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H.B. 50
135th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Humphrey and Seitz

Local Impact Statement Procedure Required: Yes

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Highlights

- Courts of common pleas will incur onetime costs to develop and implement the bill's required petition mechanism that may be minimized to the degree that it can be incorporated into the existing certificate of qualification for employment (CQE) mechanism.
- The ongoing fiscal effect on courts of common pleas will be a function of (1) demand (number of petitions filed annually), which is unknown, (2) operating costs, and (3) revenue from filing fees, and other costs and fees. Common pleas court expenses may be minimized to the degree that a court's work can be incorporated into the existing CQE database managed by DRC.
- It is unclear as to whether DRC has the capacity to absorb the work likely to be generated by the bill, perhaps by reallocating existing staff as needed, or will need to hire additional staff.
- The amount of revenue generated for any given county will depend on the number of petitions filed and the degree to which the CQH fees and court costs mirror those currently applicable to CQE petitions. The amount of revenue generated for the state will also depend on demand, as well as the frequency with which the filing fee is waived or partially waived.
- The net of the cost and revenue for counties is indeterminate. The potential demand is unknown. A large number of filings could be costly, especially in jurisdictions trying to minimize the cost to an individual as a barrier to petitioning. As the annual CQE data shows, the largest pool of potential petitioners will be in the state's urban counties.

- The number of tort actions that may be filed against housing providers in local trial courts is unpredictable, as is the frequency with which a defendant will be a public metropolitan housing authority.

Detailed Analysis

Certificate of qualification for housing

The bill creates a mechanism by which an individual who is subject to a collateral sanction for housing may obtain a certificate of qualification for housing (CQH) that may provide relief from certain bars on housing. This mechanism largely mirrors the existing process for the issuance of a certificate of qualification for employment (CQE) authorized by R.C. 2953.25.

To receive consideration, the bill requires an individual to file a CQH petition with the Department of Rehabilitation and Correction's Deputy Director of the Division of Parole and Community Services, or the court of common pleas. The petition is to be reviewed for completeness, and then reviewed by the court. The court is (1) permitted to order any report, investigation, or disclosure by the individual, and (2) required to decide whether to issue the CQH within 60 days after court receives or is forwarded the completed petition and all information requested for the court to make that decision. The individual is permitted to appeal a denial to the court of appeals if the individual alleges that the denial was an abuse of discretion. The bill requires that a CQH be revoked if the individual to whom the CQH was issued is convicted of or pleads guilty to a felony or a misdemeanor offense of violence subsequent to the issuance of the CQH.

Courts of common pleas will incur onetime costs to develop and implement the required petition mechanism that may be minimized to the degree that it can be incorporated into the existing CQE mechanism. The ongoing annual operating costs for a court of common pleas will be a function of demand (number of petitions filed annually), which is unknown. The bill will create more work and may require more resources, in particular available staff. The capacity of any given court to absorb the work is unclear. Also unclear is whether DRC has the capacity to absorb the work likely to be generated by the bill, perhaps by reallocating existing staff as needed, or will need to hire additional staff.

Certificate of qualification for employment (CQE)

For some context of what may occur under the bill's CQH mechanism, a brief overview of historical CQE workload data is described below, as the two programs are likely to operate similarly.

According to annual CQE petition summary data available on the Department of Rehabilitation and Correction's website, there are thousands of petitions administered annually statewide, and that some, based on calendar year (CY) 2016 and 2017 survey data, required three or more hours for the initial investigation and around 30% of petitions required additional investigative work.

The table below summarizes the number of CQE petitions managed annually from CYs 2017-2021. A study of the annual reports showed that the largest pool of petitioners were in the state's urban counties.

Table 1. Number of CQE Petitions Managed Annually, CYs 2017-2021

2017	2018	2019	2020	2021
5,097	3,803	7,302	1,223	8,280

The annual reports for 2017 contain workload data generated by a survey of the courts of common pleas.¹ The responses to certain questions are summarized in the table below, including the number of hours the court expended on the initial investigation, the frequency with which the court ordered an additional investigation, who performed that investigation, and the amount of time spent.

Table 2. Court of Common Pleas CQE Workload Survey, CY 2017

Court hours on initial investigation	Under 3 hours: 92% 3-5 hours: 6% +5 hours: 2%
Order additional investigations	30% of cases
Who collected	Probation Department: 69% Clerk: 0% Court: 3% Other: 28%
Time spent	Under 3 hours: 35% 3-5 hours: 0% +5 hours: 65%

Revenues

Unless waived or partially waived, a petitioner is required to pay a \$50 filing fee distributed as follows: \$30 credited to the state GRF and \$20 credited to the county general fund. Under current practice as it relates to CQE petitions, some courts also charge court cost and special project fees. According to the CQE annual report for CY 2018, the total amount in fees and court costs assessed a petitioner varied from \$0-\$450 statewide. The amount generated for any given county will depend on the number of petitions filed and the degree to which the CQH fees and court costs mirror those currently applicable to CQE petitions. The amount of revenue generated for the state will also depend on demand, as well as the frequency with which the filing fee is waived or partially waived.

¹ This is the most recent and readily available workload survey data.

Tort action

The bill: (1) provides that, in a tort action² against a decision-maker for negligent leasing, a CQH issued to an individual provides immunity for the decision-maker as to the claim if the decision-maker knew of the CQH at the time of the alleged negligence, and (2) specifies the circumstances in which a decision-maker, subsequent to such an individual demonstrating dangerousness or being convicted of or pleading guilty to a felony or a misdemeanor offense of violence, may be held liable in a civil action that is based on or related to the retention of the individual as a lessee. A decision-maker is defined as a landlord or a metropolitan housing authority. The filing of such civil actions in local trial courts is unpredictable, as is the frequency with which the defendant will be a public metropolitan housing authority.

Private right of action

The bill specifies that its provisions do not create or provide a private right of action. The number of private actions that otherwise may be brought absent this provision is unpredictable.

Legal aid society funds

The bill prohibits financial assistance received by a legal aid society from the Legal Aid Fund (Fund 5740) from being used for the provision of legal services in any criminal case or proceeding or in the provision of legal assistance in any fee generating case. The bill's prohibition has no direct fiscal effect on the state or political subdivisions, as a civil legal aid society is a nonprofit corporation

² "Tort action" means a civil action for injury, death, or loss to person or property.