incarceration costs. Examining a more long-term perspective, the changes to the felony sentencing law related to human trafficking specifications means that, in the future, certain offenders, subsequent to the bill's enactment, would receive longer prison terms than might otherwise have been the case under current law and practice. In effect, by extending prison stays beyond what the amount of time served might otherwise have been under current law, the bill will trigger a "stacking effect," which refers to the increase in the inmate population that occurs as certain offenders stay in prison longer and the number of offenders entering the prison system does not decrease.

To estimate the impact of this stacking effect on the future size of the DRC's inmate population, LSC fiscal staff consulted the Department's Bureau of Research. DRC's preliminary analysis noted that, when the resulting stacking effect stabilizes, the Department would need up to a few hundred additional inmate beds. According to DRC's web site, the annual incarceration cost per inmate as of November 2008 is budgeted at \$24,729. If DRC's preliminary research is a reasonable approximation of the bill's stacking effect, then the increase in its GRF-funded incarceration costs conceivably total up to several million or more dollars annually.

Local fiscal effects

The conduct addressed by the bill is prohibited under current law and generally rises to the level of a felony falling under the subject matter jurisdiction of courts of common pleas and county criminal justice systems. Thus, the bill will not create additional criminal actions or proceedings for county criminal justice systems to process, but may affect the time and effort required to resolve such matters. The penalty enhancement provisions may expedite the bargaining process in some instances, which potentially reduces costs; in other instances, the penalty enhancement provisions may slow the bargaining process, which potentially increases costs. That said, the net fiscal effect on any given county criminal justice system is likely to be minimal, which means an estimated reduction or increase of no more than \$5,000 per year.

Trafficking in Persons Study Commission

The bill strongly encourages the Attorney General to establish a Trafficking in Persons Study Commission to: (1) study and review the problem of trafficking in persons, (2) study and review criminal law of this state to determine the manner and extent to which it currently applies to conduct that involves or is related to trafficking in persons, (3) develop recommendations to address the problem of trafficking in persons, and (4) prepare a report that summarizes its findings and its recommendations.

Fiscal effect

If the Attorney General were to implement these duties and responsibilities, the ongoing annual operating expenses for the state appears unlikely to exceed minimal, which means an estimated cost of less than \$100,000 per year. It seems likely that certain political subdivisions of the state may also incur some additional costs if the Attorney General needs assistance in collecting and analyzing data. Such costs would likely be no more than minimal, which means an estimated cost of no more than \$5,000 for any affected county or municipality per year.

Child abuse or neglect reports – civil action and civil liability

The bill specifies that reports of other incidents of known or suspected child abuse or neglect may be used in a civil action against a person who is alleged to have failed to report known or suspected child abuse or neglect, and to provide that a person who fails to report known or suspected child abuse or neglect is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made.

Fiscal effect

Currently, certain individuals are required to report known or suspected incidents of abuse or neglect. If these individuals do not make these reports, then they may be subject to criminal penalties. The bill would also make them liable for compensatory and exemplary damages resulting from a civil action. It is assumed that any civil actions would be handled in a county court of common pleas. As a result, county courts of common pleas would realize an increase in court costs. However, courts would receive a gain in revenue for things such as civil filing fees that should offset, or partially offset, these court costs. It is unknown how many civil actions could, or would, be brought forward.

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Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615

✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Sub. H.B. 318** DATE: **December 16, 2008**
STATUS: **As Enacted – Effective April 7, 2009** SPONSOR: **Rep. Gibbs**
LOCAL IMPACT STATEMENT REQUIRED: **Yes**
CONTENTS: **Makes changes to provisions that govern how county and township roads are placed on nonmaintained status**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 – FUTURE YEARS
Counties	
Revenues	- 0 -
Expenditures	Potential increase for road maintenance and repair and advisory opinions
Townships	
Revenues	- 0 -
Expenditures	Potential increase for road maintenance and repair

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

- **Road maintenance costs.** By limiting the types of roads that can be placed on nonmaintained status, the bill would increase county and township costs to maintain roads that revert to maintained status or otherwise would have been placed on nonmaintained status. The extent of these added costs would depend on the extent of maintenance or repairs needed to adequately maintain each applicable road.
- **County engineer advisory opinions.** The bill requires that a county or township seek an advisory opinion from the county engineer before moving to place a road on nonmaintained status. According to the Ohio County Engineers Association, the cost for such an opinion could vary widely. An opinion could be relatively inexpensive to produce, but could cost several thousands of dollars if an engineering study is needed.
- **Public notification and hearings on status of roads.** The bill requires that a county or township have at least two public hearings and publish a notice of these hearings in a general circulation newspaper within the county before the first hearing on a motion to place a road on nonmaintained status. These public notification costs would be minimal.

Detailed Fiscal Analysis

Overview

The bill revises provisions governing the placement of county and township roads on nonmaintained status. Under current law, a board of county commissioners or a board of township trustees, by resolution, may place a graveled or unimproved road under its respective jurisdiction on nonmaintained status. Such roads are not required to be maintained or repaired. While it is unknown how many counties or townships have placed roads on nonmaintained status, Ohio Department of Transportation (ODOT) data indicate that total statewide centerline mileage of roads that are either not open to the public or impassable, nonmaintained, or vacated was 1,648.98 (49.2 centerline miles were under county jurisdiction and 1,599.78 centerline miles were under township jurisdiction) at the end of CY 2007.

County or township road maintenance costs

The bill specifies that a graveled or unimproved road may not be placed on nonmaintained status if the road is the exclusive means for obtaining access to land that adjoins that road and if a four-wheeled, two wheel drive passenger motor vehicle can be driven on the road year-round, apart from seasonal conditions caused by weather-related events. This contrasts with current law that prevents a graveled road from being placed on nonmaintained status if (1) any person resides in a residence adjacent to the road, (2) the road is the exclusive means for obtaining access to the residence, and (3) the residence is the person's primary place of residence.

The bill permits the owner of land, irrespective of whether there is a residence on the land, adjoining a road placed on nonmaintained status *before this bill takes effect* or the owner of land whose only access to such a road is by easement, to petition the county or township to review the nonmaintained status of the road to determine if the road provides the only means of access to the land. If the county or township terminates the nonmaintained status of a road, the county or township would incur the costs of upgrading, maintaining, or repairing the road.

The bill also provides that if the owner of land adjoining a road that has been placed on nonmaintained status upgrades the road to applicable standards, a county or township must terminate the nonmaintained status of the road and resume maintaining and repairing the road unless the road, before it was placed on nonmaintained status, was not certified by the county or township to ODOT as mileage for the purposes of establishing the local distribution of motor vehicle registration revenues.

These provisions would significantly limit the roads on nonmaintained status to those referred to as "paper" or "X" roads, which are roads that are created on a plat but never opened, or are not open to the public. As a result, counties and townships would likely incur additional costs to maintain roads that return to maintained status or are improved by the adjoining land owners. The increase in county and township costs would depend on the extent of maintenance or repairs needed to adequately maintain each applicable road, but could easily be more than minimal.

Nonmaintained status notification and hearings process

This bill requires that at least two public hearings be held to allow for public comment before a county or township adopts a resolution putting a graveled or unimproved road that is not passable year-round on nonmaintained status. The bill requires that these hearings be publicized in a newspaper of general circulation and on the county or township web sites at least ten days prior to the first hearing. There would be a small cost attached to this requirement.

The bill also changes the process by which roads are considered for placement on nonmaintained status. Currently, county commissioners or township trustees must find that placing a road on nonmaintained status will not unduly adversely affect the flow of traffic in the immediate vicinity based on the road's usage over the preceding 21 years. Instead, the bill requires that county commissioners or township trustees obtain an advisory opinion from the county engineer evaluating these factors. According to the Ohio County Engineers Association, the cost for such an opinion could vary widely. On the one hand, an opinion could be inexpensive. On the other hand, if an engineering study is needed, the costs could be in the thousands of dollars.

Township Gasoline Excise Tax Fund receipts – township lane miles

The motor vehicle fuel tax is composed of five separate levies currently totaling 28 cents per gallon. The Gasoline Excise Tax Fund (Fund 7060) receives a portion of the proceeds of the motor vehicle fuel tax. Fund 7060 is then distributed to counties, municipalities, and townships for the construction and maintenance of roads and highways and other related purposes. A provision in the bill requires that the number of township centerline miles certified by ODOT for purposes of receiving revenue from Fund 7060 must not include those centerline miles placed on nonmaintained status by the township.

On an annual basis, each county and township is required to certify to ODOT the actual number of miles under its statutory jurisdiction that are used by and maintained for the public. ODOT maintains an inventory database of county and township roads, within which changes in the number of certified miles are recorded. Historically, roads that were not open to the public or were not passable carried a designation code of "Class X" in ODOT's inventory files.

Roads with the Class X designation are not certified as public road mileage and thus are not counted in the calculations establishing the distribution of motor vehicle registration and gasoline excise tax revenue. ODOT assigns roads placed on nonmaintained status under Class X but does not distinguish nonmaintained roads from other Class X roads. Because nonmaintained township roads are not currently counted in the certified number of township centerline miles for purposes of revenue distribution, there would be no direct fiscal effect on local governments resulting from this provision.

Indirect effect

Of the motor fuel tax levy of eight cents per gallon, 20% is distributed to townships. Each township receives the greater of either the equal share of the total amount allocated to all townships or a proportionate share based on that township's lane miles of township roads and the township's proportion of motor vehicle registrations. Therefore, another factor to consider is that

if the bill decreases the number of roads that are on nonmaintained status, the number of township lane miles certified as public road mileage would increase, which may affect the share of revenue townships receive from their allocation from the Gasoline Excise Tax Fund (Fund 7060).

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practical effect of which, dependent upon the dynamics in the prison population at that time, may be to increase the Department of Rehabilitation and Correction's GRF-funded incarceration costs. If all of the mitigating factors noted in this document's "Detailed Fiscal Analysis" were true, then LSC fiscal staff assumes that the effect of felony protection order violations on state incarceration costs will be minimal. For the purposes of this fiscal analysis, a minimal expenditure increase means an additional annual cost estimated at less than \$100,000.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 – FUTURE YEARS
Counties – Coroner's Laboratory Fund	
Revenues	- 0 -
Expenditures	Potential decrease in investigation costs and public record costs
Courts of Common Pleas (divisions handling civil protection orders)	
Revenues	- 0 -
Expenditures	(1) Potential increase to make electronic monitoring decisions; (2) Potential increase, if state's Fund 4020 becomes insolvent, to pay for law enforcement's electronic monitoring of indigent respondents estimated at up to between a couple of hundreds of thousands of dollars and tens of millions of dollars annually statewide
County Sheriffs and Other Law Enforcement Agencies (electronic monitoring systems)	
Revenues	Potential gain of up to between approximately one million dollars and tens of millions of dollars annually statewide to electronically monitor respondents, with range reduced if state's Fund 4020 becomes insolvent and courts of common pleas do not pay for costs of electronically monitoring indigent respondents
Expenditures	Potential increase of up to between approximately one million dollars and tens of millions of dollars annually statewide, wholly or partially reimbursed depending on whether state's Fund 4020 becomes insolvent and courts of common pleas pay for costs of electronically monitoring indigent respondents
County and Municipal Criminal Justice Systems Generally (processing protection order violators)	
Revenues	Potential gain in court costs and fines, annual magnitude for any affected local criminal justice system uncertain
Expenditures	Potential increase to investigate, prosecute, adjudicate, defend, and sanction violators, annual magnitude for any affected local criminal justice system uncertain

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

- **Electronic monitoring systems.** The bill requires that: (1) the respondent pay all costs associated with the installation and use of the monitoring device, and (2) the state's Victims of Crime/Reparations Fund (Fund 4020) to be used for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent. LSC fiscal staff estimates the potential statewide local electronic monitoring cost at between approximately one million dollars and tens of millions of dollars annually, an amount that may be wholly or partially reimbursed depending upon the respondent indigency rate, the future solvency of the state's Fund 4020, and a court of common pleas responsibility for the costs of electronically monitoring indigent respondents.

- **Court of common pleas.** From the perspective of the divisions of the courts of common pleas whose subject matter jurisdiction includes ruling on petitions requesting the issuance of a civil protection order, the bill presents several areas of potential fiscal concern. However, quantifying those areas of concern relative to their effect on the workload and annual operating expenses of courts of common pleas is problematic.

Although any affected court of common pleas may be able to reallocate resources and reengineer decision-making processes in an effort to minimize costs, it is not clear how those courts will handle the apparent uncertainties surrounding who is responsible for the payment of electronic monitoring costs that, for whatever reason, cannot be collected from the respondent or covered by moneys drawn from the state's Victims of Crime/Reparations Fund.

- **County sheriffs and other local law enforcement agencies.** The annual magnitude of the costs incurred by any affected law enforcement agency will likely be a function of the fixed cost to establish and maintain an electronic monitoring system and the marginal cost, which will be dependent on the number of respondents ordered to be electronically monitored and the length of time that the order is in effect. Presumably, some, but perhaps not all, of these costs will be recovered by the requirement that respondents pay the cost of the installation and monitoring of the electronic monitoring device. That said, it seems likely that the respondent payment stream in certain local jurisdictions will not fully cover the electronic monitoring system's annual operating expenses and that the "gap" between those expenses and the earmarked revenue stream may exceed minimal, perhaps significantly so. For the purposes of this fiscal analysis, a local cost in excess of minimal means an estimated expenditure increase of more than \$5,000 for any affected law enforcement agency per year.
- **County and municipal criminal justice systems generally.** If additional respondents are arrested and prosecuted for violating the terms of a stalking/sex offense-related civil protection order, then the affected local criminal justice system's expenditures may increase, including costs related to investigating, prosecuting, adjudicating, defending (if the person is indigent), and sanctioning the violator. Whether the number of violators in any given county or municipal criminal justice system and associated costs will be sufficient to exceed LSC fiscal staff's "minimal local cost" threshold is uncertain. A minimal local cost means an expenditure increase estimated at no more than \$5,000 for any affected county or municipality per year. If collected from violators, court cost and fine revenues may offset all, or a portion, of the expenses incurred in the local criminal justice system's handling of the violation. The magnitude of the revenues that any affected local jurisdiction may collect annually is uncertain.
- **Coroner's records.** The bill restricts the types of coroner's records which are considered to be public records. This restriction would most likely decrease the number of public records that need to be produced by the coroner's office, and could lead to reduced administrative expenses.
- **Appointment of officials.** The bill allows coroners to appoint law enforcement officials from within the county to be investigators. This could allow coroners to utilize local law enforcement officials instead of contracting with a qualified private individual, thus reducing investigative costs.

Detailed Fiscal Analysis

Overview

For purposes of this fiscal analysis, the bill most notably:

- Requires a court that makes certain findings at a full hearing on a petition for a stalking/sex offense-related civil protection order to order the respondent be subjected to "electronic monitoring" for a period of time and under the terms and conditions that the court determines are appropriate.
- Requires the court to direct the county sheriff or other appropriate law enforcement agency to install the electronic monitoring device and to monitor the respondent.
- Requires the court to order the respondent to pay the cost of the installation and monitoring of the electronic monitoring device.
- Requires the existing state Victims of Crime/Reparations Fund to be used for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent.
- Provides, pursuant to existing law, that violating the terms of a stalking/sex offense-related civil protection order is generally a misdemeanor of the first degree and enhances to a felony of the fifth or third degree depending upon the circumstances present.
- Restricts the type of coroner's records that are public records.
- Permits coroners to appoint law enforcement officials from within the county to be investigators.

The bill also revises aspects of the Coroner's Law. The fiscal effects of the electronic monitoring and coroner provisions are described below.

State fiscal effects

Victims of Crime/Reparations Fund (Fund 4020)

The bill will affect the cash flow of the Attorney General's Victims of Crime/Reparations Fund (Fund 4020) by increasing its annual expenditures potentially by hundreds of thousands and perhaps tens of millions of dollars.

According to data provided by the Office of the Attorney General, Fund 4020, based on current revenue and expenditure patterns, will become insolvent in FY 2011. The fund's end of year cash balance decreased from \$34.6 million in FY 2006 to \$23.2 million in FY 2007, is projected to decrease to \$2.6 million by the close of FY 2010, and is projected to post a deficit by FY 2011. Assuming that the Office of the Attorney General's analysis is reasonably accurate, then the bill will accelerate the fund's projected cash flow crisis.

Based on information provided by the Office of the Attorney General, this decrease in the fund's end of year cash balance is due to a variety of factors. First, the fund is taking in less

revenue in the form of court costs. In FY 2003, \$18.5 million in court costs was collected; in FY 2007, \$16.1 million in court costs was collected.

Second, the magnitude of the fund's annual disbursements has increased. For example, disbursements on: (1) DNA services have expanded from \$400,000 in FY 2003 to \$2.3 million in FY 2007, (2) crime victim compensation awards have increased from a total of \$19.7 million in FY 2003 to \$25.5 million in FY 2007, and (3) victim assistance program subsidies have increased from \$2.8 million in FY 2003 to \$5.2 million in FY 2007. Costs associated with child and elder protection were \$0 in FY 2003, but increased to \$1.7 million in FY 2007.

Overall, the fund's total annual revenues have decreased from \$25.7 million in FY 2003 to \$25.6 million in FY 2007, while the fund's total annual expenditures have increased from \$24.1 million in FY 2003 to \$37.0 million in FY 2007 (an increase of 53.5%).

Violating a protection order

As noted, under existing law, the offense of violating a protection order is generally a misdemeanor of the first degree, but is elevated to a felony of the fifth or third degree if other circumstances are present. As a result of the bill, certain respondents will be electronically monitored for a period of time ordered by the court, which presumably increases the possibility that some respondents, who might not have been caught violating a protection order, will be caught in violation of the protection order, arrested for doing so, and successfully prosecuted for the offense of "violating a protection order." Such an outcome has potential fiscal implications for state revenues and expenditures, which are discussed in more detail in the paragraphs immediately below.

State revenues. From a state revenue perspective, if a respondent is convicted of violating a protection order, then the state potentially collects state court costs that the court is generally required to impose on that individual. Those locally collected court costs are forwarded for deposit in the state treasury to the credit of the GRF and the Victims of Crime/Reparations Fund (Fund 4020). The state court costs for a felony offense total \$45, of which the GRF receives \$15 and Fund 402 receives \$30. The state costs for a misdemeanor offense total \$24, of which the GRF receives \$15 and Fund 4020 receives \$9. Although LSC fiscal staff is unable to quantify the number of additional respondents that might be convicted of violating a protection order annually statewide, we assume that the amount of court cost revenue likely to be generated for either state fund annually is unlikely to exceed minimal. For the purposes of this fiscal analysis, a minimal revenue gain means an increase estimated at less than \$100,000 for either state fund per year.

State expenditures. From a state expenditure perspective, if a respondent is convicted of a felony protection order violation, then it is possible that the court will sentence the offender to a prison term, the practical effect of which, dependent upon the dynamics in the prison population at that time, may be to increase the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. As of December 2008, DRC's web site indicates that its budgeted average incarceration cost per inmate is \$67.37 per day, or \$24,590.05 per year.

LSC fiscal staff does not have a reliable estimate of the number of respondents that might be sentenced to a prison term for a felony protection order violation. That said, there appear to be several factors that may combine to keep the number of prison-bound respondents to a relatively small group. First, the mere act of monitoring respondents electronically may be

sufficient incentive for some respondents to abide by the terms of the protection order. Second, some number of respondents will likely be convicted of a misdemeanor protection order violation for which a court can order a stay in a local jail, but cannot impose a prison term. Third, some number of respondents convicted of a felony protection order violation may also be convicted of other related felony conduct for which a prison term would have been imposed independent of the felony protection order violation.

If all of the mitigating factors noted in the immediately preceding paragraph were true, then LSC fiscal staff assumes that the effect of felony protection order violations on state incarceration costs will be minimal. For the purposes of this fiscal analysis, a minimal expenditure increase means an additional annual cost estimated at less than \$100,000.

Local fiscal effects

Number of stalking/sex offense-related civil protection orders issued

LSC fiscal staff took as its starting point for this fiscal analysis the need to determine how many stalking/sex offense-related civil protection orders are being issued by Ohio's courts annually statewide. Unfortunately, finding a reliable and straightforward answer to that question is difficult, as the details associated with the issuance of any given protection order are not entered into a centralized depository or database available to court and law enforcement personnel statewide, and by extension such information is not readily available to persons interested in researching related matters. As an alternative, LSC fiscal staff contacted several courts of common pleas and affiliated court personnel, but had great difficulty collecting responses that would permit one to generate a reliable estimate of protection order activity statewide.

Based on some informal research conducted by staff of the Judicial Conference of Ohio and conversations with knowledgeable local court personnel, LSC fiscal staff has estimated the following:

- In calendar year (CY) 2006, approximately 15,000 to 25,000 requests for the issuance of a stalking/sex offense-related civil protection order were filed statewide.
- Approximately 65% of filings noted in the immediately preceding dot point resulted in the court issuing such a protection order, which suggests that the number of stalking/sex offense-related civil protection orders issued was in the approximate range of 9,750 to 16,250.

An additional uncertainty needs to be noted. Under existing law, a person can seek different types of civil protection orders – a temporary protection order, a civil protection order, or a stalking/sex offense-related civil protection order – and there appears to be some degree of flexibility in permitting a person to determine the type of protection order sought. If this is indeed the case, then it is possible that the availability of electronic monitoring of the respondent may create an incentive for certain persons that would have filed a request for a temporary protection order or a civil protection order to instead file a request for a stalking/sex offense-related civil protection order. To the degree that this phenomenon actually occurs, then our estimated range may have undercounted to some degree the actual number of stalking/sex offense-related civil protection orders that will be filed and issued annually statewide subsequent to the bill's becoming effective.

Number of respondents subject to "electronic monitoring"

Filing and content of petition. The bill provides that, in addition to an allegation and a request for relief as required under existing law, a petition seeking relief in the form of electronic monitoring must contain an allegation that the respondent engaged in conduct that would cause a reasonable person to believe their safety was at risk and that the respondent presents a continuing danger to the person seeking protection. If the court finds by "clear and convincing evidence" that the previously described circumstances are true, then the court is required to order the respondent be electronically monitored.

To assess the potential fiscal implications of the provisions described in the immediately preceding paragraph, one needs to measure the following occurrences: (1) the frequency with which a person filing a petition will seek relief in the form of electronic monitoring of the respondent, and (2) the frequency with which a court will order a respondent be subject to electronic monitoring. In order to measure these "frequencies," one has to in effect predict the future actions of petitioners and courts. From the perspective of local court and law enforcement personnel, these measurements constitute a problematic task, as the bill represents an arguably dramatic departure from the manner in which civil protection orders are currently issued and enforced. LSC fiscal staff's research into this matter revealed no clear consensus or response patterns.

Petitions requesting electronic monitoring order. Under existing law, a person filing for a stalking/sex offense-related civil protection order indicates to the court what type of relief is sought by checking the appropriate boxes in the form provided by the court. Presumably, this form would be amended to incorporate electronic monitoring as an additional type of relief available to a petitioner and that the petitioner would simply check the appropriate box to request the court do so.

From LSC fiscal staff's perspective, if a person is motivated enough to file a petition, then that person is highly likely to add electronic monitoring to the relief sought by simply checking the appropriate box under the belief that it enhances their personal safety. Thus, for the purposes of this fiscal analysis, we assume that all of those petitioning the court to issue a stalking/sex offense-related civil protection order will include a request for electronic monitoring of the respondent.

