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Office of Research
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Office

S.B. 369
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsors: Sens. Lehner and Manning

Local Impact Statement Procedure Required: No

Jessica Murphy, Budget Analyst

Highlights

- The bill has two fiscal effects on the state's Victims of Crime Compensation Program operated by the Attorney General's Office. First, the amount disbursed as reparations awards will increase by an estimated \$1.8 million annually, for which the Attorney General appears to have sufficient cash at hand. Second, there is the potential for a minimal annual cost savings in the Attorney General's administrative expenses.
- The bill will have no direct fiscal effect on the state's political subdivisions.

Detailed Analysis

The bill revises the eligibility standards and procedures for awarding reparations to crime victims. The Ohio Attorney General's Office handles the reparations award process as part of its responsibility to administer the state's Victims of Crime Compensation Program. The Attorney General pays for the awards with money primarily appropriated from the Reparations Fund (Fund 4020) and secondarily from the federal Crime Victim Assistance Fund (Fund 3FV0).

Eligibility for an award of reparations

Criminal convictions

Under current law, a victim or claimant who was convicted of certain specified felonies or engaged in certain felonious conduct within ten years prior to the criminally injurious conduct that gave rise to their claim is not eligible to receive an award of reparations (compensation for economic losses) under the state's Victims of Crime Compensation Program. The bill reduces the lookback period for disqualifying prior convictions from ten to five years.

Reducing the lookback period to five years will increase the number of successful applications and awards for victims disqualified under current law. The Attorney General's Office

estimates that the number of application denials based on criminal history were 460 and 376 for FY 2019 and FY 2020, respectively. If the lookback had been five years, a percentage of those applications would have been eligible for compensation. There would also likely be new applications from crime victims with a criminal past that, under current law, chose not to apply due to the ten-year lookback period.

The precise number of additional successful applications stemming from the bill is uncertain, but LBO estimates it could be up to 500 or 600 per year. The average award is between \$2,000 and \$3,000. If 600 additional claims received an average crime victim's award of \$3,000, then the bill could create an additional \$1.8 million in disbursements. This figure represents the upper range of an estimate of the potential fiscal impact of this provision. The actual cost, though uncertain, would likely be smaller. For FYs 2017 through 2020, the year-ending cash balance for the Reparations Fund averaged around \$10 million. This suggests that the fund should have sufficient cash on hand to absorb any increase in the total amount of compensation paid out annually because of reducing the lookback period for disqualifying prior criminal convictions.

Additional types of victims

The bill includes two additional types of victims who may receive an award of reparations: (1) an immediate family member of a victim of specified criminally injurious conduct, who requires psychiatric care or counseling as a result of that conduct, and (2) a family member or immediate family member of a victim of specified criminally injurious conduct, who suffers trauma so severe that it impedes or prohibits them from participating in normal daily activities when conditions are met.¹

Under current law, an immediate family member of a victim who requires psychiatric care or counseling as a result of the same conduct described by the bill may be reimbursed for that care or counseling through the victim's reparation application for up to \$2,500 per family member, not exceeding \$7,500 total.² Designation as a victim allows these family members to obtain a reparation award of up to \$5,000 for care or counseling. This designation for the second type of victim allows those persons, suffering severe trauma, to receive a reparations award of up to \$15,000 to cover work loss and care or counseling.

According to the Attorney General's Office, these provisions will likely have very little fiscal impact, as it is rare for compensation for care or counseling to reach the current \$7,500 cap. Additionally, the Office expects a small number of additional persons each year would qualify as a victim under the expanded definition. The designation currently exists in case law and is referred to as a "victim in their own right" (VIOR). It is apparently difficult to meet the eligibility criteria established in case law and only two or three VIORs receive reparations each year. Defining this type of victim in statute may make it easier to be granted such a reparations award.

¹ Immediate family member is an individual who resided in the same permanent household as a victim at the time of the criminally injurious conduct and who is related to the victim by affinity (marriage) or consanguinity (shared ancestry). Family member is an individual who is related to a victim by affinity or consanguinity.

² Reparations payable to a victim and to all other claimants is capped at \$50,000 in the aggregate.

The overall annual number is still likely to remain small, and the fiscal impact would be minimal annually.

Procedures

Deferred payment of reparations

Given the provision to reduce the lookback period for criminal disqualification to five years, a situation could arise in which a claimant who is currently incarcerated or subject to some form of community control could receive a reparations award. The bill requires any such payment of an award be deferred until the person has completed their sentence. There is no fiscal effect to this provision because such a situation is very rare, especially with the current ten-year lookback, and the payment would only be deferred.

Simplified award decisions

The bill reduces the amount of specific information that must accompany the Ohio Attorney General's decision on whether or not to grant an award of reparations. This provision would generally create an administrative savings in time and workload relative to the overall decision process. While such savings cannot be quantified, they are likely to be no more than minimal annually.