



Ohio Legislative Service Commission

Bill Analysis

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H.B. 488

129th General Assembly
(As Introduced)

Reps. Baker and Slaby, Antonio, Boyd, Derickson, Foley, Gardner, Gonzales, C. Hagan, Letson, Stebelton

BILL SUMMARY

- Creates the Rape Crisis Program Trust Fund within the state treasury, consisting of moneys paid into the Fund out of the additional court costs imposed upon persons convicted of or who plead guilty to any sexually oriented offense and requires the Attorney General to administer the Fund.
- Specifies that at least 95% of the moneys deposited or appropriated into the Fund must be used for the purpose of providing funding to eligible rape crisis centers and that the Attorney General may not use more than 5% of the moneys deposited or appropriated into the Fund to pay costs associated with administering the Fund.
- Requires the Attorney General to adopt rules under R.C. Chapter 119. that establish procedures for eligible rape crisis centers to apply to the Attorney General for funding out of the Rape Crisis Program Trust Fund and procedures for the Attorney General to distribute money out of the Fund to eligible rape crisis centers.
- Defines an "eligible rape crisis center" as an organization or entity that operates in Ohio and that provides one or more of the following services to or for victims of sexual assault: (1) a telephone hotline, (2) information and referral services, (3) crisis-intervention services, (4) advocacy and support services, (5) therapy services, (6) service coordination, (7) programs to promote community awareness of available services, and (8) medical intervention.
- Requires the court in which any person is convicted of or pleads guilty to any sexually oriented offense to impose \$100 as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender.

- Permits the clerk to retain one dollar out of each \$100 court cost collected as described in the preceding dot point as a service charge of the clerk's office.
- Requires the clerk of the court to transmit on or before the 20th day of the following month all moneys collected pursuant to the requirement described in the second preceding dot point during a month, after deduction of any service charges, to the Treasurer of State for deposit into the state treasury to the credit of the Rape Crisis Trust Fund.
- Requires the court to add to the amount of the bail posted by a person charged with any sexually oriented offense the \$100 required to be paid as additional court costs described in the third preceding dot point, permits the clerk to retain one dollar out of each \$100 court cost collected as a service charge of the clerk's office, and requires the clerk to follow the same procedure as in the preceding dot point.
- Increases the additional court costs used to fund the Reparations Fund that are collected by the clerk of court from any person who is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation from \$30 to \$50 for a felony and from \$9 to \$15 for a misdemeanor.
- Adds a representative of rape crisis centers as a member of the State Victims Assistance Advisory Council.

CONTENT AND OPERATION

Rape Crisis Program Trust Fund

The bill creates the Rape Crisis Program Trust Fund within the state treasury, consisting of moneys paid into the Fund out of the additional court costs imposed upon persons who are convicted of or plead guilty to any sexually oriented offense (see "**Court costs for sexually oriented offense convictions**," below) and any moneys appropriated to the Fund by the General Assembly. The bill requires the Attorney General to administer the Fund. At least 95% of the moneys deposited or appropriated into the Fund must be used for the purpose of providing funding to eligible rape crisis centers (see "**Eligible rape crisis centers**," below). The Attorney General may use not more than 5% of the moneys deposited or appropriated into the Fund to pay costs associated with administering the Fund.¹ Additionally, the bill requires the Attorney General to adopt rules under R.C. Chapter 119. that establish procedures for eligible rape crisis centers to apply to the Attorney General for funding out of the Rape Crisis

¹ R.C. 109.921(B).

Program Trust Fund and procedures for the Attorney General to distribute money out of the Fund to eligible rape crisis centers.²

Eligible rape crisis centers

The bill defines an "eligible rape crisis center" as an organization or entity that operates in Ohio and that provides one or more of the following services to or for victims of sexual assault (see "**Definitions**," below):³

- (1) A telephone hotline;
- (2) Information and referral services;
- (3) Crisis-intervention services;
- (4) Advocacy and support services;
- (5) Therapy services;
- (6) Service coordination;
- (7) Programs to promote community awareness of available services;
- (8) Medical intervention.

An eligible rape crisis center that receives funding out of the Rape Crisis Program Trust Fund must use the money received only to provide to or for victims of sexual assault one or more of the services listed in (1) to (8) above.⁴

Court costs for sexually oriented offense convictions

The bill requires the court in which any person is convicted of or pleads guilty to any sexually oriented offense (see "**Definitions**," below) to impose \$100 as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender.⁵

The clerk may retain one dollar out of each \$100 court cost collected under this provision as a service charge of the clerk's office. The clerk of the court must transmit

² R.C. 109.921(C).

³ R.C. 109.921(A)(1).

⁴ R.C. 109.921(D).