Electronic monitoring orders issued. In researching the matter of the frequency with which the court will order a respondent to be electronically monitored, LSC fiscal staff generally found two distinct perspectives. Some individuals felt that a court would be very selective in its use of electronic monitoring and reserve its use for circumstances present in which the respondent represented a substantial threat to the petitioner's safety. This could mean that only about 5% of respondents would be ordered to be electronically monitored. Conversely, the court may want to use all available tools to enhance the safety of petitioners, in which case a court may order a respondent to be electronically monitored in as many as 95% of the petitions filed.

Table 1 immediately below takes our previously estimated range of stalking/sex offense-related civil protection orders issued (9,750 to 16,250) and shows, assuming that this estimate is a reasonably accurate approximation of the true number, the number of respondents that could be ordered to be electronically monitored as a percentage of the total number of petitions filed.

Table 1
Estimated Statewide Number of Respondents Subject to
"Electronic Monitoring"

Percentage of Orders Issued with Electronic Monitoring of Respondent	Estimated Number of Orders Issued	
	9,750	16,250
5%	488	813
25%	2,438	4,063
50%	4,875	8,125
75%	7,313	12,188
95%	9,263	15,438

Electronic monitoring costs

Although it may be a simplification to do so, one may view electronic monitoring as involving three distinct tools or technologies, as described generally below: radio frequency, active global positioning satellite (GPS), and passive global positioning satellite (GPS).

- Radio frequency monitoring essentially involves the imposition of a curfew on an offender and monitoring whether that offender is at their residence at required times.
- Active GPS uses global positioning satellites to track an offender's location in the community, and also allows officers to enter parameters that restrict an offender from being in certain geographic areas. If the offender violates the boundaries of those areas, an alert is registered at the monitoring center and relayed to the officer and, if a victim chooses to be notified, he/she is alerted by a beeper signal.
- Passive GPS system has many of the same features of the active GPS system, but it does not report the monitored offender's movements in "real time." Instead, the system maintains a log of the offender's location throughout the day and uses landline telephones to transmit a summary of this data to officers the following day.

Costs of electronic monitoring appear to range from \$5 to \$18 a day, with "active" monitoring being on the more expensive end of this cost spectrum in comparison to what can be termed "passive" monitoring. According to a December 2005 report by the Task Force to Study Criminal Offender Monitoring by Global Positional Systems in the State of Maryland (herein referred to as the "Maryland Task Force"), a survey found that active monitoring systems typically cost between \$9 and \$12 a day.^[1] More recently, however, *I-Secure Trac* made a product presentation to members of the Ohio General Assembly's Senate Criminal Justice Committee and stated that electronic monitoring through a global positioning system would cost \$18 a day.^[2]

The bill requires that the respondent pay all costs associated with the installation and monitoring of an electronic monitoring device. It seems highly likely, however, that some respondents will be determined indigent and thus unable to pay these monitoring costs. LSC fiscal staff's research into this matter suggests that the indigency rate associated with this population of respondents is likely to be around 30%. The bill requires the state's Victims of Crime/Reparations Fund (Fund 4020) to be used for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent. According

to data provided by the Office of the Attorney General, Fund 4020, based on current revenue and expenditure patterns, could become insolvent in the next biennium. If that were true, then, in the case of the court ordering an indigent respondent to be electronically monitored, that court may end up being responsible for ensuring that the law enforcement entity ordered to monitor the respondent is paid for the costs it incurs in doing so.

Table 2 below summarizes our best estimate of the statewide costs associated with the electronic monitoring of certain respondents. It incorporates, from Table 1, our estimated numbers of respondents that might be electronically monitored, and a range of potential average daily electronic monitoring costs (\$5, \$9, \$12, \$18) to calculate two cost figures: (1) the estimated statewide average daily electronic monitoring costs that are theoretically to be paid by respondents, and (2) the amount of the figure from (1) that represents respondents who may be determined to be indigent and from whom costs may not be collected.

The intent of Table 2 below is to suggest the magnitude of the electronic monitoring costs that might be incurred by county sheriffs and other local law enforcement personnel statewide, and of that amount, how much might not be collected because some respondents being electronically monitored are deemed indigent.

Under the bill, the court will direct the county sheriff or any other appropriate law enforcement agency to install the electronic monitoring device and to monitor the respondent. It is not clear, however, that local law enforcement would have the authority to contract out all or some portion of the associated duties and responsibilities to private sector vendors. Thus, for the purposes of this fiscal analysis, LSC fiscal staff has assumed that local law enforcement authorities will directly perform these duties and responsibilities and incur all of the associated costs. Also unclear is who would be responsible for the billing and collecting of costs from electronically monitored respondents, and if some respondents are deemed indigent, how will those costs be absorbed. Will the state's Victims of Crime/Reparations Fund or the court ordering the electronic monitoring of indigent respondents be required to reimburse the local law enforcement agency for the costs of monitoring such persons?

Table 2
Estimated Statewide Average Daily Electronic Monitoring Costs

Estimated Number of Electronically Monitored Respondents	Average Daily Electronic Monitoring Cost*			
	\$5	\$9	\$12	\$18
488	\$2,440/\$732	\$4,392/\$1,318	\$5,856/\$1,757	\$8,784/\$2,638
813	\$4,065/\$1,220	\$7,317/\$2,195	\$9,756/\$2,927	\$14,634/\$4,390
2,438	\$12,190/\$3,657	\$21,942/\$6,583	\$29,256/\$8,777	\$43,884/\$13,165
4,063	\$20,315/\$6,095	\$36,567/\$10,970	\$48,756/\$14,627	\$73,134/\$21,940
4,875	\$24,375/\$7,313	\$43,875/\$13,163	\$58,500/\$17,550	\$87,750/\$26,325
7,313	\$36,565/\$10,970	\$65,817/\$19,745	\$87,756/\$26,327	\$131,634/\$39,490
8,125	\$40,625/\$12,188	\$73,125/\$21,938	\$97,500/\$29,250	\$146,250/\$43,875
9,263	\$46,315/\$13,895	\$83,367/\$25,010	\$111,156/\$33,347	\$166,734/\$50,020
12,188	\$60,940/\$18,282	\$109,692/\$32,908	\$146,256/\$43,877	\$219,384/\$65,815
15,438	\$77,190/\$23,157	\$138,942/\$41,683	\$185,256/\$55,577	\$277,884/\$83,365

* The calculated amounts in each cell contain two figures separated by a slash as follows: (1) the total average daily electronic monitoring cost based on the estimated number of electronically monitored respondents, (2) the amount of estimated costs in (1) that might not be recovered if one assumes a 30% indigency rate.

Courts of common pleas

From the perspective of the divisions of the courts of common pleas whose subject matter jurisdiction includes ruling on petitions requesting the issuance of a civil protection order, the bill presents several areas of potential fiscal concern, as summarized immediately below.

- The bill appears unlikely to discernibly change the number of civil protection order petitions filed annually in any given court of common pleas. However, it is possible that the additional decision regarding electronic monitoring could lead to longer and more complex hearings.
- The bill: (1) requires the court order the county sheriff or other appropriate law enforcement agency to electronically monitor certain respondents, and (2) requires respondents to pay for the costs of being electronically monitored. LSC fiscal assumes that, based on what appears to be current practice, the local law enforcement agency charged by the court to electronically monitoring certain respondents would also be responsible for establishing and maintaining a system for collecting the costs of electronically monitoring from the respondents. The bill, however, does not clearly assign that duty to either the court or the other appropriate law enforcement agency.
- The bill requires the state's Victims of Crime/Reparations Fund to pay for the costs of installation and monitoring of an electronic monitoring device if the court determines that the respondent is indigent. However, given the questions surrounding the future ability of the fund to meet this requirement, what fiscal exposure does the court of common pleas have regarding these respondents?

- If certain respondents are financially capable of paying the costs associated with electronic monitoring, but chose not to do so, will the court that ordered the electronic monitoring being involved in the matter, how frequently, and at what cost?

From LSC fiscal staff's perspective, quantifying the above-noted areas of concern relative to their effect on the workload and annual operating expenses of courts of common pleas is problematic. Although any affected court of common pleas may be able to reallocate resources and reengineer decision-making processes in an effort to minimize costs, it is not clear how those courts will handle the apparent potential uncertainties surrounding who is responsible for the payment of electronic monitoring costs that, for whatever reason, cannot be collected from the respondent or covered by moneys drawn from the state's Victims of Crime/Reparations Fund.

County sheriff and other local law enforcement agencies

What is not clear from LSC fiscal staff's perspective is whether the cost estimates calculated in Table 2 above incorporate all of the potential costs that a law enforcement agency could incur in establishing and maintaining an electronic monitoring system.

For example, a law enforcement agency would presumably need to purchase equipment, connect respondents, monitor data, reclaim lost or damaged equipment, and enforce protection order violations. Additional potential costs also include: (1) staff to analyze the constant stream of data on the location of all electronically monitored respondents, the amount and timing of which would be a function of the type of electronic monitoring utilized, (2) office space, travel, and storage, and (3) reallocation or redeployment of personnel to handle the likely increase in the number and frequency of respondents appearing to violate the terms of the court order.^[3] According to the Maryland Task Force, most "jurisdictions recommended a caseload of anywhere from twenty (20) to twenty-five (25) offenders per agent" for GPS monitoring systems.^[4]

In the specific case of Ohio, local law enforcement personnel contacted by LSC fiscal staff noted that installing the appropriate equipment on the respondent would require approximately one hour, and that personnel would need to be available to replace equipment due to malfunctions, battery failures, destruction (accidentally or purposefully) by the respondent, tracking down lost or damaged equipment, and interpreting, analyzing, and responding to data provided by the GPS units. The Maryland Task Force determined that these personnel costs "may well turn out to be the most expensive element of the system."^[5]

The annual magnitude of the costs incurred by any affected law enforcement agency will likely be a function of the fixed cost to establish and maintain an electronic monitoring system and the marginal cost, which will be dependent on the number of respondents ordered to be electronically monitored and the length of time that the order is in effect. Presumably, some, but perhaps not all, of these costs will be recovered by the requirement that respondents pay the cost of the installation and monitoring of the electronic monitoring device. That said, it seems likely that the respondent payment stream in certain local jurisdictions will not fully cover the electronic monitoring system's annual operating expenses and that the "gap" between those expenses and the earmarked revenue stream may exceed minimal, perhaps significantly so. For the purposes of this fiscal analysis, a local cost in excess of minimal means an estimated expenditure increase of more than \$5,000 for any affected law enforcement agency per year.

Criminal justice systems generally

As noted, the ordering of respondents to be electronically monitored may increase the likelihood that certain respondents will be discovered violating the order, and subsequently arrested, prosecuted, and sanctioned for doing so. Under current law, unchanged by the bill, violating the terms of a stalking/sex offense-related civil protection order is generally a misdemeanor of the first degree, and can be enhanced to a felony of the fifth or third degree depending upon the circumstances present. Misdemeanor offenses generally fall under the subject matter jurisdiction of a municipal court or a county court; felony offenses fall under the subject matter jurisdiction of a court of common pleas.

Expenditures If additional respondents are arrested and prosecuted for violating the terms of a stalking/sex offense-related civil protection order, then the affected local criminal justice system's expenditures may increase, including costs related to investigating, prosecuting, adjudicating, defending (if the person is indigent), and sanctioning the violator. Whether the number of violators in any given county or municipal criminal justice system and associated costs will be sufficient to exceed LSC fiscal staff's "minimal local cost" threshold is uncertain. A minimal local cost means an expenditure increase estimated at no more than \$5,000 for any affected county or municipality per year.

Revenues. If additional respondents are convicted of violating the terms of a stalking/sex offense-related civil protection order, then the sentencing court is generally required to order the violator pay a fine and associated court costs. If collected, these revenues may offset all, or a portion of, the expenses incurred in the local criminal justice system's handling of the violation. The magnitude of the revenues that any affected local jurisdiction may collect annually is uncertain.

Coroner's Law revisions

The bill makes several changes to provisions in the Coroner's Law concerning the following areas: (1) coroner records, (2) coroner appointments, (3) use of money in the coroner laboratory fund, and (4) disposition of controlled substances. With the exception of the last item, all of these provisions have fiscal effects.

Coroner records

The bill adds two new types of records to those already not public record under existing law: (1) the records of a deceased individual whose death is believed to be related to the actions of another person and believed to result potentially in the filing of criminal charges or the investigation of which remains ongoing or open, and (2) laboratory reports generated from the analysis of physical evidence by the coroner's laboratory. The bill also specifies that the coroner of the county where a death occurred is responsible for the release of all public records relating to that death, instead of the coroner where the autopsy was performed. Restricting which records are public could result in a minimal decrease in expenses for county coroners if they do not have to produce these records upon request. Clarifying who is ultimately responsible for the public records of a death would mean that any costs associated with maintaining those records that one county coroner might incur would simply be shifted to another county coroner.

Coroner appointments

Current law authorizes the coroner to appoint as a deputy coroner, as a pathologist serving as a deputy coroner, or as a technician, stenographer, secretary, clerk, custodian, investigator, or other employee a person who is an associate of, or who is employed by, the coroner or a deputy coroner in the private practice of medicine in a partnership, professional association, or other medical business arrangement. The bill also allows the coroner to appoint, as an investigator, a deputy sheriff within the county or a law enforcement officer of a political subdivision located within the county. Using law enforcement officers within the county for investigations could reduce the need for a coroner to pay a qualified private sector individual to assist in investigations.

Use of money in coroner's laboratory fund

Current law requires that money derived from fees paid for examinations conducted by a coroner's laboratory be kept in a special fund, for the use of the coroner's laboratory. These funds must be used to purchase necessary supplies and equipment for the laboratory. The bill further allows these funds to be used to pay associated costs incurred in the administration of the laboratory at the coroner's discretion.

Generally, the coroner's office is funded through the fees described above as well as through a county's general fund. By allowing a coroner to use money in the laboratory fund for administrative costs, there could be a reduction in the amount of general fund money that may need to be allocated for that purpose. Presumably, this provision would only be applicable in counties where the coroner has accrued enough fees to pay some administrative costs of the office.

Disposition of controlled substances

The bill authorizes the coroner to secure, catalog, record, and then destroy any dangerous drugs found at the scene of an investigation the coroner conducts, if the dangerous drugs are no longer needed for investigative or scientific purposes. This process has been the standard current practice for coroners. The bill gives express authority for this practice to continue, and has no fiscal impact.

LSC fiscal staff: Terry Steele, Budget Analyst

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Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615

✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. S.B. 17** DATE: **June 10, 2008**

STATUS: **As Enacted – Effective September 30, 2008** SPONSOR: **Sen. Grendell**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **OVI-related prohibitions and penalties**

State Fiscal Highlights

STATE FUND	FY 2009 – FUTURE YEARS
General Revenue Fund (GRF)	
Revenues	Up to \$84,405 or more annual gain
Expenditures	Minimal, at most, annual incarceration cost increase
State Highway Safety Fund (Fund 036)	
Revenues	Gain in court costs, annual magnitude uncertain
Expenditures	One-time \$82,500 cost and \$100,000 ongoing expenses to maintain state registry
Indigent Drivers Interlock and Alcohol Monitoring Fund (New Fund)	
Revenues	Potential annual gain up to around \$1,750,000
Expenditures	Potential annual increase, up to available revenue
Indigent Drivers Alcohol Treatment Fund (Fund 049)	
Revenues	Factors increasing and decreasing revenues, with net gain, annual magnitude uncertain
Expenditures	Potential increase of up to around \$2.4 million annually or available new revenue
Victims of Crime/Reparations Fund (Fund 402)	
Revenues	Factors increasing and decreasing revenues, with net annual effect uncertain
Expenditures	- 0 -
Other State Funds*	
Revenues	Likely loss of around \$94,525 annually
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

* The other state funds affected by the bill are noted in Table 3 of the Detailed Fiscal Analysis.

- **GRF fine revenues from required submission to chemical testing.** Information from the Department of Public Safety indicates that fines imposed for OVI-related convictions average \$407.05, which means the total annual amount of fines imposed for an estimated 79 new OVI-related convictions annually would be \$36,107. Factoring in a collection rate of about 60%, the gain in additional annual revenue would be \$21,664. The state GRF would receive 20% of that total amount, or around \$4,333 annually, in additional fine revenues from these new convictions arising out of the bill.

- **GRF and Fund 402 court cost revenues.** The vast majority of OVI-related convictions are misdemeanors. The bill will also produce some new misdemeanor convictions related to OVI offenders driving vehicles that have been granted immobilization waivers. In addition to fine revenues, state court costs of \$24 per case are also imposed. Fifteen dollars of the court costs go to the GRF and the remaining \$9 goes to the Victims of Crime/Reparations Fund (Fund 402). The annual additional state court cost revenue generated from the 79 additional OVI-related convictions totals \$1,896, of which \$1,185 goes to the GRF and \$711 goes to Fund 402. The state court costs for felony convictions total \$45, however, this represents a much smaller number of cases since most convictions are misdemeanors. Although LSC fiscal staff does not have any exact data on the percentage of felony versus misdemeanor OVI-related convictions, we do know that the percentage of OVI-related felonies is very small. It is also unclear how much additional court cost revenue might be generated from the new misdemeanor offense related to driving a vehicle that was granted an immobilization waiver.
- **Incarceration costs.** As a result of the additional OVI-related convictions stemming from the bill, LSC fiscal staff estimates that very few, if any, additional offenders might be sentenced to prison annually. This means that the potential increase in the Department of Rehabilitation and Correction's annual incarceration cost would be minimal at most, if that.
- **License reinstatement fees.** Six additional state funds, detailed in Table 3, will likely experience a net annual loss of revenue totaling \$94,525 as the result of 199 fewer reinstatements of administratively suspended driver licenses.
- **Indigent Drivers Interlock and Alcohol Monitoring Fund (New Fund).** The bill increases the minimum mandatory fine assessed against convicted OVI-related offenders, regardless of the number of prior offenses, by \$50, and directs the \$50 increase to the court's special projects fund. If the court does not have a special projects fund, the \$50 increase is directed to the Indigent Drivers Interlock and Alcohol Monitoring Fund, which the bill creates. This provision could generate up to around \$1,750,000 annually to be retained by the court or distributed by the state. These moneys are to be used to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device or an alcohol-monitoring device, to be used by an offender determined by the court to be indigent. Whether the indigent drivers interlock and alcohol monitoring funds will be sufficient to offset the additional ignition interlock and continuous alcohol monitoring expenses created by the bill is uncertain.
- **Indigent Drivers Alcohol Treatment Fund expenditures.** The bill potentially increases local indigent alcohol and other drug treatment-related costs by up to around \$2,371,000 annually, which is based on around \$571,000 for new assessments, and treatment-related costs ranging somewhere between \$960,000 and \$1,800,000. Presumably, if the cash were available, these statewide local costs would be covered by additional moneys to be distributed from the state's existing Indigent Drivers Alcohol Treatment Fund (Fund 049), which is administered by the Department of Alcohol and Drug Addiction Services.
- **Indigent Drivers Alcohol Treatment Fund revenues.** The bill generates additional revenue for the state's existing Indigent Drivers Alcohol Treatment Fund (Fund 049) from: (1) a \$50 immobilization waiver fee, and (2) a licensing option for manufacturers of certified ignition interlock devices that includes a \$100 annual license fee and 5% net profits fee. It is unclear how much additional revenue these provisions of the bill may generate. Whether the fund's revenues will be sufficient to offset the additional local assessment, treatment, and continuous alcohol monitoring expenses created by the bill is uncertain.
- **Department of Public Safety.** The bill requires the Department of Public Safety to establish a state registry of Ohio's habitual OVI/OMWI offenders and an Internet database containing specified information. The ongoing operation of the database, as well as all of the data management functions, may actually necessitate

the hiring of three new employees, at a total annual cost of around \$100,000. In addition, one-time expenses totaling approximately \$82,500 will be incurred to make necessary information technology (IT) infrastructure and programming changes. The bill creates an additional \$2.50 court cost to be imposed on certain OVI-related offenders, directs the fee for deposit in the state's existing State Highway Safety Fund (Fund 036), and states that the Department of Public Safety is to use the fee for its costs associated with maintaining the offender registry. Whether this new revenue stream will be sufficient to completely offset the cost of operating and maintaining the offender registry is uncertain.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008 – FUTURE YEARS
County and Municipal Criminal Justice Systems generally	
Revenues	Potential annual gain in court costs and fines, likely to exceed minimal in certain local jurisdictions
Expenditures	Potential increase in offender processing and sanctioning costs, likely to exceed minimal in certain local jurisdictions
County and Municipal Indigent Drivers Alcohol Treatment Funds	
Revenues	Gain, annual magnitude uncertain
Expenditures	Potential increase of up to around \$2.4 million annually
Local Indigent Drivers Interlock and Alcohol Monitoring Funds	
Revenues	Potential gain up to around \$1,750,000 annually statewide, with magnitude dependent on the number of courts with a special projects fund
Expenditures	Increase, up to available new revenues
County and Municipal Special Court Funds	
Revenues	Potential gain from: (1) \$50 increase to mandatory minimum penalty, and (2) new \$2.50 court cost, annual magnitude uncertain
Expenditures	Potential increase to: (1) pay for monitoring of indigent offenders, and (2) modify and maintain clerks of courts' accounting systems

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

- ***Fine revenues related to mandatory chemical testing.*** Information from the Department of Public Safety indicates that fines imposed for OVI-related convictions average \$407.05, which means the total annual amount of fines imposed for an estimated 79 new OVI-related convictions annually would be \$36,107. Factoring in a collection rate of about 60%, the gain in additional annual revenue would be \$21,664. These fine revenues would be split among the state and local jurisdictions. Counties statewide would receive 42%, or \$9,099 annually, municipalities statewide would receive 38%, or \$8,232 annually, and the state would collect the remaining 20%.
- ***Jail expenditures related to mandatory chemical testing.*** The combined fiscal effect of jail terms for all 79 additional OVI-related convictions under the bill could result in additional annual statewide local jail costs of approximately \$64,584. Since about 60% of these cases are charged under state law and 40% under municipal ordinances, and assuming the conviction rates follow a similar proportion, counties statewide would incur approximately \$38,750 of this annual total and municipalities statewide would incur the remaining \$25,834 annually.
- ***Additional court cost directed to court's special projects funds.*** The bill permits the court to impose an additional \$2.50 in court costs on certain OVI-related offenders, which, if imposed, must be deposited in the court's special projects fund. Presumably, any revenues collected in this special projects fund could be used

to help defray any additional expenses that might be incurred by the clerk of courts to reprogram their computerized accounting systems in order to keep track of the bill's various revenue-generating changes.

