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H.B. 289
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Robb Blasdel and Swearingen

Local Impact Statement Procedure Required: Yes

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Highlights

- As a result of making “disseminating matter harmful to juveniles” a registerable offense under the Sex Offender Registration and Notification (SORN) Law, these cases may be more likely to go to trial which involves costs for juries, prosecution, indigent defense, and potential sanctioning costs.
- The number of additional offenders that any given county sheriff will register each year for the offense of “disseminating matter harmful to juveniles” is likely to be relatively small and the corresponding increase in any given county sheriff’s annual registration, notification, and enforcement costs generally will be minimal. However, in combination with the workload increase related to the bill’s tolling provisions, the net impact may be more significant in terms of workload and costs.
- The Attorney General’s Office will incur significant, one-time costs to modify the SORN system for tolling information to be input by sheriffs for inclusion into the state’s sex offender registry and for adding the new offense of “disseminating matter harmful to juveniles.” Some of these costs will be covered by a federal grant award of \$75,000. The remainder, currently uncertain, will likely be covered by a mix of state funds.

Detailed Analysis

Disseminating matter harmful to juveniles

The bill makes the offense of “disseminating matter harmful to juveniles” a sexually oriented offense and a person who violates the offense a Tier I offender. Tier I offenders are subject to the Sex Offender Registration and Notification (SORN) registration and verification requirements every year for a period of 15 years following their initial registration.

For background, every offender who is convicted of or pleads guilty to a sexually oriented offense, unless specifically exempt, has a duty to comply with the SORN Law. The tier classification is based upon the severity of the offense committed with increasingly strict registration, notification, and verification requirements. These requirements are summarized in the table below.

SORN Law Requirements

Tier I: Required to register for 15 years (adults) or 10 years (juveniles) and verify address annually

Tier II: Required to register for 25 years (adults) or 20 years (juveniles) and verify address every 180 days

Tier III: Required to register for life and verify address every 90 days

Plea negotiations and trials

Based on information gathered from subject matter experts, prosecutors commonly use the charge of “disseminating matter harmful to juveniles” to address juvenile “sexting” behavior (when that is the most serious charge) specifically because it gives prosecutors flexibility to avoid felony charges and sex offender registration sanctions. Without this avenue to avoid sex offender registration, plea negotiation may become more difficult and more trials will result.

For adult offenders, the offense is typically tied to other more serious charges, frequently felony sex offenses with SORN Law registration duties. In these cases, the consideration of the dissemination charge is usually mitigated by the severity of the other offenses. However, as a stand-alone charge, if the individual charged is not already registered as a sex offender, they also will be far less likely to plea in order to avoid registration. Cases that go to trial involve costs for juries, prosecution, indigent defense, and potential sanctioning costs. These costs may be significant in some counties based on caseloads.

Additional SORN registrants

Assuming that there are less than a few hundred charges of “disseminating matter harmful to juveniles” annually, and even fewer convictions, it seems likely that the number of additional SORN registrants in any given jurisdiction will be relatively small and that the corresponding increase in a county sheriff’s annual registration, notification, and enforcement costs will be minimal.

Current law permits a sheriff to charge registrant fees in each registration year. All such fees are paid into the county general fund and then allocated to the sheriff to be used to defray SORN Law administration costs. The amount of additional fee revenue that may be generated annually for any given county general fund will be minimal at most.

In addition to permissive fees, county sheriffs are required to charge a fee of \$100 when a person first registers as a sex offender. That fee is deposited in the state treasury to the credit of the Rape Crisis Program Trust Fund (Fund 5NV0) for distribution to rape crisis programs. The amount of additional fee revenue that the bill’s SORN Law registration requirement may generate annually for Fund 5NV0 is likely to be minimal at most.

Tolling period of time offender has to comply with SORN Law

The bill provides that if a Tier I or Tier II offender fails to comply with SORN Law, the period of time that the offender has a duty to register is tolled for the amount of time they are in violation. In other words, the offender's time on the registry would pause for as long as they are out of compliance.

As a result, Tier I and Tier II offenders who fail to comply with their SORN duties will spend a longer length of time on the sex offender registry than otherwise under current law. According to the Attorney General, there are typically around 500 noncompliant offenders on the state's sex offender registry on any given day. That figure fluctuates day by day as offenders fall in and out of compliance. It is important to note that those numbers also include Tier III offenders who are subject to SORN duties for life and not affected by the bill's tolling provisions.

Conversations with the Buckeye State Sheriffs' Association suggest that potentially longer registration periods will dramatically increase registration, notification, and enforcement work for many sheriffs' offices, especially in combination with new Tier I registrants for "disseminating matter harmful to juveniles" described above. As mentioned, the collection of permissive sex offender registration fees that are retained by the county may offset some of these administrative costs. For Tier I and Tier II offenders, the fees may not exceed \$25 for each registration year.

The Attorney General's Bureau of Criminal Investigation (BCI) will incur significant, one-time costs to modify the Sex Offender Registration and Notification system for tolling information to be input by sheriffs for inclusion into the state's sex offender registry. A portion of these costs will likely be covered by a recently awarded federal Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) grant of \$75,000. The cost and funding source of software updates related to the bill's new SORN offense is uncertain, but will likely be supported by a mix of state funds (GRF and non-GRF sources).