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Office of Research
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Office

H.B. 161
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Rep. Lampton

Local Impact Statement Procedure Required: Yes

Jessica Murphy, Budget Analyst

Highlights

- At the outset, it appears that county sheriffs generally will not incur significant costs to add more offenders to their existing violent offender database (VOD) responsibilities. It is unclear as to whether this duty will become more fiscally problematic, as the size of the enrolled offender population will grow each year.
- The annual workload and related operating costs of county criminal justice systems generally will increase, with the magnitude of either not quantifiable. The bill noticeably expands the number of offenders required to enroll in the VOD, and are subject to sanctions for prohibition violations. Affected county entities include courts of common pleas, prosecutors, public defenders, probation departments, and sanctioning programs and facilities.
- Violations of the bill's prohibitions will occur and may result in additional offenders being sentenced to a prison term. The marginal annual incarceration costs incurred by the Department of Rehabilitation and Correction to add a relatively small number of offenders to an existing prison population of around 43,000 is \$3,000 to \$4,000 per inmate.
- The state may gain revenue annually in the form of locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Detailed Analysis

Overview

Under continuing law, a person classified as a “violent offender” is subject to certain duties to enroll in the violent offender database (VOD) maintained by the Attorney General’s Bureau of Criminal Investigation (BCI). The bill expands the definition of “violent offender” to include a person convicted of certain child abuse-related offenses, in effect, adding to the population of offenders currently required to enroll. The bill’s offenses generally include permitting child abuse and domestic violence if committed when the offender was 18 years old or older and the victim involved was under 14 years old at the time of the offense.

The bill’s expansion of the definition of “violent offender” will result in the following annual increases:

- The number of offenders required to enroll and re-enroll annually with a county sheriff, and for whom certain information is then forwarded to BCI.
- The work of county criminal justice systems (courts of common pleas, prosecutors, probation departments) related to the presumption and notice of database duties, the filing of offender motions, and the termination of duties.
- The number of offenders charged, convicted, and sanctioned for failure to enroll or re-enroll, a fifth degree felony for which an offender could be sentenced to prison.¹

From calendar years 2016 through 2020, an average of 4,052 child abuse-related offenses were reported annually to the Ohio Incident-Based Reporting System (OIBRS).² At this time, the number of law enforcement agencies submitting data to OIBRS represents approximately 80% of the population. OIBRS does not reflect final charging data or eventual sentencing, but it may provide a sense of the overall number of violations of an offense that could result in subsequent VOD registration duties.

State fiscal effects

Attorney General

The existing VOD, established by BCI pursuant to S.B. 231 of the 132nd General Assembly, became operational March 20, 2019. Administration of the VOD was assigned to Watch Systems, the vendor that was already under contract with the Attorney General to operate the sex offender and arson registries.

The bill is likely to increase noticeably the number of offenders and related information entered into the VOD annually. As of September 2021, there were 1,881 records in the VOD.

¹ An offender being sentenced for failure to comply with VOD duties is eligible for the Targeting Community Alternatives to Prison (T-CAP) Program, meaning that any term of confinement imposed for the offense would be served in a local correctional facility. Generally, a person convicted of a fifth degree felony otherwise is ineligible for T-CAP if previously convicted of a felony offense of violence.

² 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.

According to staff of Ohio's Office of the Attorney General, the fiscal impact on its operations will be minimal, because the VOD is already operational and no major modifications would be required to add offenses. For FYs 2022 and 2023, the Attorney General agreed to pay Watch Systems \$627,085 and \$645,897 for the work associated with these databases and related service features, paid from the General Reimbursement Fund (Fund 1060) through line item 055612, Attorney General Operating.

Department of Rehabilitation and Correction

Continuing law prohibits an offender who has VOD duties from recklessly failing to enroll, re-enroll, or notify the sheriff of a change of address during the ten-year enrollment period or extended enrollment period. A violation of the prohibition is a fifth degree felony. A conviction or guilty plea could result in a definite prison term of 6, 7, 8, 9, 10, 11, or 12 months, a fine of not more than \$2,500, or both.

Under the bill, there will be additional violations annually, and of that number, some will result in an offender being sentenced to prison. Relative to the size of prison population (around 43,000), a slight increase in offenders sentenced to prison for violation of an enrollment requirement will be relatively small, with marginal annual incarceration costs incurred by the Department of Rehabilitation and Correction (DRC) of \$3,000 to \$4,000 per inmate.

Revenues

Relatedly, any increase in violations potentially results in additional revenue in the form of state court costs collected from violators that otherwise would not be subjected to VOD enrollment duties under existing law. State court costs, totaling \$60 for a felony, are divided equally for crediting to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local fiscal effects

Enrollment by offenders

Courts of common pleas

Violent offenders must annually re-enroll in the VOD for ten years following their initial enrollment. The presumption must be rebutted, following a specific procedure, for an offender to avoid these duties. Because of the bill's expanded definition of violent offender, courts of common pleas are likely to experience some increase in the hearings to rebut the presumption to enroll. In addition, administrative costs incurred by those courts to notify more offenders of the presumption, and of the right, procedure, and criteria for rebutting the presumption will increase to the extent that the number of offenders with VOD duties increases. The magnitude of the workload increase and related costs cannot be calculated with any degree of certainty. Additional hearings also create work for county prosecutors and county probation departments.

County sheriffs

After an offender enrolls or re-enrolls in the VOD, the sheriff forwards the offender's signed written enrollment form, photograph, fingerprints, palm prints, and other materials to BCI. At the outset, it appears that county sheriffs generally will not incur significant costs to incorporate the duty to enroll certain child abuse-related offenders into their existing VOD

responsibilities. It is unclear as to whether this duty will become more fiscally problematic, as the size of the registering population grows each year.

Extension and termination of extended periods of enrollment

Current law specifies circumstances under which an offender's enrollment period can be extended. A court extension is imposed, upon a motion made by the prosecutor, if the court finds that the offender has violated a term or condition of their sanction or has been convicted of or pleads guilty to an offense of violence during the ten-year enrollment period. As a result, an offender's enrollment duties would continue indefinitely. An offender may file a termination motion, not more than once every five years during the extended period, to terminate their duties.

Because of the bill's expanded definition of violent offender, courts of common pleas are likely to experience some increase in duty to enroll extension and termination hearings. The magnitude of the workload increase and related costs cannot be reliably quantified. Additional hearings also create work for county prosecutors and county probation departments.

Violations of enrollment requirements

The bill will increase to some degree the number of violations of the duty to enroll, which creates felony cases requiring disposition by a county criminal justice system, by adding new underlying offenses to those that classify a person as a "violent offender" subject to VOD enrollment duties. As a result, counties are likely to experience an increase in their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning a potentially greater number of violators of this offense. That annual increase will depend upon the number of child abuse-related violent offenders prosecuted for a violation of their enrollment duty. Some of that cost may be offset to some degree by money collected from violators (fines, court costs, and fees).