- **Mandatory fine increase.** The bill increases the minimum mandatory fine assessed against convicted OVI-related offenders, regardless of the number of prior offenses, by \$50, and directs the \$50 increase to the court's special projects fund, if such a fund exists. If the particular court does not have a special projects fund, the \$50 increase is directed to the state's Indigent Drivers Interlock and Alcohol Monitoring Fund, which is created by the bill. This provision could generate up to around \$1,750,000 annually statewide to be retained by the courts and/or distributed by the state. These moneys are to be used to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device or an alcohol-monitoring device, for use by an indigent offender. Moneys distributed by the state would be deposited in the appropriate county or municipal indigent drivers interlock and alcohol-monitoring fund, which the bill creates. Whether the revenues to be deposited in court special project funds and county or municipal indigent drivers interlock and alcohol-monitoring funds will be sufficient to offset the additional ignition interlock and continuous alcohol monitoring expenses created by the bill is uncertain.
- **County and municipal indigent drivers alcohol treatment funds.** The revenue in the state's Indigent Drivers Alcohol Treatment Fund (Fund 049) is distributed to the county, juvenile, and municipal indigent driver alcohol treatment funds established at the county and municipal level to pay the treatment expenses for indigent offenders.
- **Penalty for offender operating a vehicle in violation of an immobilization order.** Presumably, offenders will violate this prohibition, the practical effect of which will be to create additional misdemeanor cases for county and municipal criminal justice systems to resolve. If this were to happen, then, theoretically at least, local criminal justice system expenditures related to investigating, prosecuting, adjudicating, defending (if the offender is indigent), and sanctioning offenders would increase in any affected county or municipality. As the likely number of violations that may occur annually in any affected local jurisdiction is uncertain, any resulting increase in county and municipal criminal justice system expenditures is uncertain as well. Violations of this prohibition also create the potential for affected counties and municipalities to collect related court cost and fine revenues, the annual magnitude of which is uncertain.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the bill most notably:

- Requires certain repeat OVI-related offenders to submit to chemical testing.
- Increases the minimum mandatory fine for an offender convicted of state OVI-related offenses by \$50 and directs this increase, as appropriate, to the court's special projects fund or the state Indigent Drivers Interlock and Alcohol Monitoring Fund, which the bill creates.
- Requires the court, in the case of certain repeat OVI-related offenders, to require the offender to be assessed by an alcohol and drug treatment program and to follow the treatment recommendations.
- Allows expenditures from a local alcohol treatment fund for the payment of the cost of an assessment for an offender who is ordered by the court to attend the assessment and is determined by the court to be unable to pay the cost of the assessment.
- Specifies, when certain repeat OVI-related offenders violate an ignition interlock requirement while exercising limited driving privileges, the court is permitted and/or required to order that such an offender submit to continuous alcohol monitoring.
- Requires the court generally impose a court cost of \$2.50 upon an offender granted limited driving privileges requiring the use of an ignition interlock device or required to wear a remote alcohol monitor, directs the court cost to the state's existing State Highway Safety Fund (Fund 036), and permits the court to impose an additional court cost of \$2.50 for deposit in the court's special projects fund.
- Requires manufacturers of certified ignition interlock devices to apply for and obtain a \$100 license annually from the Department of Public Safety, requires licensed manufacturers to pay a fee equal to 5% of the net profit attributable to the annual sales of their certified ignition interlock devices to purchases in Ohio, and directs the license and net profit fees to the state's Indigent Drivers Alcohol Treatment Fund (Fund 049).
- Requires the Department of Public Safety to establish a state registry of Ohio's habitual OVI/OMWI offenders and an Internet database containing specified information regarding each person who, within the preceding 20 years, has been convicted in Ohio five or more times for a vehicle OVI or watercraft OMWI offense.
- Specifies the conditions under which a court may consider exceptions to the issuance of an order to immobilize a vehicle, establishes a \$50 immobilization waiver fee, and directs the fee to the state's existing Indigent Drivers Alcohol Treatment Fund (Fund 049).
- Creates a new offense for an offender who operates a motorized vehicle that is subject to an immobilization waiver order, a violation of which is a misdemeanor of the first degree.

- Creates the state Indigent Drivers Interlock and Alcohol Monitoring Fund and specifies that moneys in the fund are to be distributed by the Department of Public Safety to local indigent drivers interlock and alcohol monitoring funds, which the bill also creates, to pay the cost of an immobilizing or disabling device for an offender determined to not have the means to pay for the offender's use of the device.
- Increases by \$50, from \$425 to \$475, the license reinstatement that an offender is required to pay at the end of an OVI-related suspension and directs the \$50 increase to the Indigent Drivers Interlock and Alcohol Monitoring Fund, which the bill creates.
- Specifies that a court may impose as a financial sanction on an OVI-related offender the cost of purchasing and using an immobilizing or disabling device.
- Provides that county, juvenile, and municipal courts must exhaust local indigent drivers interlock and alcohol monitoring funds before indigent drivers alcohol treatment funds may be used for electronic monitoring in conjunction with treatment.

OVI convictions generally

According to data provided by the Department of Public Safety's Bureau of Motor Vehicles (BMV), in calendar year 2006, there were 58,346 individuals convicted of an OVI-related offense in Ohio. Of this total number of convictions, about 13,272 involved offenders that had at least one prior OVI-related conviction within the previous six years. Although the bill affects OVI-related prohibitions and penalties for OVI-related offenders generally, arguably its more notable state and local fiscal effects may be more in terms of the manner in which certain repeat OVI-related offenders are sanctioned.

Mandatory chemical testing

Under the bill, chemical testing is mandatory for any person arrested for a suspected OVI-related violation who also has two prior convictions within the previous six years. The arresting law enforcement officer is permitted to use whatever available means are necessary to ensure compliance with the chemical testing requirement. The likely result is that more persons will be convicted of an OVI-related offense than might otherwise have been the case under the state's existing implied consent laws.

Additional OVI-related convictions

Based on information provided by BMV, LSC fiscal staff estimates that the number of persons who are arrested for an OVI-related offense annually and have two or more prior convictions at approximately 2,546. Typically, about 30% of those arrested, or around 764 in the context of this fiscal analysis, refuse to submit to any type of chemical test. Under current law, a person who refuses to submit to any type of chemical test faces an automatic administrative license suspension (ALS) regardless of whether or not that person is convicted of an OVI-related offense.

For individuals that generally submit to a chemical test (70%, or around 1,782, of the above estimated 2,546 annual repeat OVI-related offenders), the most recently available data suggests that the rate of conviction is about 74%, which translates into about 1,319 convictions annually. For individuals that generally refuse to submit to a chemical test (30%, or around 764,

of the above estimated 2,546 annual repeat OVI-related offenders), the rate of conviction is 63.7%, which translates into about 487 convictions annually.

As a result of the bill's mandatory chemical testing provision applicable to certain repeat OVI-related offenders, the maximum number of likely new convictions would be a function of the difference between these two conviction rates, or 10.3%. In other words, 10.3% of those persons refusing to submit to a chemical test and not being convicted of an OVI-related offense under current law would, under the bill, be subject to mandatory chemical testing and likely convicted. LSC fiscal staff estimates the likely increase in OVI-related convictions at approximately 79 annually (10.3% of the pool of 764 refusals).

Existing two-tiered OVI penalty structure

Amended Substitute Senate Bill 22 of the 123rd General Assembly established new high and low-end tiers for measuring an individual's level of intoxication as well as increased penalties. Additionally, Am. Sub. H.B. 87, of the 125th General Assembly, lowered the threshold for OVI to .08 blood alcohol content (BAC). Table 1 below summarizes that two-tiered structure and the lower BAC. A person convicted of an OVI-related offense while testing in the "high-end" tier of alcohol concentration faces a more severe penalty, primarily in terms of a longer jail or prison sentence.

**Table 1
Tiers of Alcohol Concentration**

Category	Low-End Tiers	High-End Tiers
Blood	Between .08 of 1% or more by weight of alcohol in blood	.17 of 1% or more by weight of alcohol in blood
Breath	.08 of one gram or more by weight of alcohol per 210 liters of breath	.17 of one gram or more by weight of alcohol per 210 liters of breath
Urine	.11 of one gram or more by weight per 100 milliliters of urine	.238 of one gram or more by weight per 100 milliliters of urine

Relative to the fiscal effects of the bill's mandatory chemical testing provision, the existence of this two-tiered penalty structure presents a difficult measurement problem in terms of determining the percentage of those who take the chemical test that registers within one of the "high-end" tiers. There is no readily accessible data source cross-referencing arrest data with specific alcohol concentration levels. Information obtained through conversations with a limited number of criminal justice practitioners suggests it would be very reasonable for LSC fiscal staff to assume that at least 50% of those convicted of an OVI-related offense, if not more, would register levels of alcohol concentration placing them in one of the "high-end" tiers. Based on this assumption, of the approximately 79 additional annual OVI-related convictions that LSC fiscal staff estimates will occur as a result of this bill, about 39 would be in the "low-end" BAC tier and 39 would be in the "high-end" BAC tier.

State OVI-related revenues

Fines. The changes to the OVI Law enacted by Am. Sub. S.B. 22 doubled the potential length of incarceration, but did not affect the range of fines that can be imposed. Thus, under current law, at a minimum, the fine revenue and distribution for "high-end" tier violations would be the same as for "low-end" tier violations. Under this bill, however, the mandatory minimum fine is increased by \$50, irrespective of whether the person is a repeat OVI offender.

The most recently available information from the Department of Public Safety indicates that the mandatory fine imposed for OVI convictions averages \$407.05. Including the bill's \$50 increase to the minimum mandatory fine would arguably increase this average to \$457.05, notwithstanding any elasticity effect in which there is some reduction in the number of offenders willing to pay the increased fine. Accordingly, the total potential amount of additional fine revenue from the estimated 79 new OVI-related convictions would be \$36,107 annually. Factoring in a collection rate of about 60%, the gain in additional annual revenue would be \$21,664. Under existing law, unchanged by the bill, the mandatory fine revenue collected in these cases is distributed among the state and local governments, as outlined in Table 2 below.

**Table 2
Distribution of Average Mandatory OVI Fine**

Governmental Unit	Percent Split	60% Collection Rate
State	20%	\$4,333
Counties	42%	\$9,099
Municipalities	38%	\$8,232
Total	100%	\$21,664

The state GRF, as noted in the above table, would gain around \$4,333 annually in additional mandatory fine revenues from the new OVI-related convictions anticipated as a result of the bill's mandatory chemical testing provision.

Court costs. The vast majority of OVI-related convictions are misdemeanors. In addition to the mandatory fine, state court costs totaling \$24 are also generally imposed on an offender convicted of or pleading guilty to a misdemeanor, \$15 of which is directed to the GRF and \$9 is directed to the Victims of Crime/Reparations Fund (Fund 402). The annual additional state court cost revenue generated from the 79 new OVI-related convictions would total \$1,896, of which \$1,185 will be directed to the GRF and \$711 directed to Fund 402. The state court costs for felony convictions total \$45, however, this represents a much smaller number of cases since most convictions are misdemeanors. Although LSC fiscal staff does not have any exact data on the percentage of felony versus misdemeanor OVI-related convictions, we do know that the percentage of OVI felonies is very small.

Reinstatement fees. Under current law, those refusing a chemical test face an automatic administrative license suspension (ALS). Those convicted of an OVI-related offense also face an ALS. The reinstatement fee for a suspended driver's license resulting from an OVI-related offense is currently \$425. The bill increases the ALS reinstatement fee from \$425 to \$475 and directs the \$50 increase to the Indigent Drivers Interlock and Alcohol Monitoring Fund, which the bill creates.

For the purposes of this fiscal analysis, the approximately 764 individuals refusing to submit to a chemical test, as well as the 1,319 individuals who do submit and are convicted, constitute a combined group of 2,083 that would pay the \$475 license reinstatement fee. Setting aside for the moment the effect of the mandatory chemical testing on the number of licenses reinstated annually and related fee generation, the bill's \$475 license reinstatement fee would theoretically generate approximately \$989,425 in revenue annually.

However, if the bill is enacted, and assuming: (1) everyone submits to the now mandatory chemical test as required by the bill, (2) the previously mentioned conviction rate of 74%, and (3) a total of 2,546 OVI arrests involving offenders with two or more prior convictions, yields a group of 1,884 ($2,546 \times .74 = 1,884$) offenders that would be required to pay to reinstate their driver's license. This would generate approximately \$894,900, which, compared to the current law and practice scenario in the immediately preceding paragraph, translates into an annual revenue loss of \$94,525 and is due to the fact there would be 199 fewer license reinstatements annually under the bill. This loss of revenue would be distributed among several state agencies and eight specific state funds, as outlined in Table 3 below. The net effect on Fund 402, however, is likely to be a net gain in annual revenue as there are other provisions of the bill that affect that fund's revenue collections.

**Table 3
State Fiscal Effects by Fund***

STATE FUNDS	FY 2009 – FUTURE YEARS
State Bureau of Motor Vehicles Fund (Fund 4W4)	
Revenues	Likely annual loss of \$5,965
Expenditures	- 0 -
Indigent Drivers Alcohol Treatment Fund (Fund 049)**	
Revenues	Likely annual loss of \$7,458
Expenditures	- 0 -
Victims of Crime/Reparations Fund (Fund 402)**	
Revenues	Likely annual loss of \$14,214
Expenditures	- 0 -
Statewide Treatment and Prevention Fund (Fund 475)	
Revenues	Likely annual loss of \$22,384
Expenditures	- 0 -
Services for Rehabilitation Fund (Fund 4L1)	
Revenues	Likely annual loss of \$14,925
Expenditures	- 0 -
Drug Abuse Resistance Education Programs Fund (Fund 4L6)	
Revenues	Likely annual loss of \$14,925
Expenditures	- 0 -
Trauma & Emergency Medical Services Grants Fund (Fund 83P)	
Revenues	Likely annual loss of \$3,980
Expenditures	- 0 -
Indigent Drivers Interlock and Alcohol Monitoring Fund (New Fund)	
Revenues	Likely annual loss of \$9,953
Expenditures	- 0 -

* Numbers may vary slightly due to rounding.

** Other provisions of the bill will increase revenues to this fund by an uncertain magnitude.

State expenditures

Incarceration costs. For felony OVI-related convictions at the "high-end" tier of alcohol concentration, current law requires a minimum 120 days of either local or state incarceration. Information obtained from the Department of Rehabilitation and Correction (DRC) indicates that the state incarceration rate for OVI-related offenders is about 0.25% of convictions. Returning to the earlier estimate of 39 new convictions annually at the "high-end" tier of alcohol concentration, and applying this incarceration rate of 0.25%, the estimated annual increase in prison-bound offenders would be statistically less than one. Such a small increase in offenders would create only a very minimal or even negligible increase in DRC's annual incarceration costs over time.

Local revenues

Fines. Based on the estimated number of new convictions as well as the previously stated average fine and collection rates, LSC fiscal staff estimates that new annual mandatory fine revenues in the amount of \$21,664 could reasonably be expected if the bill is enacted. These fine revenues would be split among the state and local jurisdictions, as summarized in Table 2. Counties statewide would receive 42%, or \$9,099 annually, municipalities statewide would receive 38%, or \$8,232 annually, and the state would collect the remaining 20%.

Local expenditures

Incarceration costs. As previously referenced in this analysis, recent changes in the OVI Law have increased the jail terms for convictions on offenses involving the "high-end" tier of alcohol concentration.

The average jail time for "low-end" tier BAC violators is 9.2 days. If 39 additional persons are convicted of a "low-end" tier violation and spend this average of 9.2 days in jail, at the 2006 average cost of around \$60 per day, the additional local incarceration expenditures would be \$21,528 annually statewide. Since about 60% of these cases are charged under state law and 40% under municipal ordinances, and assuming the conviction rates follow a similar proportion, counties statewide would incur approximately \$12,917 of this annual total and municipalities statewide would incur the remaining \$8,611 per year.

This analysis has also estimated there would likely be approximately 39 additional convictions at the "high-end" BAC tier. Existing OVI Law essentially doubles the jail time for "high-end" tier OVI-related convictions. Data indicating how average jail sentences have been affected does not yet exist. For purposes of estimation, we know that 9.2 days is the average jail term for "low-end" tier BAC convictions. Since the jail terms have doubled under the new sentencing structure, it would not be unreasonable to expect the average to double as well. As such, if 39 new "high-end" tier convictions occur under the bill and they receive an average jail term of 18.4 days at \$60 per day, the total additional annual statewide cost for local incarceration would be \$43,056. Since about 60% of these cases are charged under state law and 40% under municipal ordinances, and assuming the conviction rates follow a similar proportion, counties statewide would incur approximately \$25,834 of this annual total and municipalities statewide would incur the remaining \$17,222 per year.

The combined fiscal effect of jail terms for all 79 additional OVI-related convictions under the bill could result in additional annual statewide local jail costs of approximately \$64,584.

Minimum mandatory fine

The bill increases the minimum mandatory fine assessed against convicted OVI-related offenders, regardless of the number of prior offenses, by \$50, and directs the \$50 increase to the court's special projects fund, to be used only for ignition interlock devices and alcohol monitoring devices for indigent offenders. If the court does not have a special projects fund, the \$50 increase is directed for deposit in the state treasury to the credit of the Indigent Drivers Interlock and Alcohol Monitoring Fund, which the bill creates. The moneys in the fund, which is to be administered by the Department of Public Safety, are to be distributed to county and municipal indigent drivers interlock and alcohol monitoring funds, which the bill creates.

The moneys generated by the earmarked \$50 increase, whether retained locally or distributed by the state, can only be used to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device or an alcohol-monitoring device, to be used by indigent offenders. Absent any finding of indigence, the offender is required to pay the cost of purchasing and using an immobilizing or disabling device.

Statewide revenue generation

The increased minimum mandatory fine applies to all OVI-related convictions, including those involving an offender with no prior applicable offenses. According to BMV, in calendar year 2006, 58,346 individuals statewide were convicted of an OVI-related offense. (Of that total, about 13,272 involved a person with at least one prior conviction.) If the minimum mandatory fine for 58,346 offenders was increased by \$50, and factoring in a collection rate of 60%, this provision of the bill could potentially generate approximately \$1,750,380 statewide per year for the purpose of paying the cost of an immobilizing or disabling device to be used by indigent offenders.

Mandatory alcohol and drug addiction assessment and treatment

For those offenders who, within six years of the current OVI-related offense, have one or more prior OVI-related convictions, or five prior OVI-related convictions within the previous 20 years, in addition to the above-mentioned sanctions, the bill expands existing alcohol and drug addiction program sanctions to require the offender be assessed by an alcohol and drug treatment program to determine the degree, if any, of the offender's alcohol dependency and make recommendations for treatment.

Ohio currently has 46 local alcohol, drug addiction, and mental health services (ADAMHS) boards and 4 alcohol and drug addiction services (ADAS) boards that contract with service providers operating around 600 alcohol and other drug treatment programs statewide, certified by the Department of Alcohol and Drug Addiction Services. These local, essentially county-based entities, use their treatment revenue to purchase alcohol and other drug treatment services for indigent clients, which would include indigent OVI offenders.

For these indigent OVI offenders, the cost of the treatment programs is reimbursed primarily from the state's existing Indigent Drivers Alcohol Treatment Fund (Fund 049). This fund operates outside the traditional community-based funding system of state formula allocations to the above-noted county-based local boards. Fund 049 moneys are transferred via the state treasury from BMV to the Department of Alcohol and Drug Addiction Services to the local indigent drivers alcohol treatment funds administered by county, juvenile, and municipal courts. The court has control of the fund and payment is only made by court order. It appears that the statewide information on the manner in which these moneys are disbursed locally and the annual magnitude of those disbursements is not readily available.

From LSC fiscal staff's perspective, it is difficult to estimate the likely increase in the number of indigent offenders that any given court will be required to order assessed and subsequently treated. Three important variables contribute to the difficulty in producing a reasonably accurate estimate as follows:

- Alcohol and other drug treatment is a sentencing option under current law, and there is no statewide database indicating the frequency or any pattern in which the courts already sentence multiple OVI offenders into treatment.
- The bill requires those OVI offenders with at least one prior conviction in the previous six years, or five prior convictions within the previous 20 years, to be assessed by an alcohol and drug treatment program to determine the degree, if any, of the offender's alcohol dependency and treat the offender accordingly. It is not clear that every offender who is assessed will be diagnosed with a dependency problem requiring treatment. Estimating the percentage that will require treatment, according to the terms of the bill, is difficult.
- It is also not clear what percentage of OVI-related offenders would be indigent and unable to pay for any assessment and treatment services.

These uncertainties having been stated, we may be able to generalize and produce a rough estimate of the increase in caseloads involving indigent OVI offenders required, under the terms of the bill, to undergo treatment for alcohol and other drug dependency. As stated previously, in calendar year 2006, there were 13,272 individuals convicted of an OVI-related offense that also had at least one prior in the previous six years. All of these individuals would be required to undergo an assessment by a treatment program to determine whether treatment is required. Of these, 2,546 had at least two prior convictions, and 346 of those 2,546 offenders had three or more such prior convictions.

By way of generalization, one could argue that offenders with a larger number of prior convictions would be more likely to have dependency issues requiring treatment. That said, one could assert that most, but not all, of the cases in which treatment is not recommended following an assessment would involve the pool of offenders with only one prior conviction in the previous six years. Any additional treatment cases would, therefore, most likely come from the 2,546 cases with two or more prior convictions. Some of these offenders with multiple prior OVI-related convictions, but most likely not all, are probably undergoing assessment and treatment under current law and sanctioning practices. Unfortunately, this percentage is uncertain.

For the sake of argument, if one assumes that around one-half, or 50%, of these 2,546 offenders with multiple prior OVI-related convictions require treatment and are being ordered by the court into treatment under current law and sanctioning practices, then between 1,200 and

1,300 additional OVI-related offenders may be required to undergo alcohol and other drug dependency treatment annually as a result of the bill. Obviously, by changing this assumption, the estimated statewide increase in annual OVI treatment caseloads can be adjusted upwards or downwards accordingly.

If this arguably arbitrary estimate of between 1,200 and 1,300 additional OVI-related offenders requiring treatment annually were true, how many of these offenders would likely be indigent? There is a stronger likelihood that offenders with multiple prior OVI-related prior convictions have a serious history of alcohol and/or drug abuse and criminal conduct that impairs their ability to retain a job and generate a steady income. If true, this would suggest that the indigency rate for this group of OVI-related offenders would be higher than that found in the general population; data suggests that the indigency rate for the latter in Ohio is about 12.3%.

One could argue that a pool of OVI-related offenders with three or more prior OVI-related convictions in the previous six years might represent a cross section of Ohioans with a much higher percentage of indigence. These offenders are far more likely to have substance abuse issues, as well as a previous criminal history, at minimum involving past OVI convictions, all of which can have a serious impact on employment opportunities and work history. As these offenders accumulate more and more OVI-related convictions, we would likely find a greater percentage claiming indigence than would be found in the general Ohio population. If we assume that half of the 1,200 to 1,300 additional OVI-related offenders requiring treatment annually were determined by the court to be indigent, then we could estimate that as many as 600 or so additional OVI-related offenders would not be able to pay for the treatment services mandated by the court.

State fiscal effects

The mandatory alcohol and drug assessment and treatment provision will produce two distinct fiscal effects as discussed below.

First, there will be costs associated with the assessment of the pool of 13,272 OVI-related offenders with at least one prior conviction in the previous six years. Some percentage of these offenders are in all likelihood already being evaluated under current law and sanctioning practices, and some of these offenders will be able to pay for the evaluations either personally or perhaps through some insurance plans. Estimating how many would likely claim indigence is problematic. For the sake of producing an estimate, it was referenced above that the level of indigence in the general population is about 12.3%. Although this pool of 13,272 offenders may demographically differ from the general population, we may again be able to crudely estimate the number of cases in which the offender may be indigent and unable to pay for the required assessment. Using these parameters, LSC fiscal staff estimates that perhaps as many as 1,632 OVI-related offenders would be determined indigent by the court (13,272 offenders x 12.3% = 1,632).