⁵ R.C. 2949.095(A).

on or before the 20th day of the following month all moneys collected pursuant to the requirement described in the preceding paragraph during a month, after deduction of any service charges allowed and retained by the clerk, to the Treasurer of State. The Treasurer of State must deposit all such moneys into the state treasury to the credit of the Rape Crisis Trust Fund (see "**Rape Crisis Program Trust Fund**," above). The court is prohibited from waiving the payment of the additional \$100 court cost unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.⁶

Whenever a person is charged with any sexually oriented offense and posts bail (see "**Definitions**," below), the bill requires the court to add to the amount of the bail the \$100 required to be paid as additional court costs described in the second preceding paragraph. The clerk of the court must retain the \$100 until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk may retain one dollar out of each \$100 court cost collected as a service charge of the clerk's office. The clerk must transmit the \$100, after deduction of any service charges, on or before the 20th day of the month following the month in which the person was convicted, pleaded guilty, or forfeited bail to the Treasurer of State. The Treasurer of State must deposit that money into the state treasury to the credit of the Rape Crisis Trust Fund. If the person is found not guilty or the charges are dismissed, the clerk must return the \$100 to the person.⁷

The bill specifies that no person may be placed or held in a detention facility for failing to pay the additional required \$100 court cost or bail.⁸

Increase in court costs for felonies and misdemeanors

Under existing law, the court must impose certain additional sums as costs in a case in addition to any other court costs that the court is required by law to impose upon an offender when any person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation. These additional funds are collected and transmitted by the clerk of the court on the first business day of each month to the Treasurer of State and deposited by the Treasurer in the Reparations Fund. Currently, those additional costs are \$30 for a felony offense and \$9 for a misdemeanor offense.⁹ The bill increases these additional costs to \$50 for a felony

⁶ R.C. 2949.095(A) and 2949.092.

⁷ R.C. 2949.095(B).

⁸ R.C. 2949.095(C).

⁹ R.C. 2743.70(A)(1).

offense and \$15 for a misdemeanor offense. Accordingly, the bill increases these amounts in each place where the costs are referenced including the additional amount of bail that a person must post in such a case.¹⁰

State Victims Assistance Advisory Council

Continuing law establishes the State Victims Assistance Advisory Council, which advises the Crime Victims Assistance Office in determining crime and delinquency victim service needs, determining crime and delinquency victim policies for the state, and improving and exercising leadership in the quality of crime and delinquency victim programs in the state, and reviews and recommends to the Crime Victims Assistance Office the victim assistance programs that should be considered for the receipt of state financial assistance. The bill adds a representative of rape crisis centers as an additional member to the State Victims Assistance Advisory Council.¹¹ As used in that section, "rape crisis center" has the same meaning as "eligible rape crisis center," defined above at "**Eligible rape crisis centers.**"¹²

Definitions

As used in the bill:

"Sexual assault" means a violation of R.C. 2907.02 (rape), 2907.03 (sexual battery), 2907.04 (unlawful sexual conduct with a minor), 2907.05 (gross sexual imposition), or former R.C. 2907.12 (felonious sexual penetration), or a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is or was substantially equivalent to any section listed above.¹³

"Bail" means cash, a check, a money order, a credit card, or any other form of money that is posted by or for an offender to prevent the offender from being placed or held in a detention facility.¹⁴

"Sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age:¹⁵

¹⁰ R.C. 2743.70(A)(2), (B), and (C).

¹¹ R.C. 109.91(B).

¹² R.C. 109.91(E).

¹³ R.C. 109.921(A)(2).

¹⁴ R.C. 2949.095(D)(1), by reference to R.C. 2743.70(D)(2) (not in the bill).

¹⁵ R.C. 2949.095(D)(2), by reference to R.C. 2950.01(A) (not in the bill).

(1) A violation of R.C. 2907.02 (rape), 2907.03 (sexual battery), 2907.05 (gross sexual imposition), 2907.06 (sexual imposition), 2907.07 (importuning), 2907.08 (voyeurism), 2907.21 (compelling prostitution), 2907.32 (pandering obscenity), 2907.321 (pandering obscenity involving a minor), 2907.322 (pandering sexually oriented matter involving a minor), or 2907.323 (illegal use of minor in nudity-oriented material or performance);

(2) A violation of R.C. 2907.04 (unlawful sexual conduct with a minor) when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of R.C. 2907.02 (rape), 2907.03 (sexual battery), or 2907.04 (unlawful sexual conduct with a minor) or a violation of former R.C. 2907.12 (felonious sexual penetration);

(3) A violation of R.C. 2907.04 (unlawful sexual conduct with a minor) when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to a violation of R.C. 2907.02 (rape), 2907.03 (sexual battery), or 2907.04 (unlawful sexual conduct with a minor) or a violation of former R.C. 2907.12 (felonious sexual penetration);

(4) A violation of R.C. 2903.01 (aggravated murder), 2903.02 (murder), or 2903.11 (felonious assault) when the violation was committed with a sexual motivation;

(5) A violation of R.C. 2903.04(A) (causing the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit a felony) when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(6) A violation of R.C. 2903.211(A)(3) (menacing by stalking with a sexual motivation);

(7) A violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping, under certain specified circumstances) when the offense is committed with a sexual motivation;

(8) A violation of R.C. 2905.01(A)(4) (kidnapping to engage in sexual activity with the victim against the victim's will);

(9) A violation of R.C. 2905.01(B) (kidnapping, under certain specified circumstances) when the victim of the offense is under 18 years of age and the offender is not a parent of the victim of the offense;

(10) A violation of R.C. 2905.02(B) (abduction with a sexual motivation), R.C. 2905.03(B) (unlawful restraint with a sexual motivation), R.C. 2905.05(B) (criminal child enticement with a sexual motivation), or R.C. 2919.22(B)(5) (endangering children, under certain specified circumstances);

(11) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed above;

(12) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed above.

HISTORY

ACTION	DATE
Introduced	03-20-12

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