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S.B. 18
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsors: Sens. Antonio and Lehner

Local Impact Statement Procedure Required: No

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Highlights

- The bill's restraint prohibition appears unlikely to affect the state or local courts, but will affect to some degree the operations of secure, county-operated facilities. There is likely to be some cost to develop and implement an appropriate policy, including employee training and health care professional contact protocols, but presumably should not be fiscally problematic to maintain once established.
- It appears that the filing of criminal and/or civil actions for violating the bill's restraint prohibition will be relatively infrequent and that there will be no discernible ongoing costs to the state and local governments.
- The annual cost for the Attorney General to develop and distribute the required training materials to state and local officials is likely to be no more than minimal, and potentially absorbed using existing personnel and appropriated resources.

Detailed Analysis

Prohibition against restraints

The bill: (1) generally prohibits a law enforcement, court, or corrections official from knowingly restraining or confining a pregnant charged or adjudicated child or pregnant criminal offender during the child's or woman's pregnancy, hospital transport, labor, delivery, or postpartum recovery (up to six weeks), and (2) subjects the use of restraints to contacting, or being notified by, certain specified health care professionals. If an emergency circumstance exists, the official may contact a health care professional once the child or woman has been restrained and let them know the type of restraint and expected duration. In all other cases, the notification must occur prior to restraining the child or woman.

The bill will not likely have a discernible impact on the departments of Rehabilitation and Correction or Youth Services, as both departments currently have policies in place dealing with the use of restraints on a child or woman as described above. The bill is also unlikely to have a discernible impact on courts, as the Ohio Judicial Conference reports that it is extremely uncommon for judges to order a child or woman as described above be restrained.

The prohibition is likely to affect to some degree local, mostly county, law enforcement and corrections agencies operating residential facilities. This includes jails, juvenile detention centers, community-based correctional facilities (CCBFs), and community corrections facilities (CCFs).

County sheriffs are responsible for transporting persons being held in a county jail to court. Some counties are able to use video conferencing, but for those that do not have those capabilities, the county sheriff's office would be responsible for contacting a health care professional who is treating a child or woman as described above prior to the use of restraints, should the need arise.

According to the Buckeye State Sheriffs' Association, leg shackles, handcuffs, and waist belts are common everyday restraints used when transporting anyone under arrest or those who are incarcerated and are exiting the security perimeter of the jail, regardless of pregnancy status. It is also not unusual for a pregnant child or woman to require frequent trips to a physician outside of the facility for prenatal care.

It is possible that the bill will result in delays for both court proceedings and medical attention if the county sheriff first needs to contact the appropriate health care professional before using restraints. The potential cost of such delays is not readily quantifiable. Presumably, a policy will be implemented that prospectively addresses the potential for delays and minimizes any related costs.

Penalty and civil remedy

The bill provides that a violation of the restraint prohibition is a violation of the existing offense of "interfering with civil rights." A violation is a first degree misdemeanor, which is punishable by a jail stay of no more than 180 days, a fine of up to \$1,000, or both. As state and local officials are expected to incorporate the bill's requirements into their daily operations, including ensuring that employees are trained, it is likely that violations will be infrequent. This suggests that, for county and municipal criminal justice systems that process misdemeanor cases and sanction violators, there will be no discernible ongoing costs, and occasional revenue (court costs and fees, and fines) generated for distribution between local governments and the state, as applicable.

The bill also permits a child or woman as described above to file a civil action for damages against the official who committed the violation, the official's employing agency or court, or both. Depending on the circumstances of the violation, the action would be filed in one of the following: a common pleas, municipal, or county court, or the state's Court of Claims. If, as described in the immediately preceding paragraph, violations are infrequent, then it is likely that the filing of civil actions will be relatively infrequent as well. The state and local governments may incur occasional costs to defend and adjudicate such matters. The timing and magnitude of any damage payments that the state or a local government may incur is indeterminate.

Attorney General training materials

The bill requires the Attorney General to provide training materials to law enforcement, court, and corrections officials to train employees on the proper implementation of the requirements regarding restraining or confining a child or woman as described above. The annual cost for the Attorney General to develop and distribute the required training materials to state and local officials is likely to be no more than minimal, and potentially absorbed using existing personnel and appropriated resources.