According to staff of the Department of Alcohol and Drug Addiction Services, a treatment provider typically charges between \$300 and \$400 per assessment. Based on the estimate above, and assuming an average assessment cost of \$350, the total statewide assessment cost for our estimated 1,632 indigent offenders will be \$571,200 per year.

Second, there will be costs associated with indigent offenders being ordered into treatment by the court, which we have previously estimated at around as many as 600 or so. According to staff of the Department of Alcohol and Drug Addiction Services, a course of nonresidential outpatient treatment ranges between \$1,600 and \$3,000. This suggests that the bill could create additional treatment-related costs ranging between \$960,000 (600 indigent offenders x \$1,600) and \$1,800,000 (600 indigent offenders x \$3,000) annually statewide. Residential treatment, which appears to be utilized on a comparatively infrequent basis, can cost as much as \$4,400 per course.

The cost of the treatment programs are covered primarily by moneys distributed from the state's existing Indigent Drivers Alcohol Treatment Fund (Fund 049), one of the seven state funds currently receiving revenue from the administrative license suspension reinstatement fee. The Department of Alcohol and Drug Addiction Services currently allocates Fund 049 moneys to the courts biannually to support alcohol and other drugs treatment services for indigent OVI offenders.

In sum, the bill, as estimated, creates additional assessment-related costs of \$571,000 annually, and treatment-related costs ranging somewhere between \$960,000 and \$1,800,000 annually. These additional costs will presumably put additional pressure on Fund 049's annual revenue stream, as courts would look to the state to cover mandated assessment and treatment. That said, it should be noted that the bill also contains two revenue-generating provisions intended to enhance Fund 049's ability to fully reimburse courts for the costs associated with the mandatory assessment and treatment of certain repeat OVI-related offenders. Those two revenue-generating provisions – an immobilization waiver fee and a licensing option for manufacturers of certified ignition interlock devices – are discussed in more detail immediately below.

Immobilization waiver fee

The bill states that, if a court issues an immobilization waiver order involving an OVI-related offender's vehicle that was immobilized as part of the sentence, the court must collect a \$50 immobilization waiver fee to be deposited in the state treasury to the credit of the state's existing Indigent Drivers Alcohol Treatment Fund (Fund 049).

Under current law, upon conviction for an OVI-related offense, the offender's vehicle may be immobilized for up to 90 days. As previously mentioned, according to BMV, in calendar year 2006, there were 58,346 OVI convictions in Ohio. The court usually orders the offender's vehicle, which typically was being stored in a municipal or private facility, to be relocated by law enforcement and immobilized with a steering wheel locking device at the offender's residence. It is not clear how many immobilization waiver orders the courts grant. They are typically granted to a family member who depends on the immobilized vehicle in their daily life.

Based on the assumptions made thus far in this analysis, the bill could increase local assessment and treatment expenditures by as much as \$2,371,200 annually statewide, which combines the estimated \$571,200 in additional assessment costs with the potential \$1,800,000 in

additional treatment costs for indigent offenders. If the \$50 immobilization waiver fee alone were expected to cover these additional annual assessment and treatment costs, courts statewide would have to issue approximately 47,420 immobilization waivers and collect the associated fee. It must be stressed again, however, that all of these expenditure and revenue estimates are based on certain key assumptions concerning how the bill would affect assessments, treatment, and the issuance of immobilization waiver orders. It is difficult to state with a high degree of certainty that our estimates are accurate, or that the additional revenue will completely offset the additional costs created by the bill.

Ignition interlock device manufacturers fee

The bill requires the Department of Public Safety to publish and make available to the courts a list of licensed manufacturers of ignition interlock devices, and requires that a manufacturer wanting to be included on the list obtain an annual license from Public Safety. The application and annual renewal of the license will cost each manufacturer \$100 per year. Public Safety currently publishes a listing of the seven interlock manufacturers doing business in the state of Ohio, which suggests that the annual license fee will generate \$700, to be directed, pursuant to the bill, to the credit of the state's existing Indigent Drivers Alcohol Treatment Fund (Fund 049).

Additionally, the bill: (1) requires licensed manufacturers to submit a report to Public Safety containing the amount of net profit the manufacturer earned during a 12-month period that is attributable to the sales of that manufacturers certified ignition interlock devices to purchasers in Ohio, (2) requires licensed manufacturers to pay a fee equal to 5% of the amount of the net profit included in its annual report, and (3) requires the fees be directed for deposit in the state's existing Indigent Drivers Alcohol Treatment Fund (Fund 049). The amount of net profit fee revenue that this provision may generate annually is uncertain, as estimating its magnitude involves access to what is arguably confidential/proprietary information and the bill's effect on market shares.

Local indigent driver alcohol treatment funds

As mentioned above, the bill increases indigent offender assessment and treatment service costs and provides mechanisms intended to provide the necessary revenues. The bill specifically allows for these assessment and treatment expenses to be paid from local indigent driver alcohol treatment funds established at the county and municipal level under current law to pay for the treatment expenses of indigent offenders. However, judges have discretion over whether or not to use these funds to reimburse for these services.

It is not clear whether the county and municipal jurisdictions with authority to adjudicate OVI-related cases involving indigent offenders will have sufficient revenue to completely cover the additional assessment and treatment expenditures a court would be required to order. When the state and local indigent drivers alcohol treatment funds are exhausted, the local treatment system will have the responsibility for both ensuring access and payment of services. There is also the possibility that, if indigent OVI offenders are Medicaid eligible, the local treatment provider may be reimbursed for 60% of the cost of assessment and treatment. LSC fiscal staff cannot reliably estimate Medicaid eligibility in these circumstances.

Ignition interlock devices

The bill requires that courts not grant limited driving privileges to offenders convicted of an OVI-related offense, after certain specified time periods, unless the vehicle is equipped with a certified ignition interlock device, which will prevent the ignition of the vehicle's engine if the operator has been drinking. Unless determined to be indigent by the court, the offender is expected to pay for all of the associated costs.

According to representatives of two of the nationally based ignition interlock manufacturers, there is typically a one-time installation cost, paid directly to a locally contracted vendor that installs and calibrates the device, which may run between \$40 and \$65 depending on the device and vendor. Once installed, an ignition interlock device is typically leased on a monthly basis at a cost of \$60 to \$70 for the duration of the sentence. By requiring these certified ignition interlock devices as a condition of being granted limited driving privileges, there will certainly be an increase in the number of such units installed. LSC fiscal staff cannot determine the frequency with which courts statewide grant limited driving privileges under current law or how this new requirement may constrain some offenders from requesting such privileges.

Indigent Drivers Interlock and Alcohol Monitoring Fund

As previously mentioned, the bill increases the minimum mandatory fine assessed against convicted OVI-related offenders, regardless of the number of prior offenses, by \$50 and directs the increase to the court's special projects fund to be used only to pay the cost of an immobilizing or disabling device for indigent offenders. If the court does not have a special projects fund, the \$50 increase is directed for deposit in the state treasury to the credit of the Indigent Drivers Interlock and Alcohol Monitoring Fund, which the bill creates. The moneys in the fund, which is to be administered by the Department of Public Safety, are to be distributed to county and municipal indigent drivers interlock and alcohol monitoring funds, which the bill creates.

According to BMV, in calendar year 2006, 58,346 individuals statewide were convicted of an OVI-related offense. If the minimum mandatory fine for 58,346 offenders were increased by \$50, and factoring in a collection rate of 60%, this provision of the bill could potentially generate approximately \$1,750,380 statewide per year for the purpose of paying the cost of an immobilizing or disabling device to be used by indigent offenders. This revenue would be retained by the courts, or distributed to the courts around the state by Public Safety, and used to pay for ignition interlock devices and alcohol monitoring devices for indigent offenders. It is not clear whether this additional revenue will be sufficient, or not, to cover any expenditure increases by the courts to help install ignition interlock devices on the vehicles of indigent offenders seeking limited driving privileges.

Continuous alcohol monitoring

The bill provides that an offender convicted of an OVI-related offense, and who has been granted limited driving privileges, becomes subject to continuous alcohol monitoring should any of the following occur:

- If the offender operates a vehicle not equipped with the certified ignition interlock device.

- If the offender attempts to circumvent or otherwise tamper with the interlock device.
- If a court receives notice that a certified ignition interlock device has prevented an offender from starting a motor vehicle.

In certain circumstances, the court may require continuous alcohol monitoring; however, in most situations described in the dot points above, the court must require the use of continuous alcohol monitoring. LSC fiscal staff cannot reliably predict the number of offenders that would become subject to continuous alcohol monitoring in the manner as described above.

The bill also specifies that, if a court grants limited driving privileges to a person who is alleged to have committed an OVI-related offense, and has yet to be tried, and who would be sentenced as a repeat offender if convicted of that offense, the court may: (1) prohibit the person from consuming any beer or intoxicating liquor, and (2) require the person to wear a monitor that provides continuous alcohol monitoring that is remote until the case is properly adjudicated. LSC fiscal staff cannot reliably predict the number of offenders that would be sanctioned in this manner.

State revenues

Indigent Drivers Alcohol Treatment Fund (Fund 049). Existing section 4511.191 of the Revised Code provides that moneys deposited in the state treasury to the credit of the Indigent Drivers Alcohol Treatment Fund (Fund 049) be distributed by the Department of Alcohol and Drug Addiction Services to pay for indigent alcohol and drug addiction treatment as well as continuous alcohol monitoring. To the extent that revenues are available in Fund 049, they will help defray the local expenses associated with providing for continuous alcohol monitoring of indigent OVI offenders. It is also important to keep in mind that the bill creates two competing pressures on the revenues available in Fund 049. In addition to local expenses for alcohol monitoring, the fund will also be utilized to help pay for mandated alcohol assessment and treatment caseloads, as discussed earlier.

Indigent Drivers Interlock and Alcohol Monitoring Fund. As already mentioned, the bill creates, in the state treasury, the Indigent Drivers Interlock and Alcohol Monitoring Fund. The fund's moneys are to be distributed by the Department of Public Safety to county and municipal indigent drivers interlock and alcohol monitoring funds that local jurisdictions are required to establish to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device or an alcohol monitoring device, to be used by an indigent offender.

Whether the revenues generated and distributed from these two state funds are sufficient to offset the additional continuous alcohol monitoring expenses created by the bill is uncertain.

Local fiscal effects

According to a representative of the leading vendor for this product, Alcohol Monitoring, Inc. of Highlands Ranch, Colorado, the cost of each continuous alcohol monitoring installation, which includes the modem and bracelet worn by the offender, involves a one-time equipment expense of somewhere between \$50 and \$100, plus \$10 to \$12 per day for the cost of the remote monitoring. The vendor conducts all monitoring functions for its Colorado location. Thus, in order for the court to implement a continuous alcohol monitoring program, it will not need to purchase and maintain monitoring equipment, nor perform any monitoring. Local law

enforcement or the court's probation department would be notified of violations as they occur. Depending on how the probation department chooses to handle these notifications, there may be some increase in local expenses associated with the manner in which violations are addressed. LSC fiscal staff is not certain how courts would handle violations or the magnitude of any associated costs.

Unless determined by the court to be indigent, an offender subject to continuous alcohol monitoring would pay all associated costs. If the offender is determined to be indigent, then the county or municipality would utilize available revenues from either their local indigent drivers alcohol treatment or indigent drivers interlock and alcohol monitoring funds to pay for the monitoring costs. The bill specifies that counties and municipalities must first exhaust their indigent drivers interlock and alcohol monitoring funds before indigent drivers alcohol treatment funds are used for continuous alcohol monitoring.

It is difficult to reliably estimate the number of additional offenders that would, as a result of the bill, be subject to continuous alcohol monitoring and determined by the court to be indigent. One complication arises from the fact that offenders facing continuous alcohol monitoring are more likely to be serious repeat offenders that suffer from alcohol abuse problems. To the extent that these offenders have more serious criminal histories, in addition to the addiction issues, and these factors affect their work histories and overall socioeconomic status, many of the offenders directly affected by the bill will likely not be able to afford the \$300 to \$360 in monthly remote monitoring charges, let alone the initial one-time installation charge of \$50 to \$100. Whether the magnitude of the local indigent drivers alcohol treatment and indigent drivers interlock and alcohol monitoring funds will be sufficient to offset the additional continuous alcohol monitoring expenses created by the bill is uncertain.

Habitual offender database

The bill requires the Department of Public Safety to establish a state registry of Ohio's habitual OVI/OMWI offenders and an Internet database containing specified information about persons who, within the preceding 20 years, has been convicted in Ohio five or more times for a vehicle OVI or watercraft OMWI offense. The bill requires any court that convicts a person of any OVI-related offense for a fifth or subsequent time to send Public Safety a sworn report containing specified information regarding the convicted person and prior convictions for similar offenses occurring within the preceding 20 years.

Staff of the Department of Public Safety informed LSC fiscal staff that the Department would likely incur additional expenses associated with establishing and maintaining the required registry and database. The ongoing operation of the database, as well as all of the data management functions, may actually necessitate the hiring of three new employees, at a total annual cost of around \$100,000. In addition, one-time expenses totaling approximately \$82,500 will be incurred to make necessary information technology (IT) infrastructure and programming changes.

The bill creates an additional \$2.50 court cost, directs the fee for deposit in the state's existing State Highway Safety Fund (Fund 036), and states that the Department of Public Safety is to use the fee for its costs associated with maintaining the offender registry. Specifically, in any case in which a court grants limited driving privileges to an OVI-related offender (subject to the installation of an ignition interlock device), or requires an offender to wear a continuous alcohol monitoring bracelet, typically for violating the terms of the limited driving privileges, the

court must impose and collect a new court cost in the amount of \$2.50 which cannot be waived by the court unless the offender is indigent. Whether this new revenue stream will be sufficient to completely offset the cost of operating and maintaining the offender registry is uncertain at this time.

The bill also gives discretion to the court, in the conditions described immediately above, to impose an additional \$2.50 in court costs, which, if imposed, must be deposited in the court's special projects fund. Under current law, which is unchanged by the bill, the moneys in this fund can be used to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Presumably, any revenues collected in this special projects fund could be used to help defray any additional expenses that might be incurred by the clerk of courts to reprogram their computerized accounting systems in order to keep track of the bill's various revenue-generating changes.

Penalty for offender operating a vehicle in violation of an immobilization order

The bill provides that an offender who operates a vehicle that is subject to an immobilization waiver order is guilty of the offense of operating a motor vehicle in violation of an immobilization waiver, a violation of which is a misdemeanor of the first degree.

Local fiscal effects

Criminal justice system expenditures. Presumably, offenders will violate this prohibition, the practical effect of which will be to create additional misdemeanor cases for county and municipal criminal justice systems to resolve. If this were to happen, then, theoretically at least, local criminal justice system expenditures related to investigating, prosecuting, adjudicating, defending (if the offender is indigent), and sanctioning offenders would increase in any affected county or municipality. As the likely number of violations that may occur annually in any affected local jurisdiction is uncertain, any resulting increase in county and municipal criminal justice system expenditures is uncertain as well.

County and municipal revenues. Violations of this prohibition also create the potential for affected counties and municipalities to collect related court cost and fine revenues, the annual magnitude of which is uncertain.

State fiscal effects

The court is generally required to impose state court costs totaling \$24 on any offender convicted of, or pleading guilty to, a misdemeanor. Of that amount, \$15 is directed to the GRF and \$9 is directed to the Victims of Crime/Reparations Fund (Fund 402). The magnitude of the additional revenue that might be generated for either state fund annually is uncertain.

LSC fiscal staff: Joseph Rogers, Senior Budget Analyst

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Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615

✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL:	Am. Sub. S.B. 84	DATE:	April 8, 2008
STATUS:	As Enacted – Effective July 18, 2008	SPONSOR:	Sen. Schaffer
LOCAL IMPACT STATEMENT REQUIRED:	Yes	Corrected after initial review; local costs appear confined to municipalities and townships located within Fairfield County	
CONTENTS:	Emergency management financing		

State Fiscal Highlights

- The bill has no readily discernible fiscal implications for state revenues and expenditures.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008 – FUTURE YEARS
Municipalities and Townships located within Fairfield County*	
Revenues	- 0 -
Expenditures	Potential increase estimated at around \$32,900 annually to cover county EMA contract costs
Fairfield County	
Revenues	Potential gain estimated at around \$32,900 annually from locality contract payments
Expenditures	Potential annual increase, up to revenue gain

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

* For a list of the localities in Fairfield County likely to be affected by the bill, see Table 1 appended to the back of this document.

- **Payment for the provision of emergency management services generally.** The bill clarifies the circumstances under which a political subdivision is required to pay for contracted emergency management services. Through conversations with emergency management practitioners, LSC fiscal staff has determined that this is not a statewide issue, but may be confined to Fairfield County where some have taken the position that localities cannot be compelled to pay for county-delivered emergency management services. Most local jurisdictions appear to abide by currently accepted practices of paying for contracted emergency management services.
- **Fairfield County and related localities.** To date, Fairfield County apparently has never sought payment for the provision of emergency management services to various municipalities and townships, but wishes to do so at this time. The bill would compel any political subdivision that voluntarily enters into a contract to pay Fairfield County for future contracted services. Legislative Service Commission fiscal staff estimates that those localities will collectively pay Fairfield County around \$32,900 annually for the provision of emergency management services. It appears that these moneys would likely be used by Fairfield County to

fund new emergency management equipment and communications systems and/or to fulfill federal grant cash match requirements.

Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, the bill most notably:

- Clarifies the circumstances under which a political subdivision is required to pay for contracted emergency management services.
- Permits a board of county commissioners to maintain meeting records by electronic means.

Local fiscal effects

Contracted emergency management services

The bill clarifies the circumstances under which a political subdivision is required to pay for contracted emergency management services. By all accounts, the bill is intended to specifically address the view of the Fairfield County Prosecuting Attorney's Office asserting that political subdivisions are not required to pay the Fairfield County Office of Emergency Management and Homeland Security for the provision of emergency management services. Through conversations with emergency management practitioners, LSC fiscal staff has determined that this is not a statewide issue, as most other local jurisdictions appear to abide by currently accepted practices of paying for contracted emergency management services.

In years past, the Fairfield County Office of Emergency Management and Homeland Security has had contracts in place with other political subdivisions located within Fairfield County under which the former provided emergency management services to the latter, i.e., planning for, and responding to, all-hazards emergencies. To date, Fairfield County apparently has never sought payment for those services, but wishes to do so at this time. The bill would compel any political subdivision that voluntarily enters into a contract to pay Fairfield County for future contracted services.

The state's political subdivisions, defined for the purposes of the Emergency Management Law as a county, municipality, or township, are required to have emergency response protocols in place. A municipality or township is permitted to enter into an agreement with a county or regional emergency management agency, but is not required to do so. Based on conversations with staff of the Ohio Emergency Management Agency, LSC fiscal staff has discerned that it is typically less expensive for a municipality or township to contract with a county or regional emergency management agency rather than establish and maintain its own program for emergency management.

Fairfield County and related localities. Earlier this year, all emergency management agency directors statewide received an electronic mail from the Emergency Management Association of Ohio (EMO), the intent of which was to approximate an emergency management

"cost" per citizen for federal grant application purposes. Response was voluntary. Based on those responses, the EMO determined that the statewide average emergency management expense per person was about 25 cents. It appears that the Fairfield County Office of Emergency Management and Homeland Security intends to use this statewide average per person expense as part of their formula for determining the amount that each participating municipality and township will be charged annually for the provision of county emergency management services.

Using the above-noted EMO average cost per person, and the population figures of the participating municipalities and townships located in Fairfield County, LSC fiscal staff estimates that those localities will collectively pay Fairfield County around \$32,900 annually for the provision of emergency management services. Table 1, which is appended to the back of this document, identifies the likely participating municipalities and townships, as well as the estimated annual cost of county-delivered emergency management services. It appears that these moneys would likely be used by Fairfield County to fund new emergency management equipment and communications systems and/or to fulfill federal grant cash match requirements.

County commissioner records

The bill permits a board of county commissioners to maintain a full record of its proceedings by electronic means. Relative to current practice, LSC fiscal staff conversed with staff of the County Commissioners' Association of Ohio and discerned that most boards of county commissioners are already audio taping various board meetings and proceedings and approximately half of the boards are video taping meetings and proceedings. Arguably then, this permissive authority in some sense codifies current practice and may actually reduce the time and effort that staff would otherwise have expended in order to maintain any required records in written form.

State fiscal effects

The bill has no readily apparent direct fiscal effect on state revenues and expenditures.

Table 1 – Localities Annual Cost for Fairfield County Emergency Management Services

Political Subdivision	Type	Estimated Population	Estimated Annual Cost
Amanda	Municipality	719	\$179
Amanda	Township	1,722	\$430
Baltimore	Municipality	2,397	\$599
Berne	Township	4,521	\$1,130
Bloom	Township	5,765	\$1,441
Bremen	Municipality	1,254	\$313
Buckeye Lake	Municipality	3,055	\$763
Canal Winchester	Municipality	5,819	\$1,454
Carroll	Municipality	470	\$117
Clearcreek	Township	2,830	\$707
Greenfield	Township	4,465	\$1,116
Hocking	Township	4,812	\$1,203
Lancaster	Municipality	36,507	\$9,126
Liberty	Township	4,387	\$1,096
Lithopolis	Municipality	910	\$227
Madison	Township	1,385	\$346
Millersport	Municipality	961	\$240
Pickerington	Municipality	16,575	\$4,143
Pleasant	Township	5,039	\$1,259
Pleasantville	Municipality	853	\$213
Richland	Township	1,540	\$385
Rush Creek	Township	2,284	\$571
Rushville	Municipality	272	\$68
Stoutsville	Municipality	578	\$144
Sugar Grove	Municipality	439	\$109
Thurston	Municipality	609	\$152
Violet	Township	16,893	\$4,223
Walnut	Township	4,545	\$1,136
West Rushville	Municipality	138	\$34
Estimated Totals		131,744	\$32,936

Notes: Municipality population figures provided by U.S. Census Bureau for 2006. Township population figures provided as estimates for 2007 by the state of Ohio Department of Development. Cost figures may not total due to rounding.

