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Office

H.B. 390
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Lanese and John

Local Impact Statement Procedure Required: No

Jessica Murphy, Budget Analyst

Highlights

- Local law enforcement agencies may incur minimal ongoing operating costs to comply with the bill's requirement that biological evidence in a trafficking in persons investigation or prosecution be secured for a specified period of time.
- The Office of the Attorney General's Bureau of Criminal Investigation (BCI) may experience a minimal increase in annual workload and costs related to performing a DNA analysis of any sexual assault examination kit related to a trafficking in persons offense forwarded by a law enforcement agency.
- Local law enforcement agencies generally will experience a short-term increase in administrative costs to review all records and reports related to investigations of trafficking in persons, and forward the contents of any related sexual assault examination in its possession to BCI. The number of human trafficking investigations averaged 209 annually statewide from calendar years 2016 through 2020. The one-time cost increase to any given agency will depend on the length of the lookback period and the number of cases requiring such review.
- There may be a relatively small increase in the number of persons charged and convicted of a felony sex offense and subsequently sentenced to a term of incarceration in state prison. The associated annual operating costs for county criminal justice systems and the Department of Rehabilitation and Correction are expected to be minimal at most.

Detailed Analysis

Preservation of biological evidence

The bill requires government retention entities in possession of a sexual assault examination kit during an investigation or prosecution for an offense of “trafficking in persons” to follow current law procedures for preserving and cataloging biological evidence. Local law enforcement agencies may incur minimal ongoing operating costs to comply with the bill’s requirement that biological evidence in a trafficking in persons investigation or prosecution be secured for a specified period of time. There are likely to be no costs for law enforcement agencies with practices already compliant with this requirement.

The procedure currently applies to (1) aggravated murder, (2) murder, (3) voluntary or involuntary manslaughter, (4) aggravated vehicular homicide, (5) rape or attempted rape, (6) sexual battery, and (7) certain cases of gross sexual imposition (generally pertaining to cases where the victim is less than 13 years of age).

Performance of DNA analysis

The bill requires sexual assault examination kits collected in relation to a trafficking in persons case to be tested and submitted to the Attorney General’s Bureau of Criminal Investigation (BCI) or another crime laboratory for a DNA analysis of the contents of the kit if a DNA analysis has not previously been performed on the kit. The bill does not change the sexual assault examination kit collection process. An examination kit will continue to be voluntary, and a suspected victim will still be able to stop the biological evidence collection process at any time.

According to the Attorney General’s Office, law enforcement and other entities that may possess human trafficking-related sexual assault examination kits are not prohibited from forwarding the contents of a kit to BCI, or a laboratory under contract with BCI, for DNA analysis. BCI and other laboratories are permitted to test any kit that is submitted. These entities are required to test examination kits related to specified sexual offenses that, according to subject matter experts, would also be an underlying part of the trafficking in persons offense. As a matter of practice, if law enforcement suspects that a person is a victim of a sexual offense, evidence is obtained including if that offense is an element of a trafficking in persons case. This would suggest that the potential number of additional kits submitted for analysis will be relatively small and the related annual operating costs for BCI minimal.

Law enforcement agency review of records and reports

The bill requires that a law enforcement agency review all of its records and reports pertaining to its investigation of any violation of a trafficking in persons offense as soon as possible. If the review determines that a person committed a trafficking in persons offense, the law enforcement agency must forward the contents of the sexual assault examination kit to BCI not later than one year after the effective date of the bill. The one-time cost increase to any given agency will depend on the length of the lookback period and the number of cases requiring such review.

The table below provides a selected summary of Ohio's human trafficking statistics for the five-year period from calendar years (CYs) 2016 through 2020.¹ It includes the number of human trafficking investigations, arrests, and successful criminal convictions.

Ohio Law Enforcement Human Trafficking Statistics, CYs 2016-2020					
Human Trafficking Statistic	2016	2017	2018	2019	2020
Investigations	135	202	242	251	216
Arrests	79	70	80	166	76
Criminal Convictions	28	18	61	56	18

Criminal prosecutions

Because of the bill, there may be a relatively small increase in the number of persons charged and convicted of a felony sex offense and subsequently sentenced to a term of incarceration in state prison. The associated annual operating costs for county criminal justice systems to prosecute and adjudicate such cases is expected to be minimal at most.

As of December 2021, the prison population managed by the Department of Rehabilitation and Correction (DRC) totaled 43,234. For FY 2021, the average annual cost per inmate was \$35,405 (\$97 per day). The marginal cost of adding a relatively small number of offenders to the prison system is roughly \$4,000 per offender per year. If, as assumed, the bill will affect a relatively small number of offenders then any increase in DRC's annual incarceration costs is likely to be minimal.

¹ Data from the Office of the Attorney General's annual human tracking reports.