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Office

H.B. 276
134th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Powell and Schmidt

Local Impact Statement Procedure Required: No

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Highlights

- The number of “receiving proceeds of prostitution” offense violations for county criminal justice systems to adjudicate is likely to be relatively small with any additional costs being minimal at most annually and potentially absorbed by utilizing existing staff and resources. Revenue in the form of court costs, fees, and fines may offset those costs to some degree.
- There may be a negligible annual gain in locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).
- Because of the possibility of additional convictions under the state’s Corrupt Activities Law, the state and local criminal justice systems may collect more revenue in the form of fines, court costs and fees, court-ordered cost reimbursements, and forfeitures, as applicable.
- The Department of Rehabilitation and Correction may experience an increase in marginal incarceration costs, currently around \$4,000 per offender per year.

Detailed Analysis

Receiving proceeds of prostitution

The bill creates the new offense of “receiving proceeds of prostitution.” The offense prohibits a person from receiving or acquiring money or any other thing of value knowing that the money or other thing of value was earned from sexual activity for hire or because of human trafficking. The offense does not apply to a prostitute who receives or acquires money or any other thing of value from the prostitute’s own engagement in sexual activity for hire. A violation

of “receiving proceeds of prostitution” is generally a third degree felony. However, if the offender knowingly receives or acquires proceeds of prostitution from a prostitute who is under 18, a violation is a second degree felony. (The sentences and fines for violations are summarized in the table below.)

The bill also removes “promiscuously” from the definition of “prostitute” for purposes of continuing Sexual Offenses Law so that a prostitute means a male or female who engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

Engaging in a pattern of corrupt activity

This new offense is also included list of offenses that constitute “corrupt activity” under the Corrupt Activities Law. If certain violations meet the criteria for “engaging in a pattern of corrupt activity” under R.C. 2923.32, the offender may also be subject to the penalties for a first degree felony under that Law. The sentencing court has the option to:

- Impose a fine in lieu of the general fine for a first degree felony not exceeding the greater of three times the gross value gained or three times the gross loss caused payable to the state’s existing Corrupt Activity Investigation and Prosecution Fund (Fund 6290);
- Assess court costs; and/or
- Assess investigative and prosecutorial costs.

It is unknown how often a sentencing court would impose these types of sanctions or how often a case would meet the criteria for prosecution of “engaging in a pattern of corrupt activity.” Existing data indicates that the option to impose a fine as described in the first dot point above is rarely used. From calendar year 2000 to date, no deposits have been made to Fund 6290.

Criminal justice system impact

The number of violations of “receiving proceeds of prostitution” or “engaging in a pattern of corrupt activity” resulting in new criminal cases is expected to be relatively small. Based on information gathered from subject matter experts, this behavior would likely be tied to other possible offenses, for instance “compelling prostitution” or “promoting prostitution.”

Under the bill, prosecution of a violation of receiving proceeds of prostitution does not preclude a prosecution for a violation of any other Revised Code section. As such, any act, series of acts, or a course of behavior that can be prosecuted under receiving proceeds of prostitution may be prosecuted under that offense, another offense, or both offenses. As an additional charge, the likely result would be to give prosecutors additional avenues in which to prosecute the prohibited behavior.

If an offender is convicted of or pleads guilty to a violation of receiving proceeds of prostitution and also is convicted of or pleads guilty to a violation another offense (compelling prostitution, promoting prostitution, and certain other prostitution offenses) that involves the same conduct and the same victim, the two offenses are allied offenses of similar import. Allied offenses are multiple crimes that arise from and are committed by the same conduct, and that the court must treat as one offense for sentencing. This specification would apply at the point of conviction and will have no impact on charging.

Any additional costs for county criminal justice systems to prosecute, adjudicate, and sanction offenders is likely to be minimal at most annually, and potentially absorbed by utilizing

existing staff and resources. Revenue in the form of fines and court costs and fees may be collected from offenders. In the case of a felony, the state collects a \$60 court cost from the offender divided as follows: \$30 to the Indigent Defense Support Fund (Fund 5DY0) and \$30 to the Victims of Crime/Reparations Fund (Fund 4020).

To the extent that additional offenders are convicted of this new offense and sentenced to prison, the Department of Rehabilitation and Correction may experience an increase in marginal costs. Those marginal costs are currently around \$4,000 per offender per year.

| Fines and Sentences for Violations Under the Bill (Receiving Proceeds of Prostitution) | | | |
|--|---------------------|---|--|
| Prohibition | Felony Level | Fines | Possible Term of Incarceration |
| Knowingly receiving or acquiring money or any other thing of value from a prostitute earned from sexual activity (generally) | F-3 | Up to \$10,000 | 9, 12, 18, 24, 30, or 36 months definite prison term |
| Knowingly receiving or acquiring money or any other thing of value from a prostitute under 18 | F-2 | Up to \$15,000 | 2, 3, 4, 5, 6, 7, or 8 years indefinite prison term* |
| Engaging in a pattern of corrupt activity | F-1 | (1) Up to \$20,000, or (2) fine not exceeding the greater of 3x the gross value gained or 3x the gross loss caused payable to the state's Corrupt Activity Investigation and Prosecution Fund (Fund 6290) | 3, 4, 5, 6, 7, 8, 9, 10, or 11 years indefinite prison term* |

*The sentencing court imposes a minimum sentence for first and second degree felony offenses committed after March 22, 2019. The court specifies a maximum sentence that is 50% greater than the minimum sentence. The court is permitted, after a hearing, to reduce the minimum sentence by 5% to 15% upon recommendation of the Department of Rehabilitation and Correction.