LSC fiscal staff: Jeffrey R. Kasler, Budget Analyst

SB0084EN/cm

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ♦ Phone: (614) 466-3615

♦ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Sub. S.B. 163** DATE: **April 29, 2008**

STATUS: **As Enacted – Effective August 14, 2008** SPONSOR: **Sen. Niehaus**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Improves foster caregiver background checks, clarifies when a court must order a person to be fingerprinted, modifies the retained applicant fingerprint database, removes the requirement that the Ohio Department of Mental Health conduct a study of children placed using the child placement level of care tool, and makes other changes in the law regarding approval of out-of-home care workers, adoptive parents, foster caregivers, and child day-cares**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
General Reimbursement Fund (Fund 106)			
Revenues	Potential gain of uncertain magnitude from criminal records check fees		
Expenditures	Potential minimal increase associated with administration of the Retained Applicant Fingerprint Database		
	Potential increase to process additional criminal records checks, offset by related fee collections		
Various State and Federal Funds in the Department of Job and Family Services			
Revenues	- 0 -		
Expenditures	Potential increase to collaborate with BCII		- 0 -
	Potential increase of over \$7.1 million to extend SACWIS to private agencies		- 0 -
	Potential increase due to revocation for no children		
	Potential increase due to central registry search		
	Potential increase to receive notification of prior revocation with offsetting cost savings		
	Potential increase to notify a recommending agency, review and, if necessary, revoke a certification		
	Potential increase due to work group involvement		
	Potential minimal decrease due to fewer day-care licensures		
	Potential minimal decrease due to fewer foster caregiver certifications and recertifications		
	Potential minimal decrease due to provision of rules electronically		
	Potential minimal decrease due to not having to appear in court		

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
Various Funds in the Department of Mental Health			
Revenues		- 0 -	
Expenditures	Savings due to repeal of Child Placement Level of Care Tool study		- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- **Retained Applicant Fingerprint Database.** The bill makes several modifications to the Retained Applicant Fingerprint Database (RAFD), which is maintained by the Office of the Attorney General.¹ These changes are expected to only minimally increase the annual administrative costs incurred by the Office of the Attorney General.
- **Weekly case report summaries.** The Bureau of Criminal Identification and Investigation (BCII) may incur costs associated with the need to modify and distribute a new form to capture certain new information in the weekly report summaries sent by clerks of courts. As of this writing, LSC fiscal staff has acquired no information suggesting that the need to collect this additional information will create a significant ongoing fiscal effect for BCII.
- **Criminal records checks.** Presumably, as a result of the bill, additional criminal records checks will be requested and performed, and related records check fees will be collected. Currently, the Attorney General charges \$22 per BCII records check and an additional \$24 per FBI national records check (if applicable). The \$24 pays for the \$22 cost from the FBI as well as an additional \$2 to pay for BCII's administrative processing costs. All of this cash flow activity takes place within the Attorney General's General Reimbursement Fund (Fund 106). As of this writing, the number of additional criminal records checks that will be performed is uncertain, as is the magnitude of the effect on Fund 106's annual cash flow activity.
- **Notifications of an arrest, guilty plea, or conviction.** The bill requires the Ohio Department of Job and Family Services (ODJFS) to work with BCII to develop procedures and formats necessary to produce notices of the arrest, guilty plea, or conviction for a disqualifying offense of a person connected to a participating entity of the RAFD. This provision will increase administrative costs for ODJFS to work with BCII.
- **Access to SACWIS.** The bill grants public entities with which ODJFS has a Title IV-E grant agreement in effect, private child placing agencies, private noncustodial agencies, and prosecuting attorney's access to the database and the authority to enter information. ODJFS estimates that the cost of rolling out SACWIS to the 243 private agencies could cost as much as \$7,150,000 (see Footnote 7 in Detailed Fiscal Analysis section). ODJFS will be conducting additional research to determine if 50% of these costs will be eligible for federal reimbursement under Title IV-E.
- **Search of the central registry.** If the provision regarding search of the central registry is interpreted to mean that ODJFS is to contact another state and request a check of that state's registry on behalf of the recommending agency, there may be a significant increase in costs to ODJFS to make these contacts and pass on any information received from other states.
- **Foster caregiver notices.** The provision requiring notification of a prior revocation or the presence of a minor in the home who has been convicted of, plead guilty to, or been adjudicated delinquent for committing any of a list of specified offenses, and the prohibition against ODJFS issuing a foster home

¹ The RAFD was created through the enactment of Am. Sub. S.B. 97 of the 127th General Assembly.

certificate to the prospective foster caregiver may have a minimal increase in administrative costs for ODJFS to receive such notification. However, there would be an offsetting decrease in administrative costs since ODJFS would not be continuing the certification process if a prospective foster caregiver were to make such notification.

- **Notification of an offense of a foster caregiver.** The provision directing ODJFS to provide notice of the conviction or guilty plea to the recommending agency relative to the foster caregiver and the custodial agency of any child currently placed with that caregiver may result in an increase in administrative costs for ODJFS to notify the recommending agency and when necessary review and possibly revoke a foster caregiver's certificate.
- **Certification of institutions and associations for children.** This provision, essentially prohibiting a type A family day-care home from also being a foster home and prohibiting a type B family day-care home from also being a specialized day-care home, may decrease administrative costs of ODJFS as there may be fewer foster families to certify or recertify. However, any decrease in costs is likely to be minimal.
- **No licensure or certification if the home is a foster home.** The provision in the bill regarding licensure of type A family day-care homes may decrease administrative costs to ODJFS as it may conduct fewer licensures due to the restrictions on being both any kind of foster home and type A day-care provider. Any decrease in administrative costs would be minimal.
- **No foster children within 12-month period.** The provision of the bill allowing ODJFS to revoke the certificate of a foster caregiver who has not cared for one or more foster children in the foster caregiver's home within the preceding 12 months may increase administrative costs to ODJFS to continually review the status of a foster caregiver's placements or lack thereof and move to revoke the caregiver's certificate.
- **Provision of proposed rules.** The provision in the bill permitting ODJFS to provide authorized day-care providers copies of proposed rules in either paper or electronic form may minimally decrease printing and postage costs to ODJFS.
- **Putative father's consent to the adoption of a child born prior to January 1, 1997.** The provision of the bill removing reference to ODJFS from the provision of law regarding a putative father's consent to the adoption of a child born prior to January 1, 1997, may result in a decrease in costs to ODJFS for not having to appear in court.
- **ODJFS work group.** To the extent that those who are involved in the work group do so in their official capacity as ODJFS employees, ODJFS will incur an increase in administrative costs (time and travel reimbursement) for those employees to participate in the work group. ODJFS will also incur some administrative costs in preparing the executive summary of the work group's recommendation and distribution to the Governor and legislative leaders of the majority party.
- **Adoption of rules.** There are several provisions in the bill that requires ODJFS to adopt rules. ODJFS maintains a staff that works specifically on the formulation and codification of rules. Therefore, any additional administrative costs to develop the rules will be absorbed within ODJFS's existing resources.
- **Child Placement Level of Care Tool study.** The bill repeals a provision of law enacted in Am. Sub. H.B. 119 of the 127th General Assembly that required the Department of Mental Health (DMH) to conduct a study of children placed using the Child Placement Level of Care Tool. Repealing this provision will result in cost savings to DMH.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
County and Municipal Civil and Criminal Justice Systems			
Revenues		- 0 -	
Expenditures	Potential one-time increase to modify databases generating weekly case report summaries		- 0 -
	Potential one-time increase to establish and equip new fingerprint areas		- 0 -
	Potential increase to staff new fingerprint areas and comply with notification requirements		
	Potential increase for additional permanent custody motions		
	Potential increase to fingerprint and report information pertaining to certain additional misdemeanor offenders		
	Potential increase due to consideration of placement options		
Public Children's Services Agencies			
Revenues		- 0 -	
Expenditures	Potential increase due to initial FBI checks and subsequent checks		
	Potential increase due to work group involvement		
	Potential increase due to assessment once notification of an offense is received		
	Potential decrease due to sharing of records checks		
	Potential decrease due to fewer day-care certifications		
County departments of job and family services			
Revenues		- 0 -	
Expenditures	Potential decrease due to provision of rules electronically		

- **Clerks of all courts of record.** The bill's requirement that the clerks of courts add certain information to the weekly report sent under current law to the state's Bureau of Criminal Identification and Investigation (BCII) may necessitate one-time database modifications, the cost of which is, as of this writing, uncertain.
- **Local law enforcement agencies.** Based on conversations with the Buckeye State Sheriffs' Association (BSSA), it appears that the bill's fingerprinting requirement relative to: (1) a person appearing pursuant to a summons, and (2) fingerprinting certain additional misdemeanor offenders may in fact generate a noticeable increase in the expenditures of certain local law enforcement agencies. To effectively implement this requirement, separate fingerprinting areas may need to be constructed, or provided for, that are independent of the intake process for new arrests. This would mean that additional fingerprinting machines and equipment (Webcheck, AFIS² or standard ink card stations) would be necessary to accommodate persons appearing pursuant to a summons. It should also be noted that it is often the case that sheriffs perform most of the fingerprinting duties within the county, as most municipal police departments have disbanded their internal booking systems and instead rely on the services of the sheriff. If additional AFIS machines are needed, each affected local jurisdiction may experience a one-time cost increase estimated at \$6,200 (the cost of an AFIS machine), plus additional costs in other staffing and related equipment costs (i.e., computer work station, desk, and chairs).

² AFIS: Automated Fingerprint Identification System.

- **Clerks of probate courts.** The bill's requirement that the administrative officer or an attorney who arranges an adoption for a prospective parent provide to the clerk of the probate court either the results of a criminal records check or notification that the individual required to undergo such a check has failed to do so may increase the clerk's workload. However, the cost, if any, associated with such an increase is expected to be no more than minimal annually.
- **Sheriffs and chiefs of police.** The bill's requirement that the sheriff or chief of police provide written notification to a court if a person or child failed to appear or provide impressions of the person's or child's fingerprints, if that individual was required to do so by the court, may result in additional administrative costs to sheriffs and chiefs of police. However, the cost associated with such an increase will depend primarily on the number of individuals who do not comply with a court's order to submit for fingerprinting.
- **Confidentiality of criminal records check.** The bill adds a public children services agency to the list of who may have access to the otherwise confidential criminal records check. The changes made by the bill will make sharing of such information permissible, thereby reducing costs of the public agency that would otherwise be required to request and pay for a new check.
- **Criminal records checks.** The bill requires the criminal records check at the time of the initial home study in the case of adoption, before recommendation of a foster parent for certification, and before certification of a type B family day-care home, include an FBI check and a criminal records check, with optional inclusion of the FBI component, every four years thereafter. The bill also provides that the agency or attorney who arranges for an adoption must provide the probate clerk with information received from the criminal records check. These provisions will increase costs for PCSAs to conduct criminal records checks and provide information to the probate clerk. While this provision could have a significant fiscal impact on the public agencies, it should be noted that Am. Sub. H.B. 119 of the 127th General Assembly (main operating budget) includes \$9.0 million in general revenue funds that have been identified for supporting the county child welfare agencies in implementing the reforms to the child welfare system included in this bill and other pending legislation.
- **Notification of an offense of a foster caregiver.** The provision directing ODJFS to provide notice of the conviction or guilty plea to the recommending agency relative to the foster caregiver and the custodial agency of any child currently placed with that caregiver may result in an increase in administrative costs for a PCSA (if it is the recommending agency) to assess the foster caregiver's overall situation for safety and concerns and forward any recommendations, if applicable, to ODJFS.
- **No licensure or certification if the home is a foster home.** The provision in the bill regarding certification of type B family day-care homes may decrease administrative costs to county departments of job and family services as they may conduct fewer certifications due to the restrictions on being both a specialized foster home and type B day-care provider. Any decrease in administrative costs would be minimal.
- **Provision of proposed rules.** The provision in the bill permitting a county department of job and family services to provide authorized day-care providers and in-home aides copies of proposed rules in either paper or electronic form may minimally decrease printing and postage costs to the county agency.
- **Permanent custody of a child.** If, due to consideration of time spent in temporary custody in another state, an agency were to move forward more quickly on filing a motion requesting permanent custody, there may be an increase in costs to the courts to entertain such motions and rule on the case. The magnitude of this impact is difficult to estimate since LSC was not able to obtain information on the number of children who were in temporary custody in another state and for how long.

- **Review hearings that pertain to permanency plans.** The provision of the bill requiring consideration of in-state or the out-of-state placement may cause an increase in administrative costs for the court to meet with the child and consider all placement options when deciding on a permanency plan for the child.
 - **ODJFS work group.** To the extent that those who are involved in the work group do so in their official capacity as employees of a local government entity, those employers will incur an increase in administrative costs (time and travel reimbursement) for those employees to participate in the work group.
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Detailed Fiscal Analysis

Criminal justice system

For the purposes of this fiscal analysis, from a criminal justice perspective, the bill most notably:

- Expands the list of offenses for which a person who is arrested or taken into custody is subjected to fingerprinting to include certain misdemeanor offenses, with those fingerprints, as under current law, being forwarded to the Bureau of Criminal Identification and Investigation (BCII).
- Requires clerks of courts to include additional information in the weekly report of case summaries sent to BCII.
- Clarifies that if a person or child has not been arrested and first appears before a court or magistrate in response to a summons, the court must order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting.
- Imposes additional requirements relative to criminal records checks for out-of-home care providers, foster parents, and adoptive parents.
- Permits the clerks of courts of common pleas to sign the public children services agency memorandum of understanding.
- Expands the categories of professions to which the state's existing mandatory child abuse and neglect reporting provision applies.

Clerks of courts and weekly BCII reports

The bill requires the clerks of all courts of record to add the date of the offense, summons, or arraignment to the weekly report sent under current law to the state's Bureau of Criminal Identification and Investigation (BCII). During a conversation with the Lucas County Clerk of Courts relative to this provision, LSC fiscal staff was informed that clerks of courts might need to modify their databases so that this additional information is captured in their weekly report. Such modifications may result in a one-time expense to alter computer-related applications, the cost of which is uncertain. As of this writing, however, LSC fiscal staff has not acquired any more precise information on how this requirement to provide additional information will affect clerks of courts of common pleas, municipal courts, and county courts.

BCII may also incur costs associated with modifying and distributing new forms to include a space for the date of offense, summons, or arraignment for each case. As of this

writing, LSC fiscal staff has acquired no information suggesting that the need to collect this additional information will create a significant ongoing fiscal effect for BCII.

Court-ordered fingerprinting

The bill requires fingerprinting of: (1) a person who is not arrested, but appears in court for any of certain offenses pursuant to a criminal summons, and (2) certain additional misdemeanor offenders. The bill also requires the sheriff or chief of police to provide written notification to the court if the person or child failed to appear or provide impressions of the person's or child's fingerprints. Based on conversations with the Buckeye State Sheriffs' Association (BSSA), it appears that this requirement may in fact generate a noticeable increase in the expenditures of certain local law enforcement agencies.

Criminal summons. As the bill clarifies that the court must order the person or child to appear before the sheriff or chief of police within 24 hours for fingerprinting, BSSA envisions that a new system will be necessary to accommodate these persons who appear for fingerprinting. To effectively implement this requirement, it is BSSA's belief that separate fingerprinting areas will need to be constructed, or provided for, that are independent of the intake process for new arrests. Arrested individuals are processed in secure areas and their mingling with persons who report for fingerprinting pursuant to a summons would be strongly discouraged.

This would mean that additional fingerprinting machines and equipment (Webcheck, AFIS³ or standard ink card stations) would be necessary to accommodate persons appearing pursuant to a summons. It should also be noted that it is often the case that sheriffs perform most of the fingerprinting duties within the county, as most municipal police departments have disbanded their internal booking systems and instead rely on the services of the sheriff.

If additional AFIS machines are needed, each affected local jurisdiction may experience a one-time cost increase estimated at \$6,200 (the cost of an AFIS machine), plus additional costs in other staffing and related equipment costs (i.e., computer work station, desk, and chairs).

Misdemeanor offenders. Currently, there are no readily available statewide statistical resources to determine how many additional misdemeanor offenders would be required to be fingerprinted under the bill. As such, it is difficult to quantify the potential fiscal impact on both the state and local criminal justice agencies.

Retained Applicant Fingerprint Database

The bill makes several modifications to the Retained Applicant Fingerprint Database (RAFD), which is maintained by the Office of the Attorney General.⁴ The bill adds a provision requiring the Attorney General to adopt rules providing for the expungement or sealing of records of individuals who are no longer granted licensure or approved for adoption by the public office that required submission of the person's fingerprints. The bill also expands the purpose of the RAFD to include determining eligibility for approval for adoption by a public office. These changes are expected to only minimally increase the Attorney General's annual administrative costs.

³ AFIS: Automated Fingerprint Identification System.

⁴ The RAFD was created through the enactment of Am. Sub. S.B. 97 of the 127th General Assembly.

Clerk of the court of common pleas and the memorandum of understanding

The bill permits the clerks of courts of common pleas to sign a required memorandum of understanding to minimize interviews of children who are the subjects of alleged child abuse. Under current law, unchanged by the bill, each public children services agency is required to prepare a memorandum of understanding signed by various public officials. The memorandum must set forth the normal operating procedure for all concerned officials in the execution of their respective responsibilities in the investigation and prosecution of child abuse. If the clerk signs the memorandum, the clerk must execute all relevant responsibilities as required of officials specified in the memorandum. At the time of this writing, the potential effect on the workload and related operating expenses of any participating clerk of court is unclear.

Criminal background checks

The bill requires: (1) that, if an FBI check is performed as part of BCII's criminal records check for out-of-home care providers, foster parents, or prospective adoptive parents, it must include fingerprint based checks of national crime information databases, and (2) requires that for a prospective foster caregiver and any adult who resides with the foster caregiver the check must include certain information from the FBI prior to issuing a foster home certificate, or upon every other foster home recertification.

Currently, the Attorney General charges \$22 per BCII records check and an additional \$24 per FBI national records check (if applicable). The \$24 pays for the \$22 cost from the FBI as well as an additional \$2 to pay for BCII's administrative processing costs. All of this cash flow activity takes place within the Attorney General's General Reimbursement Fund (Fund 106). Presumably, as a result of the bill, additional criminal records checks will be requested and performed, and related records check fees will be collected. As of this writing, the number of additional criminal records checks that will be performed is uncertain, as is the magnitude of the effect on Fund 106's annual cash flow activity.

Child Welfare System

Notifications of an arrest, guilty plea, or conviction

The bill requires the Ohio Department of Job and Family Services (ODJFS) to work with BCII to develop procedures and formats necessary to produce notices of the arrest, guilty plea, or conviction of a disqualifying offense of a person connected to a participating entity of the RAFD. ODJFS must also adopt rules, as if they were internal management rules, necessary for this collaboration. Additionally, ODJFS may adopt rules that are necessary for utilizing the information received from the database, with the final effective date that is not later than December 31, 2008.

This provision will increase administrative costs for ODJFS to work with BCII and, if ODJFS chooses, to adopt rules. With regard to the rules, ODJFS maintains a staff that works specifically on the formulation and codification of rules. Therefore, any additional administrative costs to develop the rules discussed here will be absorbed within ODJFS' existing resources.⁵

⁵ Am. Sub. H.B. 119 of the 127th General Assembly (main operating budget) includes funding that will support state level administrative expenses for reforms to the child welfare system included in this bill and other pending legislation.

Statewide Automated Child Welfare Information System

Access and Statewide Implementation. ODJFS operates a uniform statewide automated child welfare information system (SACWIS). This information system contains records regarding investigations of children and families and children's care in out-of-home care, care and treatment provided to children and families, and other information related to children and families that state or federal law, regulation, or rule requires ODJFS or a public children services agency to maintain.

Current law specifies that this information may only be accessed by ODJFS and a public children services agency in specified circumstances.

The bill changes the term "public children services agency" to "title IV-E agency," which means a public children services agency or a public entity with which ODJFS has a Title IV-E subgrant agreement in effect. Additionally, the bill permits a prosecuting attorney, a private child placing agency, and a private noncustodial agency to both enter and access the information.

Although state law specifies that statewide implementation of SACWIS is to be finalized in public agencies by January 1, 2008, ODJFS is still working to complete the rollout of the system. The bill extends access to SACWIS to private agencies and prosecuting attorneys. The bill also provides that, until the system is implemented statewide, agencies or persons required to include a summary report under adoption or foster care provisions must request a check of the Ohio Central Registry of Abuse and Neglect and that after SACWIS is implemented statewide, all private agencies must request a check of SACWIS until they can access the system and conduct their own search.

ODJFS is currently in the process of rolling out SACWIS to the 88 county agencies and is in the process of planning how and when to extend SACWIS to about 240 private agencies. There are some challenges ODJFS is considering, such as making sure that the private agency has the proper computer equipment and Internet capabilities to run the system, as well as issues like training and security. At present, 73 county agencies are connected to SACWIS. ODJFS plans to have the remaining agencies connected by the end of FY 2008. Once that is complete, ODJFS can then turn its attention to bringing the private agencies and other statutorily permitted users into the system. Based on current contract negotiations with the vendor that is conducting the rollout of SACWIS to the public agencies, ODJFS estimates that the cost of rolling out SACWIS to the 243 private agencies could cost as much as \$7,150,000.⁶ ODJFS will be conducting additional research to determine if 50% of these costs will be eligible for federal reimbursement under Title IV-E.

Currently, ODJFS handles all requests for SACWIS and the central registry searches for the public and private agencies. Once SACWIS has been rolled out to all 88 public agencies, the burden on ODJFS to provide the summary reports will be lessened as the public agencies will then be able to conduct their own searches and then even more so once the private agencies have direct access to SACWIS and are able to conduct their own searches as well.

⁶ This estimate is based on the most recent information ODJFS provided to LSC. ODJFS is currently working to update this figure and a revised estimate will be provided if it becomes available.

Search of SACWIS and the central registry. Under current law, *before a child is placed* in a foster home, *an association or institution* certified to place a child into a foster home must obtain a summary report of a search of SACWIS.

The bill requires that *before a foster home is certified or recertified*, a *recommending agency* must obtain this summary report from an entity that is authorized to access the system. Based on the summary report, and when considered within the totality of the circumstances, ODJFS may deny a foster home certification or recertification. ODJFS may not deny certification or recertification solely based on the summary report.

Additionally, the bill requires that, whenever a prospective foster parent, prospective adoptive parent, or a person 18 or older who lives in the home has resided in a state other than Ohio in the last five years, the recommending agency working with the prospective foster parent, or administrative director of an agency or attorney, who arranges the adoption, which ever is applicable, must request a check of the Ohio Central Registry of Abuse and Neglect from ODJFS regarding the prospective foster parent, prospective adoptive parent, or the other persons to enable the agency to check any child abuse and neglect registry maintained by that other state. The agencies or attorney must make the request and review the results before the prospective foster parent may be finally approved for placement of a child or before a final decree or interlocutory order of adoption may be made. Information received pursuant to such a request is considered as if it were the required summary report. ODJFS must comply with any request to check the central registry that is similar to the request described in this paragraph and that is received from another state.

The bill also specifies that the information and documents to be included in a home study report, as required by rule of ODJFS, must include, in addition to the currently required information, a report of a check of a central registry of a state other than Ohio if such a check is required.

The provision described above regarding when a summary report must be obtained affects only the timing of when a private agency must obtain a summary report of a search of SACWIS.

It is unclear what effect the requirement of a central registry check will have on ODJFS. LSC was not able to obtain clarification of how a search of Ohio's central registry will enable an agency to check a child abuse and neglect registry maintained by another state. If this provision is interpreted to mean that ODJFS is to contact another state and request a check of that state's registry on behalf of the recommending agency, there may be a significant increase in costs to ODJFS to make these contacts and pass on any information received from other states.

Criminal records checks for out-of-home care providers, foster parents, and prospective adoptive parents

Timing of required criminal records checks. Under current law, criminal background checks are required for out-of-home care providers, prospective foster and adoptive parents, and all other persons 18 years of age or older who reside in a prospective foster or adoptive home. If a person subject to a criminal records check does not present proof that the person has been an Ohio resident for the past five years or does not provide evidence that in the last five years that BCII has requested information about the person from the FBI in a criminal records check, then BCII must also request information from the FBI regarding the person. If the person does

present proof of Ohio residency for the prior five years, the criminal records check may include information from the FBI.

As stated earlier, the bill requires that if an FBI check is performed, it must include fingerprint based checks of national crime information databases as described in federal law.

