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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 270
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Young and Mathews

Local Impact Statement Procedure Required: Yes

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Highlights

- All 88 clerks of courts of common pleas will likely incur additional costs to collect and remit child maintenance payments, the magnitude of which will vary by county and for certain counties will likely be significant.
- Certain courts of common pleas may experience an increase in workload to calculate child maintenance, the magnitude of which will depend on the number of felony operating a vehicle while intoxicated (OVI)-caused aggravated vehicular homicide cases that require child maintenance.

Detailed Analysis

The bill: (1) requires a criminal court to impose restitution in the form of child maintenance on a felony offender who is convicted of or pleads guilty to an operating a vehicle while intoxicated (OVI)-caused aggravated vehicular homicide when the deceased victim is a parent, legal guardian, or custodian of a minor child, and (2) permits such courts, in specified circumstances, to award child maintenance in a civil action for wrongful death that occurred as a result of a deceased defendant's felony OVI-caused aggravated vehicular homicide violation and to direct the payment processing through the clerk of court.

Child maintenance

The number of annual incidents that could be eligible for child maintenance payments under the bill is uncertain however likely to be very small. Law enforcement incident data obtained from the Ohio Incident-Based Reporting System (OIBRS) indicates that there were 18 incidents that caused 20 deaths in calendar year 2023 that may have met the bill's eligibility

criteria (i.e., classified as being a felony violation of OVI-caused aggravated vehicular homicide).¹ However, other mitigating factors under the bill would likely further reduce this number since the bill also (1) prohibits the court from imposing the child maintenance restitution if the parent, legal guardian, or custodian of the child brings a civil action before criminal sentencing and obtains a judgment covering the cost of child maintenance and (2) requires the child maintenance amount ordered by a court to be offset by any amount a parent, legal guardian, or custodian subsequently obtains in a judgment covering the costs of child maintenance.

For historical context, the table below shows the number of statewide OVI-caused aggravated vehicular homicide incidents and resulting deaths for calendar years 2019-2023.

Statewide OVI-Caused Aggravated Vehicular Homicide Statistics, 2019-2023*							
Category	2019	2020	2021	2022	2023	Five-Year Total	Five-Year Average
Incidents	24	16	18	14	18	90	18
Deaths	40	21	22	14	20	117	23.4

*Based on R.C. 2903.06(A)(1)(a) violation incident reports obtained from OIBRS.

Courts of common pleas

Under the bill, felony OVI-caused aggravated vehicular homicide in certain cases where the deceased victim was a parent, legal guardian, or custodian, will require additional court hearing time and resources in order to calculate the required child maintenance judgment and potentially hold additional contempt of court or other hearings on missed payments. The bill's impact on any given court of common pleas is likely to vary by county and will ultimately depend on the number of OVI-caused aggravated vehicular homicide cases that require child maintenance and are not already ordered through another civil case or judgement. As previously mentioned, that number is likely to be very small in any given year.

According to the Ohio Judicial Conference, a statewide judicial organization consisting of all Ohio judges, given the factors that must be considered in making child maintenance determinations, it is possible that additional resources, potentially including expert witnesses and economists, may be necessary in order to calculate the maintenance payments. The bill is silent as to whether the court would be able to pass any of those additional costs along to the defendant or defendant's estate.

Clerks of court

The bill establishes procedures for payment of child maintenance restitution by requiring that payments be made to the clerk of courts as trustee for remittance to the child's surviving parent, legal custodian, or guardian. The clerk must remit the payments to the surviving parent,

¹ OIBRS, which is managed by the Office of Criminal Justice Services, is a voluntary reporting program in which Ohio law enforcement agencies can submit crime statistics directly to the state and federal government in an automated format.

legal custodian, or guardian within three business days of receipt. If an offender is incarcerated and unable to pay, the offender may enter a payment plan with the court and must begin payment no more than one year after the offender's release. If the payments are set to terminate but the offender's obligation is not yet paid in full, the payments must continue until the entirety of the amount owed is paid.

The bill's impact on Ohio's 88 clerks of courts of common pleas to collect and remit child maintenance payments will likely vary by county and could, for certain counties, be significant.² According to the Ohio County Clerk of Courts Association, the way in which restitution is handled differs by county and only some clerks currently have involvement in that process. In other counties, such as Cuyahoga County, the probation department is responsible for the collection and remittance of restitution.

While all counties are likely to incur one-time costs to update existing case management systems in order to accommodate the bill's child maintenance requirements, those counties where the clerk of court is not already involved in the restitution process will incur additional costs to acquire the necessary technology to track, monitor, and collect payments. Since case management systems differ by county, both in terms of operation and vendor, the costs incurred to update or acquire those systems in accordance with the bill are also likely to vary. As a result, the magnitude of impact experienced by a given county will depend on the existing case management system, the vendor, and whether or not the clerk is currently handling restitution.

It should be noted that all counties will incur additional costs in order to be able to collect and remit child maintenance payments in the event that such payments are ordered. Based on the average number of statewide OVI-caused deaths that resulted from a felony violation of aggravated vehicular homicide from 2019 through 2023, it is likely that the number of counties that ultimately end up collecting and remitting child maintenance payments will be very small.

Child maintenance when the offender is deceased

The bill also permits a court to award child maintenance in a civil action for wrongful death in addition to compensatory damages when the wrongful death was proximately caused by the deceased defendant's felony OVI-caused aggravated vehicular homicide violation and the deceased victim was the parent of at least one surviving minor child at the time of death. Such payments, if ordered, are to be determined in the same manner as the required child maintenance imposed on a felony offender of an OVI-caused aggravated vehicular homicide. As a result, the fiscal impact outlined in the preceding sections would also apply to these cases if the court chooses to impose child maintenance payments in a wrongful death case.

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² LBO considers a bill's fiscal effect to be more than minimal if the estimated potential costs equal or exceed: (1) \$5,000 for an affected county with a population of 5,000 or more, or (2) \$100,000 statewide for all political subdivisions, including affected counties.