The bill specifies that the administrative director of an agency, or attorney who arranges an adoption must request a criminal records check at the time of the initial home study and every four years after the initial home study at the time of an update, and at the time that an adoptive home study is completed as a new home study. Similarly, before a recommending agency submits a recommendation to ODJFS regarding issuance of a foster home certificate, the agency must request a criminal records check (current law) and the bill requires additional checks every four years thereafter prior to recertification. Under the bill, the initial checks *must* include an FBI check and all subsequent checks *may* include an FBI check. In addition, the bill provides that prior to a hearing on a final decree of adoption or interlocutory order of adoption by a probate court, the administrative director of an agency, or an attorney, who arranges an adoption for a prospective parent must provide any information received from BCII or the FBI as part of the criminal records check to the probate clerk.

This provision will result in increased costs for county agencies to conduct criminal records checks for foster care and adoption and provide the required information to the probate court. The current cost for a BCII check is \$22 and an FBI check is \$24. (The FBI does not accept all arrests and convictions and without both checks certain crimes committed in Ohio could be missed.) This provision not only requires the initial check to include both types of checks but also that checks be done subsequently. While this provision could have a significant fiscal impact on the public agencies, it should be noted that Am. Sub. H.B. 119 of the 127th General Assembly (main operating budget) includes \$9.0 million in general revenue funds that have been identified for supporting the county child welfare agencies in implementing the reforms to the child welfare system included in this bill and other pending legislation.

Disqualifying offenses. Current law includes a list of offenses that disqualifies a person from providing out-of-home care, being an adoptive parent, or being a foster caregiver (if a person age 18 or older who resides with the prospective adoptive parent or foster caregiver who has been convicted of or pleads guilty to one of the defined offenses, the prospective adoptive parent or foster caregiver is disqualified).⁷

The bill expands the list of disqualifying offenses to include the following: cruelty to animals, permitting child abuse, menacing by stalking, menacing, soliciting or providing support for an act of terrorism, making terroristic threat, terrorism, identity fraud, inciting violence, aggravated riot, ethnic intimidation, or two or more operating a vehicle while intoxicated (OVI) or operating a vehicle after underage consumption (OVUAC) violations in the past three years.

Additionally, the bill requires the Director of ODJFS to adopt rehabilitation standards that a person who has been convicted of or pleaded guilty to a disqualifying offense must satisfy in order for ODJFS to not revoke a foster home certificate for the violation.

⁷ For a complete list of current disqualifying offenses, see the LSC bill analysis.

When BCII conducts a check, all offenses that the person who is the subject of the check has committed appear on the report. Therefore, the additional crimes that must be checked for under the bill will not cause any increase in costs to BCII.

ODJFS already has in place rules establishing the rehabilitation standards that a person who has been convicted of or pleaded guilty to a disqualifying offense must satisfy in order for an appointing or hiring officer to appoint or employ an individual responsible for a child's care, a probate court to issue a final decree of adoption or interlocutory order of adoption, or ODJFS to issue a foster home certificate. Adding an additional rule related to revocation will be a minimal increase in administrative costs to ODJFS.

Confidentiality of criminal records check. Under current law, a criminal records check for an out-of-home care provider, prospective adoptive parent, or prospective foster caregiver is not a public record under the Public Records Law. Only certain persons have authority to access the information.

The bill adds a public children services agency to the list of who may have access to the otherwise confidential criminal records check.

Under current law, if a prospective adoptive parent or prospective foster caregiver was working with a private agency that recently conducted a criminal records check on that person and that person switches to working with the public agency, the private agency cannot share the criminal records check with the public agency. The changes made by the bill will make sharing of such information permissible, thereby reducing costs of the public agency that would otherwise be required to request and pay for a new check.

Foster caregiver notices

Prior to certification or recertification as a foster caregiver, the bill requires the foster caregiver to notify the recommending agency of the revocation of any foster home license, certificate, or other similar authorization in another state occurring within five years prior to the date of application to become a foster caregiver in Ohio. If a person has had such a revocation, ODJFS is prohibited from issuing a foster home certificate to the prospective foster caregiver. The failure of a prospective foster caregiver to notify the recommending agency of any revocation of that type in another state that occurred in the last five years is grounds for denial of the person's application or the revocation of the person's foster home certificate.

Additionally, the bill expands a provision of current law that prohibits a foster caregiver or prospective foster caregiver from failing to notify the recommending agency if a person at least 12 years old but less than 18 years old who resides in the home has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any of a list of specified offenses so that it also applies regarding a conviction, guilty plea, or adjudication for OVI or OVUAC in this or another state if the person previously was convicted of or pleaded guilty to one or more such offenses in the last three years. Under existing law, unchanged by the bill, a recommending agency that learns that a foster caregiver has failed to comply with this requirement must notify ODJFS and ODJFS must revoke the foster caregiver's certificate.

This provision may result in a minimal increase in administrative costs for ODJFS to receive such notification. However, there could be an offsetting decrease in administrative costs

since ODJFS would not be continuing the certification or recertification process if a prospective foster caregiver were to make such notification.

Possible revocation of the foster caregiver's certificate

Notification of an offense of a foster caregiver. Within 96 hours after receiving notice from BCII, or learning in any other manner, that a foster caregiver has been arrested for, convicted of, or pled guilty to any foster caregiver-disqualifying offense, the bill directs ODJFS to provide notice of the conviction or guilty plea to the recommending agency relative to the foster caregiver and the custodial agency of any child currently placed with that caregiver. If the recommending agency receives such notice from ODJFS, the recommending agency must assess the foster caregiver's overall situation for safety and concerns and forward any recommendations, if applicable, for ODJFS' review for possible revocation.

This provision may result in an increase in administrative costs for ODJFS to notify the recommending agency and, (when necessary) review and possibly revoke a foster caregiver's certificate. This provision may also result in an increase in administrative costs for a PCSA (if it is the recommending agency) to assess the foster caregiver's overall situation and forward any recommendations, if applicable, to ODJFS.

No foster children within 12-month period

The bill authorizes ODJFS to revoke the certificate of any foster caregiver who has not cared for one or more foster children in the foster caregiver's home within the preceding 12 months, but specifies that, prior to the revocation, the recommending agency must have the opportunity to provide good cause for ODJFS to continue the certification and not revoke the certification and that, if ODJFS decides to revoke the certification, ODJFS must notify the recommending agency that the certification will be revoked.

This provision may increase administrative costs to ODJFS to continually review the status of a foster caregiver's placements or lack thereof and move to revoke the caregiver's certificate.

Certification of institutions and associations for children

Under continuing law, every two years, ODJFS must pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes (except for facilities under the control of the Department of Youth Services, places of detention for children, and child day-care centers). When ODJFS is satisfied as to the care given such children, and that the requirements of the statutes and rules covering the management of such institutions and associations are being complied with, ODJFS is to issue to the institution or association a certificate to that effect.

The bill specifically prohibits ODJFS from issuing a certificate to a prospective foster home or prospective specialized foster home pursuant to this specific statutory authority if the prospective foster home operates as a type A family day-care home. Additionally, the bill prohibits ODJFS from issuing a certificate to a prospective specialized foster home if the prospective specialized foster home operates as a type B family day-care home.

ODJFS is required by the bill to adopt rules that require a foster caregiver or other individual certified to operate a foster home, as described above, to notify the recommending agency that the foster caregiver or other individual is certified to operate a type B family day-care home.

This provision may result in a decrease in administrative costs for ODJFS, as there may be fewer foster families to certify or recertify due to the restrictions described above. However, any decrease in costs is likely to be minimal since a recent assessment by ODJFS revealed only 65 out of approximately 10,300 foster homes are also child care providers (all were type B homes). Not every one of the 65 homes identified would necessarily have to make the choice between being a foster home or child care provider since it is permissible for a family foster home to also be a type B child care provider. The bill only restricts specialized foster homes from also being a type B day-care home.

Provisions regarding child day-care centers, type A homes, and type B homes

Requirement that a type B family day-care home notify parents that the home is also certified as a foster home. Current law requires ODJFS to adopt rules governing the certification of type B family day-care homes. Current law also includes a list of topics that ODJFS must address in these rules. The bill adds to the required rules that ODJFS must adopt by specifying that the type B family day-care rules must include requirements for the type B home to notify parents with children in the home that the home is also certified as a foster home.

ODJFS maintains a staff that works specifically on the formulation and codification of rules. Therefore, any additional administrative costs to develop the rules discussed here will be absorbed within ODJFS' existing resources.⁸

Criminal records checks. Existing law, unchanged by the bill, requires ODJFS, as part of the process of licensure of child day-care centers and type A family day-care homes, to request BCII to conduct a criminal records check with respect to any owner, licensee, or administrator of a child day-care center or type A family home, and, for a type A family home, any person 18 years of age or older who resides in the type A home. Current law also requires the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, to request BCII to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person 18 years of age or older who resides in the home.

Currently, if a person subject to a criminal records check does not present proof that the person has been an Ohio resident for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period BCII has requested information about the person from the FBI in a criminal records check, then BCII must also request information from the FBI regarding the person. If the person does present proof of Ohio residency for the prior five years, the criminal records check may include information from the FBI.

⁸ Am. Sub. H.B. 119 of the 127th General Assembly (main operating budget) includes funding that will support state level administrative expenses for reforms to the child welfare system included in this bill and other pending legislation.

The bill removes the provision regarding the five-year period and instead requires that an FBI check, including fingerprint-based checks in national crime information databases, be included in the criminal records check at initial licensure or certification. Additionally, the bill requires every four years thereafter at the time of license or certification renewal that a criminal records check be conducted and permits the request for the check to include an FBI check. The bill further requires that state and county directors review the results of a records check prior to approval of a license or certification.

The person seeking licensure or certification is responsible for paying the fee associated with obtaining a criminal records check. Therefore, there will be no additional costs to ODJFS or county agencies as a result of these provisions.

No licensure or certification if the home is a foster home

The bill prohibits ODJFS from licensing a prospective type A family day-care home if that prospective home is certified to be a foster home or specialized foster home. Additionally, the bill prohibits a county department of job and family services from certifying a prospective type B family day-care home if that home is certified as a specialized foster home.

This provision may result in a decrease in administrative costs to ODJFS as it may conduct fewer licensures of type A homes due to the restrictions on being both a foster home and type A day-care provider. However, as noted earlier, a recent assessment by ODJFS revealed only 65 out of approximately 10,300 foster homes are also child-care providers and all were type B homes. Therefore, any decrease in administrative costs would be minimal.

Of the 65 foster homes identified as being certified type B home providers, it is not known how many of those are specialized foster homes. There could be a decrease in administrative costs to county agencies in certifying fewer type B day-care homes. However, since it would be some number less than 65, unless there is a concentration in a particular county, the fiscal impact will be minimal.

Provision of proposed rules regarding child day-care centers, type A family day-care homes, type B family day-care homes, and in-home aides

In provisions that require the Director of ODJFS to provide to each day-care licensee notice of proposed rules governing the licensure of child day-care centers and type A homes and require a county director of job and family services to provide to authorized providers and in-home aides copies of proposed rules, the bill specifies that the notice or copies may be provided or made available in either paper or electronic form.

This provision may minimally decrease printing and postage costs to ODJFS and county agencies if the proposed rules are provided electronically.

Permanent custody of a child who has been in the temporary custody of a public children services agency for 12 or more months of a consecutive 22-month period

Under current law, if a child has been in the temporary custody of one or more public children services agencies or private child placing agencies for 12 or more months of a consecutive 22-month period ending on or after March 18, 1999, the agency with custody of the child, unless specified circumstances are present, must file a motion with the court who issued

the current temporary order requesting permanent custody. If the court finds that it is in the best interests of the child and specified circumstances are present, the court may grant permanent custody of the child to the agency.

The bill specifies that time spent in temporary custody in another state must be applied to the time in temporary custody in Ohio and allows the court to consider such time when deciding custody of the child. The bill also removes the March 18, 1999 date reference. Unless specified circumstances are present, if the time spent in temporary custody equals 12 months or more of a consecutive 22-month period, the agency with custody may file a motion requesting permanent custody.

If, due to consideration of time spent in temporary custody in another state, an agency were to move forward more quickly on filing a motion requesting permanent custody, there may be an increase in costs to the courts to entertain such motions and rule on the case. The magnitude of this impact is difficult to estimate since LSC was not able to obtain information on the number of children who were in temporary custody in another state and for how long.

Review hearings that pertain to permanency plans

The bill provides that, in any review hearing that pertains to a permanency plan for a child who will not be returned to the parent, the court must consider in-state and out-of-state placement options and must determine whether the in-state or the out-of-state placement continues to be appropriate and in the best interests of the child and that in any review hearing that pertains to a permanency plan, the court or a citizens board appointed by the court must consult with the child, in an age-appropriate manner, regarding the proposed permanency plan for the child.

To the extent that a court is not already doing this, there may be some additional administrative costs to meet with the child and consider all placement options when deciding on a permanency plan for the child.

Putative father's consent to the adoption of a child born prior to January 1, 1997

The bill removes reference to the Department of Human Services (the predecessor department to ODJFS) in former versions of certain sections of law regarding a putative father's consent to the adoption of a child born prior to January 1, 1997 that still apply.

It is LSC's understanding that in any adoption case in which the identity of the father is unknown, ODJFS must go to court and state that there has been no filing of an objection to the adoption by a putative father. Apparently, to date, ODJFS has never received such an objection filing. By removing reference to ODJFS from this provision of law, ODJFS may experience a decrease in costs for not having to appear in court.

ODJFS work group

Not later than 30 days after the effective date of the bill, the bill requires the Director of ODJFS to convene a work group to study and make recommendations to the Director regarding both of the following:

- (1) Support for positive child and family outcomes offered to public children services agencies, private child placing agencies, and private noncustodial agencies by ODJFS;
- (2) The establishment of fines and sanctions for public children services agencies, private child placing agencies, and private noncustodial agencies that do not comply with foster care related laws or rules.

The work group must include representatives of public children services agencies, private child placing agencies, private noncustodial agencies, the Ohio Family Care Association, the Ohio Association of Child Caring Agencies, the Public Children Services Association of Ohio, the Ohio Job and Family Services Directors' Association, the County Commissioners' Association of Ohio, foster caregivers, and current and former foster children. By June 30, 2009, the work group must prepare a report that contains recommendations regarding ODJFS's support for local agencies and the establishment of fines and sanctions either in law, rule, or both. The Director of ODJFS must review the recommendations and create an executive summary of the recommendations for submission to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The work group ceases to exist upon submission of the executive summary.

To the extent that those who are involved in the work group do so in their official capacity as employees of the state or a local government entity, those employers will incur an increase in administrative costs (time and travel reimbursement) for those employees to participate in the work group. Presumably, those who attend from private entities will do so voluntarily at their own expense.

ODJFS will also incur some administrative costs in preparing the executive summary of the work group's recommendation and distribution to the Governor and legislative leaders of the majority party.

References to former Ohio laws and the laws of other states

The bill includes references to existing or former laws of Ohio, any other state, or the United States that are substantially equivalent to specified sections of the Revised Code in provisions that:

- (1) Require a court to enter a finding that a child for whom a public children services agency or a private child placing agency is requesting permanent custody cannot be placed with either parent within a reasonable period of time or should not be placed with either parent because the parent has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to R.C. 2151.214, 2151.353, or 2151.415 *or under an existing or former law of this state, another state, or the United States that is substantially equivalent to those sections.*
- (2) Require a court to make a determination that a public children services agency or a private child placing agency is not required to make reasonable efforts to prevent the removal of the child from the child's home, eliminate the continued removal of the child from the child's home, and return the child to the child's home because the

parent from whom the child was removed has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to R.C. 2151.353, 2151.414, or 2151.415 *or under an existing or former law of this state, another state, or the United States that is substantially equivalent to those sections.*

This provision will not have a fiscal impact on the court besides the costs to consider additional factors in the cases described above. However, there may be an indirect increase in costs to the child welfare system in so far as more children may come in to the state's custody when legal actions in another state are considered.

Child Placement Level of Care Tool and the Ohio Scales

The bill repeals a provision of law enacted in Am. Sub. H.B. 119 of the 127th General Assembly that required the Department of Mental Health (DMH) to conduct a study of children placed using the Child Placement Level of Care Tool. The study was to use both the Child Placement Level of Care Tool and the Ohio Scales in a simultaneous collection of information about children at the time a placement decision is made. Data collection was to be coordinated through DMH and an independent evaluator. DMH was to analyze data from subsequent administration of the Ohio Scales Tool and changes in placement level of care for any correlations. Once completed, DMH was to send a copy of the study to an independent evaluator. Repealing this provision will result in cost savings to DMH.

*LSC fiscal staff: Maria E. Seaman, Fiscal Supervisor
Stephanie Suer, Budget Analyst
Jamie L. Dorskocil, Senior Budget Analyst*

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Detailed Fiscal Analysis

S.B. 186 would prohibit health benefit plans, public employee benefit plans, and multiple employer welfare arrangements from denying coverage for routine patient care of patients participating in an eligible⁹ cancer clinical trial. It would also require plans issued by health insuring corporations (HICs) to provide such coverage as a basic health care service. The bill defines routine patient care to be "all health care services consistent with the coverage provided in the health benefit plan or public employee benefit plan for the treatment of cancer . . . that is typically covered for a cancer patient who is not enrolled in a cancer clinical trial, and that was not necessitated solely because of the trial."

Background

LSC staff contacted a number of institutions in Ohio attempting to obtain an estimate of the number of participants in cancer clinical trials in Ohio.¹⁰ As of this writing we have been unable to obtain such an estimate. However, the local Partnership Program Coordinator of the National Cancer Institute's Cancer Information Service reported that it is generally thought that between 3% and 5% of cancer patients nationwide participate in cancer clinical trials. According to a joint publication of the Ohio Department of Health and the James Cancer Hospital and Solove Research Institute, *Cancer Incidence and Mortality Among Ohio Residents, 1999-2003*, an annual average of 55,813 new invasive cancer cases were diagnosed and reported among Ohio residents during that period. That implies that up to 2,791 new patients may enroll in a cancer clinical trial in a given year. Allowing for mortality of cancer patients, we have assumed that three years' worth of new patients, or up to 8,372 patients, may be enrolled in cancer clinical trials in Ohio.

Similarly, none of the individuals contacted were yet able to offer an estimate of the cost of routine patient care for a participant in a cancer clinical trial. Data from the Medical Expenditure Panel Survey (MEPS) conducted by the Agency for Healthcare Research and Quality of the U.S. Department of Health and Human Services indicate that 10,979,000 American cancer patients accounted for \$69.68 billion in medical spending to diagnose and treat cancer in 2005. These data imply that, on average nationwide, just over \$6,300 was spent on diagnosing and treating cancer per patient that year. Medical inflation from 2005 to 2007 was 6.55% (total, not per year) as measured by the medical care component of the price deflator for personal consumption expenditures. Allowing for medical inflation, we assume that the cost per patient for routine patient care is \$6,762 per year.

9 To be an eligible cancer clinical trial, a clinical trial would have to be approved by the National Institutes of Health (or one of its cooperative groups or centers), the U.S. Food and Drug Administration, the U.S. Department of Defense, or the U.S. Department of Veterans' Affairs, and would have to satisfy other criteria specified in the bill.

10 For example, we contacted both comprehensive cancer centers in Ohio, the James Cancer Hospital and Solove Research Institute at The Ohio State University and the University Hospitals Ireland Cancer Center (at Case Western Reserve University). According to a representative at the James, that center enrolls about 700 patients in cancer clinical trials in a typical year. A representative of the Ireland Cancer Center reports that they enroll about 500 to 600 patients in a cancer clinical trial each year.

Fiscal effects

The bill imposes no duties directly on state agencies or on local governments. Nevertheless, requiring HICs and public employee benefit plans to cover certain medical services has the potential to increase costs to the state and to local governments to provide health benefits to workers. This would occur if and when a covered employee (or dependent) with cancer, who would have chosen to undergo a clinical trial even if he or she had to pay for any routine care involved, had that care paid for by their insurer due to the bill's requirement. To the extent these benefits are not already provided by HICs and public employee benefit plans, the bill would cause an increase in costs. These potential costs could be decreased if routine care is less expensive for patients who are undergoing a clinical trial.

An official with the Department of Administrative Services (DAS) reports that the required benefits are covered by all of the state's health plans for employees. Thus, there is no fiscal effect on the state.¹¹

Assuming that there may be up to 8,372 participants in cancer clinical trials statewide, and assuming that the ages of these patients are distributed the same as the overall Ohio population, then up to 7,260 participants may be under age 65. Allowing that 69% of Ohio adults have health coverage through an employer, and assuming that these patients are distributed across employers in the same proportion as the overall workforce, then up to 230 patients may be covered by a plan sponsored by a county, municipality, or township, and up to 292 may be covered by a school district.

For counties, municipalities, and townships, LSC staff does not have information about the extent to which employees already receive this benefit. We estimate that the cost to this group to provide benefits to up to 230 patients may be up to \$1.55 million per year statewide. Similarly, LSC staff does not have information about benefits for school district employees. We estimate that the cost to school districts to provide benefits for up to 292 patients would be up to \$1.97 million per year statewide. However, to the extent that the required benefits are already provided to employees of political subdivisions, the cost of the bill may be reduced.

LSC fiscal staff: Ross Miller, Senior Economist

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¹¹ The official reports that DAS is unable currently to determine the amounts paid for such care due to the fact that they do not track whether workers or dependents are participating in clinical trials when payment is made.

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ♦ Phone: (614) 466-3615

♦ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. Sub. S.B. 221**

DATE: **April 23, 2008**

STATUS: **As Enacted – Effective July 31, 2008**

SPONSOR: **Sen. Schuler**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **To revise state energy policy principally to address electric service price regulation and alternative energy portfolio standards**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010	FUTURE YEARS
Public Utilities Fund (Fund 5F60) – Public Utilities Commission			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase, probably in the hundreds of thousands	Increase of approximately \$641,000	Increase of approximately \$641,000
Advanced Energy Fund (Fund 5M50) – Department of Development			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Possible increase in development loans/grants for advanced energy facilities	Possible increase in development loans/grants for advanced energy facilities	Possible increase in development loans/grants for advanced energy facilities
General Revenue Fund – expenditures for electricity			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease up to \$7.6 million or more	Potential decrease up to \$7.6 million or more, or potential increase up to \$0.7 million or more, or anywhere in between
Highway Operating Fund (Fund 7002) – expenditures for electricity			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease up to \$3.8 million or more	Potential decrease up to \$3.8 million or more, or potential increase up to \$0.3 million or more, or anywhere in between

Other State Funds – expenditures for electricity			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease up to \$6.0 million or more	Potential decrease up to \$6.0 million or more, or potential increase up to \$0.6 million or more, or anywhere in between

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- The Public Utilities Commission (PUCO) staff estimate that their costs will increase by approximately \$641,000 per year to perform duties required by the bill, including employing the Federal Energy Advocate. In addition they estimate one-time equipment costs would be \$10,000. These expenditures would be paid from Fund 5F60.
- There is a potential increase in expenditures under the Department of Development's Advanced Energy Program. The bill specifies that assistance under the program may be provided to Edison Technology Centers, to universities, and to other specified entities, under specified circumstances. Revenue to the Advanced Energy Fund may increase due to new sources of funding; specifically, fines assessed companies for failure to comply with either the renewable energy requirements or the energy efficiency requirements of the bill.
- The bill would grant stronger regulatory authority over electric generation rates to PUCO and would require electric utilities and electric services companies to meet an alternative energy portfolio requirement. Both provisions have the potential to impact prices the state pays for electricity. The most likely effect of the former provision is to reduce electricity rates, as compared with what they would be without the authority granted to PUCO by the bill, while the most likely effect of the latter would be to increase rates. The net result could be either a savings for the state or a cost, depending on which provision has the stronger effect on electricity prices.
- The timing is different for the potential savings on expenditures for electricity as compared with the potential cost. The potential savings, if realized, would begin during the second half of FY 2009 for most state spending, after the expiration of the rate stabilization plan for most electric utilities; facilities in the Dayton Power & Light area would experience the savings, if realized, beginning in FY 2011. The potential cost would not materialize until nearly 2025, when the alternative energy requirement is fully phased in.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008	FY 2009	FUTURE YEARS
Counties, municipalities, townships, school districts			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential decrease up to \$227.6 million or more	Potential decrease up to \$227.6 million or more, or potential increase up to \$20.5 million or more, or anywhere in between

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

- The bill would grant stronger regulatory authority over electric generation rates to PUCO and would require electric utilities and electric services companies to meet an alternative energy portfolio requirement. Both

provisions have the potential to impact prices local governments pay for electricity. The most likely effect of the former provision is to reduce electricity rates, as compared with what they would be without the authority granted to PUCO by the bill, while the most likely effect of the latter would be to increase rates. The net result could be either a savings for local governments or a cost, depending on which provision has the stronger effect on electricity prices.

- The timing is different for the potential savings as compared with the potential cost. The potential savings, if realized, would begin in FY 2009 for most political subdivisions, after the expiration of the rate stabilization plan of their local electric utility; customers of Dayton Power & Light would experience the savings, if realized, beginning in FY 2011. The potential cost would not materialize until nearly 2025, when the alternative energy requirement is fully phased in.

Detailed Fiscal Analysis

S.B. 221 makes a number of changes to state law related to the generation and sale of electric power in Ohio. Some provisions of the bill have no significant fiscal effect. Those provisions that would have the most significant fiscal effects include changes to the authority and duties of the Public Utilities Commission (PUCO), alternative energy portfolio standard requirements imposed by the bill on electric utilities and electric services companies, and the establishment of the Federal Energy Advocate within PUCO.

Changes to PUCO authority

The bill would increase the authority of PUCO over the generation of electricity in Ohio.¹² The bill requires that electric distribution utilities provide standard service offers beginning January 1, 2009, and requires them to file an application with PUCO to establish the standard service offer. That standard service offer could come in either of two types: an "electric security plan" (ESP) or a "market rate option" (MRO). A utility's first application for a standard service offer is required to include an application for an ESP; it may also include an application for an MRO. A market rate option is defined to be a plan under which the utility's prices are determined through a competitive bidding process. An electric security plan would be generally similar to the cost-based rate regulation that was practiced prior to S.B. 3. Standard service offer prices of either type are required to exclude transition costs that are scheduled to expire under each utility's current rate stabilization plan. PUCO is required to adopt rules that would govern the application for a standard service offer (of both types) and the competitive bidding process under an MRO.

The bill specifies several requirements that must be met before a utility may initiate a competitive bidding process under the MRO, and gives PUCO 90 days from receipt of the application to determine whether the requirements are met before a bidding process may be initiated.¹³ The bidding process is to be overseen by an independent third party. The bill does not specify how this third party would be compensated, but allows the utility to recover costs

¹² PUCO authority over generation was limited by Am. Sub. S.B. 3 of the 123rd General Assembly (S.B. 3) often referred to as the electric restructuring (or electric deregulation) bill.

¹³ For more detail on these requirements, please see section 4928.142 of the bill or the LSC bill analysis.

related to the bidding process through a PUCO-approved recovery mechanism added on to the bid price and included in the standard service offer price; possibly compensation of the third party comes from the utility paid for by the recovery mechanism. After the bidding process is complete, the bill specifies additional requirements that the bidding process must have met before the utility may begin to implement an MRO based on the results, and it gives PUCO three days after completion of the bidding process to determine whether those requirements were met. In addition, MRO-based standard service offers for those utilities that directly own generating facilities as of the bill's effective date are to be phased in over a period of five years, with PUCO being given authority to extend the period of the phase-in if that is needed to avoid abrupt or significant changes in the standard service offer price. A utility that receives PUCO approval of an MRO standard service offer need not ever file an ESP standard service offer application again.

All utilities would be required to file an application for an ESP-based standard service offer initially. The application is permitted to allow for recovery of a variety of costs if they were prudently incurred, including for example, costs of fuel used to generate electricity, costs of electricity purchased wholesale, costs of emission allowances, federally mandated carbon taxes, and certain capital costs related to expenditures made after January 1, 2009.¹⁴ PUCO would be required to schedule a hearing on the application, and to issue an order within 150 days of the application filing indicating whether it approves the application, modifies and approves it, or disapproves the application.¹⁵ If the application is modified and approved, the utility would have the option to withdraw its application and submit a new one. If the application is disapproved, or if the utility withdraws its application, the Commission shall issue an order that continues in force that utility's most recent standard service offer. An approved ESP that has a term longer than three years is required to be tested every fourth year to determine whether the plan continues to be more favorable in the aggregate. If it is not, PUCO may terminate the ESP.

Under ESP standard service offer prices and during the phase-in period of an MRO, the PUCO is required to determine whether a utility's standard service offer price permits the utility to earn a higher return on common equity than is earned by publicly traded companies that face comparable business and financial risk. If an ESP price allows this, then PUCO is authorized to require the utility to return the excess earnings to customers through prospective adjustments to their bills. During phase-in of an MRO, such a finding would change the way that PUCO adjusts the most recent standard service offer price that is blended with the competitively bid price to determine the standard service offer price.

PUCO is required to employ a Federal Energy Advocate to monitor the activities of the Federal Energy Regulatory Commission and other federal agencies, and to advocate on behalf of the interests of Ohio's retail electric service consumers. The Advocate is required to examine the value of the participation of Ohio's electric utilities in regional transmission organizations and to submit a report to the PUCO on whether the continued participation of the utilities in those organizations is in the best interest of Ohio consumers.

14 For further details about ESP standard service offers, please see section 4928.143 of the bill or the LSC bill analysis.

15 The Commission would be required to approve the plan, or modify and approve it, if it finds that the application's terms and conditions are "more favorable in the aggregate as compared to the expected results that would otherwise apply." Otherwise the Commission would be required to disapprove it.

Alternative energy portfolio requirements

The bill would require electric utilities to provide at least 25% of the electricity supplied under their standard service offers using alternative energy sources by 2025; a comparable requirement would apply to electric services companies. At least 50% of the electricity produced using an alternative energy technology must be produced using a renewable energy source, and it must include a specified percentage of solar power. Half may be met using an advanced energy resource, which includes clean coal technology using carbon controls, advanced nuclear plants, fuel cells, cogeneration projects, or energy efficiency improvements. To count toward the 25% requirement, the alternative energy facility must have been placed in service after January 1, 1998, except for certain mercantile customer-sited projects. Phasing in of the renewable energy requirement begins by the end of 2009, when 0.25% of electricity generated must come from renewable sources, and 0.004% must come from solar energy sources. These percentages increase to 0.5% and 0.010%, respectively, by the end of 2010, and continue to increase each year until they reach 12.5% and 0.5%, respectively, by the end of 2024. Companies would not be required to comply with the alternative energy requirement if doing so would increase their costs of producing or acquiring the required electricity by more than 3%. Also companies are permitted to request PUCO to make a *force majeure* determination regarding the alternative energy requirements, and PUCO is required to modify the compliance obligation if it finds that renewable energy or solar energy resources are not reasonably available to permit the company to comply. Companies are permitted to purchase renewable energy credits to meet these requirements. PUCO is required to adopt rules governing the renewable energy credit program.

The Commission would be required to issue an annual report to the General Assembly describing compliance by electric utilities (and electric services companies) with the alternative energy portfolio requirement, and progress toward achieving it. Companies found not to be in compliance with the renewable energy requirements, unless because the 3% cap on cost increases was exceeded, would be subject to fines, referred to as "compliance payments" by the bill. Compliance payments are to be deposited into the Advanced Energy Fund.

Other provisions

The Governor is required to form an alternative energy advisory committee to provide recommendations semiannually to PUCO on technology and costs associated with alternative energy. The bill does not specify the number of members on the committee, any conditions on who should be appointed, or whether members would be compensated in any way.

The bill would require electric utilities to adopt energy efficiency programs beginning in 2009 that would reduce energy usage by 0.3% compared to annual average usage over the preceding three years. The required percentage reduction increases steadily to 22% by the end of 2025. Similarly, the bill would require electric utilities to adopt peak demand reduction programs that meet required reduction in peak demand each year beginning in 2009 (with a 1% reduction) and increasing by .75 percentage point each year until 2018. PUCO is given authority to relax these standards if it determines that the utility cannot meet the standards due to circumstances outside of its control. PUCO is required to adopt rules regarding these requirements and to produce an annual report describing compliance with these requirements. The rules may allow for a revenue decoupling mechanism. PUCO is required to assess a forfeiture on companies that fail to comply with the required reductions, with revenue resulting from any such forfeiture to be deposited into the Advanced Energy Fund. PUCO is also required to adopt rules regarding greenhouse gas reporting requirements.

The bill permits the state and local governments to enter into energy price risk management contracts. Money received by the state as a result of such a contract is to be deposited into the GRF. In the cases of local governments, the legislative authorities of those governments are permitted to determine the fund that receives any such money.

The bill makes changes to current law regarding local government aggregation of electric service. Existing law permits customers enrolled in an aggregation program to opt out of the program every two years without paying a switching fee; the bill changes the two-year timeframe to three years. The bill also limits the amount of any surcharge that an electric utility could impose of customers enrolled in an aggregation program. PUCO is required to adopt rules to promote large-scale governmental aggregation in Ohio.

The bill would permit PUCO to approve alternative rate plans for natural gas utilities that feature a revenue decoupling mechanism, and would specify that an alternative rate plan filed by a natural gas utility that proposes such a mechanism "may be an application not for an increase in rates," under specified conditions. The bill defines a revenue decoupling mechanism to be "a rate design or other cost recovery mechanism that provides recovery of the fixed costs of service and a fair and reasonable rate of return, irrespective of system throughput or volumetric sales."

Background

Since S.B. 3 of the 123rd General Assembly, PUCO authority over electric generation has been limited. Electric generators are required to provide a "standard service offer" to certain customers, and must file it with PUCO. Currently, electric generation rates in Ohio are subject to "rate stabilization plans" (RSPs), most of which are scheduled to expire at the end of 2008. The RSPs were developed under current (*i.e.*, post-S.B. 3) law,¹⁶ but many observers express concern that generation rates will increase significantly when the RSPs expire.

Illinois and Maryland also enacted legislation to restructure their electric industries in the late 1990s. As part of Illinois' restructuring, they reduced rates charged by Commonwealth Edison by 20%, and froze rates across the state for nine years. In Maryland, the legislation reduced rates a required 6.5% (from 1993 levels) and froze them for six years. The Illinois Commerce Commission oversaw a reverse auction to supply power in the territories of two major utilities starting January 1, 2007, and received bids that were 22% higher than the frozen rate in the territory of Commonwealth Edison and between 40% and 55% higher in the territory of Ameren. The Maryland Public Service Commission oversaw a reverse auction to supply power in the territories of its utilities starting July 1, 2006. The auction yielded a bid to supply power in the territory of Baltimore Gas and Electric that was 72% higher than the frozen rate. Bids in other utility territories of the state were 35% and 39% higher than the frozen rates. By way of comparison, S.B. 3 required a reduction of 5% in electric rates for residential customers as part of Ohio's restructuring. Also, rates in Ohio have already risen somewhat from the frozen rates as part of the RSPs.

Reputable studies find that renewable portfolio standard (RPS) requirements would increase the price of electricity to consumers (including governments). For example, the U.S. Energy Information Administration (EIA) published a study in August 2007 titled *Energy and*

¹⁶ A fuller explanation of the historical and legal background of RSPs can be found in the LSC Bill Analysis, which can be found at www.lsc.state.oh.us. Click on "bill documents," then on "bill analyses" to find it.

*Economic Impacts of Implementing Both a 25-Percent Renewable Portfolio Standard and a 25-Percent Renewable Fuel Standard by 2025.*¹⁷ As implied by the title, the specific policy proposal that that study examined differed from the current bill: it required a 25% renewable portfolio standard rather than a 25% alternative energy portfolio standard, and it required a 25% renewable fuel standard in addition to the RPS requirement. The study projected that average retail electricity prices would increase by about 3.3% due to the proposal by 2025, and by 6.2% by 2030. It also projected that about one-half of the renewable generation required by the proposal would be met by biomass electricity generation, and that wind generation would account for slightly over one-third. For purposes of comparison, another EIA study, released in June,¹⁸ analyzed the affect of a 15% RPS proposal, finding that that proposal would increase electricity prices by about 2.0% by 2030.

The more recent study included many caveats, which are appropriate given the long-term nature of the projections. It was based on federal laws and regulations as they were on September 1, 2006; in particular any tax incentives that were scheduled to expire under the law on that date were assumed to expire. It made projections about the cost, performance, and commercial feasibility of types of generation, such as advanced biomass generation, for which no commercial generation currently exists. Any of those assumptions may prove to be overly optimistic (in which case the price increases could be greater than projected) or overly pessimistic (in which case they could be smaller than projected). And, of course, it projected the prices of commodities like oil, coal, natural gas, and uranium that are very hard to predict. Given the differences between the proposal analyzed in this study and the alternative energy requirement of S.B. 221, as well as the uncertainties highlighted in the study itself, the projected effects on electricity prices would differ from the effects that S.B. 221 is likely to have. Nevertheless the alternative energy requirement of S.B. 221 is likely to affect electricity prices. This point is elaborated below.

Both the state and local governments are consumers of electricity. OBM reports that state agencies spent slightly over \$52.1 million on electricity in FY 2007. The agencies that spent the largest amounts were the Department of Rehabilitation and Correction (DRC, \$14.2 million), the Department of Transportation (DOT, \$11.4 million), the Adjutant General (ADJ, \$3.6 million), the Department of Mental Health (DMH, \$3.5 million), the Department of Administrative Services (DAS, \$3.4 million), and the Department of Natural Resources (DNR, \$3.3 million). No other agency spent more than \$3 million that year, though one spent over \$2 million and four spent over \$1 million. As of April 2008, the GRF paid for approximately 43.6% of year-to-date state spending on electricity. In addition to direct spending on electricity, some agencies pay for electricity indirectly, as part of the amount they pay for leased office space. The U.S. Census Bureau estimates that local governments in Ohio collectively spent approximately \$682.7 million on electricity during the fiscal year that ended between July 1, 2004 and June 30, 2005. The definition of local governments appears to include counties, municipalities, townships, special districts, and school districts.

The authority given PUCO by the bill to adopt rules that provide for decoupling in connection with energy efficiency standards and as part of alternative rate plans for natural gas utilities is probably a reference to revenue decoupling. The National Regulatory Research

17 The study can be found at the EIA web site, www.eia.doe.gov/fuelrenewable.html. Click on "more renewable reports" to find it.

18 This study is titled *Impacts of a 15-Percent Renewable Portfolio Standard*.

Institute (NRRI), the research arm of the National Association of Regulatory Utility Commissioners (NARUC), published a briefing paper on this subject in April 2006. Titled *Revenue Decoupling for Natural Gas Utilities*, the paper is available on the NRRI web site.¹⁹ Although the title may seem to suggest that revenue decoupling is an issue specific to natural gas utilities, in fact the briefing paper states that the concept applies to other types of utilities as well. And as reported there, the NARUC passed a resolution in 2005 advising state commissions to consider the implementation of revenue decoupling.

Although the bill would leave the definition of decoupling up to PUCO, the NRRI briefing paper explains the basic structure of a revenue decoupling plan (on page 9). Under such a plan rates adjust automatically when natural gas or electricity usage deviates from the level that was expected at the time of the utility's most recent rate case. The paper presents a simplified example of usage falling by 5% relative to the expected amount, and a revenue decoupling plan increasing rates automatically by 5.3% to ensure that the utility receives the level of revenue that had been expected. Conversely, if usage exceeded the expected amount, then that would automatically trigger a rate decrease.

According to the briefing paper, revenue decoupling proposals result from the effects of the time lags between traditional rate setting cases. In such a case, a portion of the electricity rate per unit sold that is set is intended to allow the utility to recover its fixed costs. Since fixed costs by definition are independent of the amount of electricity sold, some volume of electricity sold must be assumed during the rate case to arrive at a per unit rate. If the number of actual units sold exceeds expectations, then the utility will earn profits that are higher than expected; conversely, if the number of actual units sold is less than expected, then the utility will earn lower profits. High natural gas prices since the year 2000 have led many analysts to suggest that U.S. regulators need to focus on policies that promote conservation of natural gas. Traditional rate-making approaches discourage natural gas utilities themselves from promoting conservation, since that involves promoting lower profits for themselves. Revenue decoupling mechanisms are intended to break the link between lower natural gas (or electricity) usage and lower profits (or losses) for utilities. As summarized in the briefing paper, "while RD [revenue decoupling] does not provide the utility with an explicit incentive to promote energy efficiency, it eliminates the disincentive."

Fiscal effect

Public Utilities Commission of Ohio

The bill contains a number of new duties for PUCO. The Commission is required to adopt rules governing standard service offer applications of two types (MRO and ESP), to conduct hearings on those applications, to adopt rules governing and to evaluate the results of competitive bidding processes under MROs, to issue annual reports to the General Assembly regarding the compliance of electric utilities with the alternative energy requirements and energy efficiency requirements of the bill, to monitor compliance with both sets of requirements, to adopt rules regarding a system of registering renewable energy credits, and to adopt rules regarding greenhouse gas emission requirements. Moreover, PUCO officials anticipate that they will be expected to provide staff time and resources to support the advanced energy advisory committee that the Governor is required to establish.

¹⁹ The NRRI recently moved its web site to www.nrri.org. At this site, click on the matrix on the intersection of "Gas" and "Library of NRRI Publications" to find a copy of the paper.

PUCO officials report that five additional staff members would be needed to perform the required duties, including two Utility Specialist 2s, two Environmental Specialists, and a Legal Examiner. The salaries for each of these positions is estimated to be \$54,662.40. Allowing for fringe benefits, payroll costs for these additional positions would be approximately \$358,000 per year. PUCO officials estimate that the bill would increase maintenance costs by approximately \$43,000 per year. They report that the salary for the Federal Energy Advocate would likely be \$83,200 per year. Adding in fringe benefits and the payroll costs for an administrative assistant, total annual payroll costs attributable to hiring the Advocate are estimated to be approximately \$170,000 per year. The Advocate would likely require a Washington office costing \$50,000 per year, with maintenance expenses of approximately \$20,000 per year. Including the costs of employing the Advocate, the total annual increase in costs to PUCO from the additional duties required by the bill would be approximately \$641,000 per year. In addition, they estimate that there would be one-time equipment costs of \$10,000.

These expenditures would be paid from the Public Utilities Fund (Fund 5F60). Fund 5F60 receives funding primarily from assessments on utilities regulated by PUCO. The amount of the assessment is based on appropriations to line item 870-622, Utility & Railroad Regulation, in the PUCO budget. Since there are no appropriations in the bill, the increase in expenditures would have to be absorbed in the Commission's existing budget, at least through FY 2009.

Department of Development

The bill expands the authority of the Department to provide assistance under the Advanced Energy Program. Specifically, the bill permits the Department to provide assistance to:

- (1) Edison Technology Centers for the purpose of creating an advanced energy manufacturing center in Ohio;
- (2) a university (or group of universities) in Ohio if it conducts research on any advanced energy resource;
- (3) not-for-profit corporations formed to address issues affecting the price and availability of electricity whose members are small businesses;
- (4) any independent group located in Ohio that has the objective of educating small businesses about renewable energy resources and energy efficiency programs; and
- (5) any small business in Ohio that elects to use an advanced energy project or participate in an energy efficiency program.

Revenue to the Advanced Energy Fund may increase, due to new sources of funding, *i.e.*, compliance payments by companies that fail to comply with the renewable energy requirements of the bill and forfeitures assessed companies that fail to comply with the energy efficiency requirements. In the case of failure to comply with the renewable energy requirements, PUCO is required to assess a compliance payment of \$45 for each renewable energy credit the company would have needed to comply with the standard, with the \$45 figure adjusted for inflation after 2009. In the case of failure to comply with the solar energy standard, the amount of the compliance payment is to be \$450 per megawatt hour that the company falls short of the solar requirement in 2009, \$400 (per megawatt hour) of shortfall in 2010 and 2011, followed by payment amounts that are similarly reduced by \$50 per megawatt hour every two years thereafter

(to a minimum of \$50). In cases of violations of energy efficiency requirements, the forfeiture amount may be up to \$10,000 per day.

Thus, the bill may increase expenditures under the program generally. The amount of any increase in revenue to the Advanced Energy Fund would depend upon compliance with the two sets of requirements.

Effect on electricity bills paid by state and local government

Two categories of provisions in the bill have the potential to affect electricity prices, and thus the amount that state and local governments spend for electricity. The first category of provisions is all those related to PUCO authority over electric generation rates. The second category is the alternative energy portfolio requirement. Please note that unless otherwise indicated all discussions below about electric generation rates "increasing" or "decreasing" due to the bill's provisions mean an increase or decrease relative to the level at which the rates would be under existing law. Specifically, a reference to a "decrease" in rates means such a relative decrease—not necessarily an absolute decrease in rates.

Regarding the first category, many observers believe that when the current RSPs expire there will not be effective competition over generation rates, and that existing PUCO authority will be insufficient to prevent companies from exercising their market power to raise electricity prices significantly. If this assessment is accurate, then this category of provisions in the bill would act to decrease electricity prices paid by state and local governments (and other consumers). However, given that the current RSPs were themselves the result of the existing legal framework, the widespread belief that rates would rise significantly without increased authority may not be correct. Certainly the bill would strengthen PUCO authority, meaning that this category of provisions would be unlikely to cause electric generation rates to increase. But whether those rates would decrease, and how much they would decrease, would depend on the effective leverage that PUCO gains, relative to existing authority, over rates.

LSC staff believe that the effect on electricity prices of the increase in PUCO authority may be to decrease electricity rates. But we are unaware of any research that would provide a reliable basis for predicting the magnitude of such a rate decrease. The experiences in Maryland, where bids were received that were up to 72% higher than their frozen rates, and in Illinois, where they were up to 55% higher, suggest that the increase in PUCO authority could result in a decrease in rates of as much as 50%, or more. There are significant differences between Ohio's situation and that of those states, however. S.B. 3 reduced rates by a smaller percentage (5%) than those states did, for example, and rates in Ohio have already risen somewhat from their initial fixed levels as part of the RSPs.²⁰ LSC staff think that these differences would significantly reduce the jump in rates that Ohio would be likely to experience under current law when the RSPs expire compared to Illinois' and Maryland's experience. LSC staff, therefore, think it likely that the decrease in rates attributable to the first category of provisions of the bill would be up to one-third or more. LSC staff cannot rule out the possibility that the increase in authority will have no effect on rates.

²⁰ Data published by the U.S. Energy Information Administration indicate that Ohio's residential average retail price for electricity rose 16.1% between July 2005 and July 2007. This was higher than the increase in Illinois (15.4%) despite the expiration of their freeze, though lower than the increase in Maryland (45.0%).

The second category of bill provisions is the alternative energy requirement. Based on EIA studies of similar renewable portfolio standards being imposed nationwide, it seems likely that this requirement would increase electric generation rates. While EIA studies cited above projected increases in electricity prices of 2.0% to 6.2% by 2030 from somewhat similar provisions, there are a number of differences between the proposals that were analyzed in generating those projections and the requirement in S.B. 221. The principal differences are that S.B. 221 would:

- (1) effectively impose a 12.5% RPS, with another 12.5% of generation subject to a requirement to employ some combination of renewable and advanced energy technologies; and
- (2) apply only to Ohio, as compared with nationwide application.

While LSC staff are unable to determine the magnitude of the impacts of these differences on EIA projections, economic theory does suggest the direction of the impacts. The second difference would make the S.B. 221 provision more expensive than the programs EIA analyzed, in the sense that electricity prices would be expected to increase more. EIA has found in past studies that reduced prices for fossil fuels roughly offset the fact that renewable energy sources are generally costlier than fossil fuels, so that offsetting savings prevented the average cost of producing electricity from rising much. Since the markets for fossil fuels are generally national (if not international), meaning Ohio generators are a small part of the overall market, then the offsetting savings would be smaller—on average electricity prices would rise more.

The first difference is less straightforward. On one hand, a 25% portfolio standard that allows for advanced energy technologies as well as renewable technologies allows greater flexibility (in theory) than a simple 25% RPS, which implies that the increase in electricity prices in Ohio would be less than the magnitudes projected by EIA for the national projects. On the other hand, during a conversation with an EIA official involved in producing these studies he indicated that the examples of advanced energy technologies given in the bill, with the exception of energy efficiency improvements, are all currently more expensive than renewable energy technologies. Thus, it may be that in practice the bill's advanced energy requirement provides no greater flexibility than would an RPS requirement of the same percentage. That would suggest that the first difference above may have no effect on the increase in electricity prices as compared to those projected by EIA.

There are substantial uncertainties involved in long-range forecasting, especially when technological change may change some of the cost variables significantly at some point during the next 17 years. Many of those uncertainties are highlighted in the EIA study cited above, making their projections themselves subject to significant uncertainty. And given the differences between the alternative energy requirement of S.B. 221 and the national proposals examined by EIA, it would appear to be possible that EIA's projections that electricity prices could increase by 2.0% or even 6.2% by 2030 may overstate Ohio's experience under the requirement, due to the first difference between the proposals. It seems more likely, though, that EIA's projections would understate Ohio's experience due to the second difference, suggesting a reasonable likelihood that electricity prices would increase by something close to the maximum 3% allowed by the bill.

Looking at both categories of bill provisions together, then, LSC staff cannot predict the magnitude or even the direction of changes in electricity prices that the bill would cause. If the

first category of bill provisions is dominant, then the bill could create savings for electricity consumers up to one-third or more. For the state, that would imply savings up to \$17.4 million per year, or more, starting after the RSPs expire. The timing implies that the state would receive a partial year's savings in FY 2009, a full year's saving in FY 2010 based on expiration of all the RSPs except Dayton Power and Light's (DP&L's), and full savings benefits after DP&L's RSP expires. For local governments that would imply savings across all local governments statewide, including counties, municipalities, townships, special districts, and school districts, of up to \$227.6 million or more per year after expiration of the RSPs. For most local governments the savings would begin in FY 2009.

The other possibility is that both categories taken together would lead to increased prices, if the alternative energy portfolio requirement outweighs the effect of the increased authority of PUCO. The portfolio requirement will have little effect until 2025, according to EIA, so any increase in prices would be delayed until that time. Under this scenario, electricity bills for the state could increase by up to \$1.6 million or more per year by FY 2030. For local governments, they could increase by up to \$20.5 million or more per year by FY 2030. The costs would increase gradually over the course of the intervening period for both state and local governments.

The state pays for electricity from a variety of different funds in the budget. The GRF is the largest single source of funding, being the source of approximately 43.6% of state spending on electricity through mid-April of FY 2008. The second largest user, DOT (\$11.4 million in FY 2007), pays for electricity out of the Highway Operating Fund (Fund 7002).

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Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
77 South High Street, 9th Floor, Columbus, OH 43215-6136 ✧ Phone: (614) 466-3615

✧ Internet Web Site: <http://www.lsc.state.oh.us/>

BILL: **Am. S.B. 304** DATE: **December 9, 2008**

STATUS: **As Enacted – Effective March 24, 2009** SPONSOR: **Sen. Cates**

LOCAL IMPACT STATEMENT REQUIRED: **Yes**

CONTENTS: **Increases the maximum age of a child who may be delivered voluntarily by the child's parent to a peace officer, hospital employee, or emergency medical service worker under the Safe Haven Law, from 72 hours to 30 days and requires the Department of Job and Family Services to develop an educational plan for informing at-risk populations of the provisions of the Safe Havens Law**

State Fiscal Highlights

STATE FUND	FY 2009	FY 2010 and FUTURE YEARS
GRF		
Revenues	Potential minimal gain due to federal Medicaid reimbursement	
Expenditures	Potential minimal increase due to providing Medicaid services	
Fund 3N0 (IV-E Foster Care Maintenance Pass Through)		
Revenues	Potential gain due to federal foster care reimbursement	
Expenditures	Potential increase to reimburse counties	
Various Funds in the Department of Job and Family Services		
Revenues	- 0 -	- 0 -
Expenditures	One-time increase to develop an educational plan	- 0 -
Fund 232 (Family and Children First Administration)		
Revenues	- 0 -	- 0 -
Expenditures	One-time increase to develop an educational plan	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- Children voluntarily surrendered under the Safe Haven Law are eligible for Medicaid coverage. For each child that is surrendered, there are costs to the state for providing Medicaid. The average cost per member, per month for foster youth in FY 2008 was \$513. The federal government reimburses the state 61% of these costs.
- Children voluntarily surrendered under the Safe Haven Law are placed into foster care by the county public children services agency. The state receives some federal reimbursement for foster care costs that are passed through to the counties.

- The Ohio Department of Job and Family Services and the Ohio Family and Children First Cabinet Council, which is funded through the Ohio Department of Mental Health with moneys received from various state agencies, will incur one-time costs to develop an educational plan for informing at-risk populations.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009 and FUTURE YEARS
County and Municipal Civil and Criminal Justice Systems	
Revenues	- 0 -
Expenditures	Potential minimal increase due to awarding custody and providing legal representation
Public Children Services Agencies	
Revenues	Potential gain in foster care reimbursement
Expenditures	Potential increase due to providing foster care

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

- Children voluntarily surrendered under the Safe Haven Law are placed into foster care by the county public children services agency. For each child that is surrendered, there are costs to the county agency for providing foster care. Based on the average length of stay in foster care, the total cost of foster care for a surrendered child is estimated to range from approximately \$4,617 to \$60,534 per child. Counties receive some federal reimbursement for foster care costs passed through the state.
- There may be a minimal increase in costs to the court system to award custody and provide legal representation and a Guardian ad Litem for the child.

Detailed Fiscal Analysis

The bill

Under current law, a parent is permitted to voluntarily deliver a child who is not more than 72 hours old to a peace officer, hospital employee, or emergency medical service worker, without the parent expressing intent to return for the child. The bill increases the maximum age of a child who may be delivered voluntarily by the child's parent to 30 days.

The bill also requires the Ohio Department of Job and Family Services (ODJFS) to develop an educational plan, in collaboration with the Ohio Family and Children First Cabinet Council, for informing at-risk populations who are most likely to voluntarily deliver a child.

Chain of events following surrender

Although procedures vary slightly by county, there is a general chain of events that occurs once a child is voluntarily delivered to one of the designated locations. The county department of job and family services is notified immediately upon the surrender of a child. If the child was not left at a hospital, they are transported to one, where the child is examined by a physician to assess their health and well-being and to assess for indications that the child has

Ohio is 17.1 months or 1.4 years.²² Using these foster care maintenance rates and estimated average length of stay in foster care for children in Ohio, the cost of foster care for a surrendered child is estimated to range from approximately \$4,617 to \$60,534 per child. The state receives some federal reimbursement for foster care costs that are passed through to the counties.

In addition to costs associated with foster care, children voluntarily surrendered under the Safe Haven Law are eligible for Medicaid coverage. All foster children for whom states receive federal reimbursement for foster care expenses are categorically eligible for Medicaid health services. According to data from Ohio's Medicaid Decision Support System (DSS), there were 15,977 foster children enrolled in Medicaid during FY 2008 with total net expenditures of \$66.3 million for the year. Average cost per member, per month for FY 2008 was \$513. The federal government reimburses the state 61% of these costs.

Taking into account the average cost of foster care services and Medicaid coverage suggests that the annual cost to care for a child surrendered under the Safe Haven Law in Ohio may be between \$13,389 and \$69,306.

Courts

There may also be a minimal increase in costs to the court systems. State and local juvenile and family courts have jurisdiction over the majority of cases involving children in the foster care system. In Ohio, the court must appoint and fund a Guardian ad Litem or CASA (free, trained community volunteers) for all children in custody. Each county's public children services agency has specific arrangements for how legal representation is handled.

Cost savings

Under the Safe Haven Law, a parent who surrenders a child at a designated location has not committed a criminal offense and may not be subject to criminal prosecution for the act. Thus, if the number of children who are surrendered increases as a result of the bill, there may be a decrease in expenditures for municipalities as a result of a decrease in prosecution costs associated with cases of child endangerment. The bill may result in a decrease in fine revenue for the few jurisdictions where such a case would otherwise have occurred. The magnitude of this annual loss in fine revenue will likely be negligible as the number of cases is small.

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²² Kids are Waiting: Fix Foster Care Now and the Jim Casey Youth Opportunities Initiative. "Time for Reform: Aging Out and On Their Own." The report can be accessed at: <http://kidsarewaiting.org/reports/files/AgingOut.pdf>.

Appendix

All House Bills Enacted in 2008

House Bill	LIS Required?	Subject
7	No	Modifies the law regarding adoption law and custody of abused, neglected, or dependent children
13	No	Prohibits Social Security numbers on motor vehicle registration renewal notices
30	No	Requires any local authority that enforces any traffic law by traffic law photo-monitoring devices to erect signs indicating so on certain highways and makes other changes
46	No	Requires a consumer reporting agency to place a security freeze on a consumer's credit report in response to a consumer's request
48	No	Exempts certain tax exempt organizations and schools that auction items donated to them from license and contract requirements and specifies related requirements
55	No	Designates April 29 as "Heritage and Freedom Flag of the Former Republic of Vietnam Day"
71	No	Provides for the seizure, impoundment, and disposition of roosters involved in cockfighting and dogs involved in dogfighting and makes other changes
74	No	Enhances voyeurism penalties
79	No	Clarifies procedures for the operation of the Workers' Compensation Council
87	No	Designates a bridge on State Route 108 over the Maumee River as the "Henry County Veterans Bridge"
113	No	Allows faith-based reentry services to persons in custody of the Department of Rehabilitation and Correction or Department of Youth Services
125	No	Establishes certain uniform contract provisions between health care providers and third-party payers, creates a Joint Legislative Study Commission on Most Favored Nation Clauses in Health Care Contracts, and creates an Advisory Committee on Eligibility and Real Time Claim Adjudication
129	No	Authorizes a two-year pilot program for certain entities to study the effects of teleconferencing or video conferencing on member participation
130	No	Changes law concerning corrections and post-release control modifications, and extends the homestead exemption to units in housing cooperatives with fewer than 250 units
138	Yes	Modifies the requirements relating to purchases at judicial sales
150	No	Encourages certain retail establishments to allow customers with eligible medical conditions to use restrooms not normally available to the public, and designates May 23rd as Crohn's and Colitis Awareness Day
160	No	Clarifies the Ohio Trust Code
169	No	Establishes requirements governing the disposal and collection of used lead-acid batteries
181	No	Makes changes to laws governing law enforcement cooperation and schools' recordkeeping duties in missing children investigations
195	No	Modifies exemptions from prescription drug offenses
196**	Yes	Establishes transferable income tax credit for investments in motion pictures produced in Ohio
209	No	Expands sexual battery offenses
214	No	Makes changes to the law regarding training of foster caregivers, the public record status of identifying information of current and prospective foster caregivers, expanded usage of Title IV-E funding, and the coordination of services to foster children with mental retardation and developmental disabilities
215	No	Makes salvia divinorum and salvinorin A a controlled substance, clarifies court cost add-on for indigent drivers alcohol treatment, and makes other changes
244	No	Authorizes townships to relocate overhead electrical utilities underground upon petition by requesting residents and to recoup those costs via special assessment
248	No	Sets forth requirements governing nonrecourse civil litigation advance contracts

House Bill	LIS Required?	Subject
266	No	Changes the composition of veterans memorial boards of trustees and makes other changes
273	No	Designates certain memorial highways, creates certain special license plates, and modifies the terms for issuance of certain special license plates
280	Yes	Modifies human trafficking laws, and enhances various domestic violence penalties
281	No	Provides for the uniform determination of the fair market value of certain animals killed or injured by dogs
283	No	Permits pharmacy schools to accept dangerous drugs for instructional purposes, provides a license exemption, and modifies authority of pharmacists to immunize adults
285	No	Waives fines or penalties for paperwork violations that are first-time offenses committed by small businesses
289	No	Makes changes to the law governing Agricultural Security Areas
293	No	Creates "Ohio Agriculture," "Ohio Sustainable Agriculture," and "Ohio's Horse" license plates
295	No	Modifies cost, financing, and other requirements for county-funded energy conservation projects
297	No	Designates the month of May as Ohio Lyme Disease Awareness Month
314	No	Requires that a woman who is to have an abortion be given the opportunity to view any available obstetric ultrasound image
318	Yes	Makes changes to provisions that govern how county and township roads are placed on nonmaintained status
320	No	Requires the use of child booster seats for certain children between four and eight years of age and modifies provisions dealing with driving privileges for certain minors
323	No	Revises the Fences Law
331	No	Amends the law regarding the licensure of maternity homes and obstetric or newborn care facilities
332	No	Revises the Ohio Uniform Partnership Act
346	No	Requires written nurse staffing plans and hospital-wide nursing care committees
350	No	Allows voters to be assigned to other precincts in special elections and makes other election law changes
352	No	Includes alpacas and llamas in certain statutory definitions of "agricultural animal" and "livestock"
359	No	Allows eligible counties to use surplus delinquent tax collections for nuisance abatement of foreclosed residential property and prosecution of certain violations of real estate law
374	No	Makes changes to Ohio corporation law
381	No	Increases funding for the Ohio Research Scholars Program and permits nonpublic universities to submit proposals for the Ohio Research Scholars Program
385	No	Permits land acquired by a board of township trustees for the purpose of protecting or preserving "greenspace" to be used for recreational purposes
392	No	Establishes a next of kin database
395	No	Excludes Social Security benefits from a divorce court's jurisdiction
404	No	Makes changes to the law governing viatical settlements
405	No	Eliminates the requirement that each county board of mental retardation and developmental disabilities maintain a service substitution list and long-term service planning registry and revises the law governing county boards' waiting lists
416	No	Ratifies the Great Lakes-St. Lawrence River Basin Water Resources Compact
420	No	Promotes transparency in state spending, state real property management, and state program effectiveness, makes other changes relative to the operation of certain state programs, and declares an emergency
427	No	Revises the law regarding the practice of marriage and family therapy and the membership of the professional standards committees of the Counselor, Social Worker, and Marriage and Family Therapist Board

House Bill	LIS Required?	Subject
428	No	Makes several changes regarding the reporting of and discipline for school employee misconduct
429	No	Repeals destination-based sourcing for intrastate sales, discontinues county compensation for losses from destination-based sourcing, authorizes a plan to compensate vendors that convert back to origin-based sourcing, and changes certain sales tax refund procedures
435	No	Reforms the Governor's Office of Faith-Based and Community Initiatives
444	No	Makes changes to the construction industry licensing laws concerning unlicensed contractors and other related changes
450	No	Permits the underage purchase of a handgun, modifies the concealed carry law, codifies the GI Promise policy codification, allows for the honorable discharge symbol to be placed on a driver's license, modifies an earmark for the city of Wauseon, and makes other changes
458	No	Authorizes counties and townships to use general levy moneys for certain road and bridge expenses and clarifies laws concerning township health care coverage
471	Yes	Requires installation of electronic monitoring devices under certain conditions and revises the Coroner's Law
493	No	Revises the law regarding billing for anatomic pathology services and makes changes to health insurance laws
496*	No	Makes capital reappropriations and new capital appropriations for the FY 2009-FY 2010 biennium
499	No	Modifies the Ohio Trust Code
500	No	Establishes reduced ignition propensity standards for cigarettes and establishes a New African Immigrants Commission
503	No	Amends the experience and training requirements for an applicant to take the psychologist license examination
522	No	Adopts the Uniform Prudent Management of Institutional Funds Act (UPMIFA)
525	No	Establishes standard format requirements for recorded documents, adjusts mileage reimbursement rates for witnesses, and provides for a link to career information on the Board of Regents web site
529	No	Revises the law to adopt the Uniform Anatomical Gift Act
544	No	Abolishes the Tobacco Use Prevention and Control Foundation, transfers certain powers to the Department of Health, makes an appropriation, and declares an emergency
545	No	Revises Ohio's consumer finance lending laws and makes other changes
554	No	Provides new and expanded incentives for economic development and job creation, and makes capital and operating appropriations
562*	No	Makes capital and other appropriations and to provide authorization and conditions for the operation of state programs
648	No	Requires state agencies to regulate access to confidential personal information
649**	No	Provides compensation to veterans of the Persian Gulf, Afghanistan, and Iraq conflicts

* Exempt from local impact requirements specified in R.C. 103.143(F).

** Vetoed.

All Senate Bills Enacted in 2008

Senate Bill	LIS Required?	Subject
3	No	Revises retirement benefits of anyone holding a "position of honor, trust, or profit" who pleads guilty to or is convicted of a felony crime committed while holding such position and increases the Office of Inspector General appropriation
17	Yes	Modifies OVI-related prohibitions and penalties
25	No	Creates the "Gold Star Family" license plate
44	No	Creates a new process by which local jurisdictions can designate names for bridges on the state highway system and specifies how and when retractable studded snow tires may be used
84	Yes	Enhances options for emergency management financing
87	No	Creates the statewide emergency alert program and establishes criteria for its implementation
108	No	Prohibits a court from granting judicial release to any person serving a prison term for any of a list of specified felony offenses committed while the person held public office
129	No	Authorizes designated persons to remove motor vehicles from roadways after accidents, extends the current wireless 9-1-1 service charges, temporarily authorizes the creation of JEDD districts, and makes other changes
147	No	Expands the prison health professional recruitment program, and alters Correctional Institution Inspection Committee inspection procedures
148	No	Revises retirement eligibility requirements for members of the School Employees Retirement System (SERS)
150	No	Modifies, clarifies, and corrects liquor control and alcoholic beverage tax laws
157	No	Authorizes a person to designate a guardian for the person's incompetent adult child
163	Yes	Alters foster caregiver background check procedures and other changes affecting out-of-home care workers, adoptive parents, foster caregivers, and child day-cares
171	No	Makes changes to the laws regulating secondhand and scrap metal dealers
175	No	Enacts the Grieving Parents Act regarding fetal death certificates for, and burials of, the product of human conception that suffers a fetal death
183	No	Provides mandatory prison term for the offense of importuning, modifies the definition of "adult cabaret," and applies the offense of compelling prostitution to an offender who believes the person solicited is a minor
184	No	Modifies the laws governing the use of force for purposes of self-defense or defense of another, the sentencing of a felony offender for multiple gun specifications, and the carrying of a concealed handgun
185	No	Revises public library laws
186	Yes	Prohibits insurers, public employee benefit plans, and multiple employer welfare arrangements from denying coverage for routine patient care administered as part of a cancer clinical trial
192	No	Permits health districts to contract with certified county building departments for plumbing inspections and permits health districts to contract with other health districts for plumbing inspections
196	No	Revises the Preneed Funeral Contract Law
203	No	Prohibits unauthorized pharmacy-related drug conduct relative to persons employed as pharmacy technicians
209	No	Modifies the distribution of OVI fines for indigent criminal defense
214	No	Prohibits the sale of dishwasher detergent that contains above a specified amount of phosphorus
219	No	Modifies the period of limitation for criminal prosecution of a person who is not a public servant
220	No	Increases penalties for prostitution and park bylaw/rule violations

Senate Bill	LIS Required?	Subject
221	Yes	Revises state energy policy principally to address electric service price regulation and alternative energy portfolio standards
225	No	Makes changes to the Architects Law
229	No	Enacts sections regarding the certification of radiologist assistants
237	No	Allows transient hotels to permit guests to stay longer than 30 days, allows extended stay hotels to permit guests to stay longer than one year, and makes other changes
241	No	Modifies the law governing payment of county expenses by a financial transaction device
243	No	Designates certain memorial highways, creates new types of license plates, and officially recognizes various dates
245	No	Modifies the laws regarding the practice of acupuncturists
247	No	Makes changes in the Credit Union Regulation Law and requires criminal background checks for certain officials of financial institutions
248	No	Creates a public records exemption for Armed Forces discharges and alters other laws and benefits affecting specified Armed Forces personnel
267	No	Makes changes regarding the Public Employees Retirement System (PERS) law enforcement division, the Ohio Public Safety Officers Death Benefit Fund, and reimbursement by PERS and the Ohio Police and Fire Pension Fund for Medicare Part B premiums
268	No	Makes changes to competitive bidding requirements and other procurement practices for specified political subdivisions
269	No	Prohibits any person from advertising or conducting a live musical performance or production in Ohio through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group
271	No	Makes changes to the laws governing watercraft
277	No	Modifies laws dealing with foreclosure actions to abate blighted parcels
279	No	Revises the law regarding certain State Medical Board licensing, registration, and renewal procedures and the submission of information by hospitals in meeting certain performance measures
281	No	Increases the exemptions for property that a debtor may hold exempt from execution, garnishment, attachment, or sale for the satisfaction of a judgment or order to reflect the higher exemptions available for such property
286	No	Specifies procedures for counting votes on over-marked optical scan ballots, and allows for midday tabulation of optical scan ballots in certain counties only for the March 4, 2008 primary election
289	No	Creates the Department of Veterans Services, establishes specified employment rights for employees in the uniformed service, and designates a memorial highway
302	No	Requires a will to be attested and subscribed by the witnesses in the conscious presence, instead of in the presence, of the testator, and makes other changes concerning wills
304	Yes	Increases the maximum age of a child who may be delivered voluntarily by the child's parent to a peace officer, hospital employee, or emergency medical service worker under the Safe Haven Law
320	No	Makes changes to the Ohio Corrupt Activity Law, laws concerning alcohol beverage franchise agreements, and procedures for providing restitution for theft of rented property or services
323	No	Revises mine safety requirements
334	No	Modifies provisions of Workers' Compensation Law concerning interstate claims and makes other changes
353	No	Authorizes the creation of land reutilization corporations and requires port authorities to hold public hearings on future development plans
372	No	Extends the Environmental Audit Privilege Law sunset date from January 1, 2009 to January 1, 2014 and declares an emergency

Senate Bill	LIS Required?	Subject
380**	Yes	Makes changes to laws concerning absent voter ballots, voter registration verification procedures, and elections oversight
386	No	Makes changes to environmental permitting programs involving coal mining and reclamation operations

* Exempt from local impact requirements specified in R.C. 103.143(F).

** Vetoed.

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