



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Fiscal Note & Local Impact Statement

**Bill:** S.B. 158 of the 132nd G.A.

**Status:** As Reported by Senate Judiciary

**Sponsor:** Sen. Wilson

**Local Impact Statement Procedure Required:** No

**Subject:** Elder fraud and financial exploitation

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### State Fiscal Highlights

- The potential additional annual operating expenses for the Attorney General to comply with the bill's public awareness publication requirement are expected to be minimal, as any additional work created by this requirement will most likely be absorbed into the work performed under the Attorney General's existing Elder Justice Initiative.

### Local Fiscal Highlights

- The potential annual cost for clerks of courts of common pleas, municipal, and county courts to modify and then maintain their accounting systems in order to properly record and disburse fine money to their respective county department of job and family services (CDJFS) is not expected to exceed minimal.
- CDJFSs may receive additional reports of adult abuse, neglect, and exploitation, resulting in increased costs to carry out required investigations. The additional costs may be offset to some degree by additional fine money forwarded by the clerk of court.

### Detailed Fiscal Analysis

The bill (1) increases the financial penalties for certain financial crimes committed against elderly victims, (2) adds to the list of mandatory reporters for adult abuse, neglect, or exploitation, (3) requires the Attorney General to distribute public awareness publications that provide information on elder fraud and exploitation, and (4) requires specified state agencies to develop best practices and standards for preventing elder fraud and financial exploitation.

#### Prevalence of fraud-related crimes

Research indicates that there does not appear to be a statewide data source that tracks the number of cases or complaints of fraud and identity theft by age of the victim. However, the Federal Trade Commission (FTC) has compiled data on victims of fraud and identity theft on a state-by-state basis in order to track the location of specific types

of financial crimes. As this reporting is voluntary, the FTC numbers do not provide a complete picture of complaints that reach local police departments. In Ohio, for calendar year (CY) 2016, the FTC recorded 77,213 fraud-related complaints and 11,009 complaints of identity theft (88,222 total).

A 2014 Bureau of Justice Statistics report indicates that approximately 13% of identity theft victims were persons age 65 or older in CY 2012. Data is based on the National Crime Victimization Survey (NCVS) that collects information on the frequency and nature of crime that includes crimes not reported to law enforcement. Assuming that the frequency at which identity theft is committed against the elderly is essentially uniform across financial-related crimes, then we could reasonably estimate that 11,468 (13% of 88,222) FTC fraud and identity complaints potentially involved elderly persons. The number of complaints that result in investigations and successful prosecution is uncertain.

### **Penalty of theft or fraud offenses**

The bill increases the financial penalty for certain theft or fraud offenses if the victim is an elderly person.<sup>1</sup> Under the bill, if the victim of the offense is an elderly person, in addition to any other penalty imposed for the offense under continuing law, the offender must also pay full restitution to the victim and pay a fine of up to \$50,000. However, courts rarely impose the maximum permissible fine. It is also the case that collecting court costs, fees, fines, and restitution from offenders can be problematic, as many are financially unable or unwilling to pay. Given the uncertainty regarding the number of cases that would be subject to the increased financial penalty and the issue of "collectability," it is difficult to estimate the additional fine revenue that might be generated under the bill.

Clerks of common pleas courts, municipal courts, and county courts will be required to collect and then forward the fine amount for deposit to the county department of job and family services (CDJFS). Presumably, these clerks of courts will need to modify their accounting systems in order to properly record and disburse the fine amount to the CDJFS. Under current law, these offenders may already be ordered to pay restitution at the court's discretion; therefore, there is not expected to be a significant increase in administrative costs associated with processing or enforcing the collection of payments. It does not appear that the potential annual cost to establish and maintain the appropriate controls for any given court would exceed minimal.

### **Mandatory reporters of adult abuse, neglect, or exploitation**

The bill adds dealers, sales persons, or investment advisor representatives to the list of mandatory reporters of adult abuse, neglect, and exploitation. These additional mandatory reporters may increase the number of cases reported to CDJFSs. CDJFSs are

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<sup>1</sup> Offenses are theft from a person in a protected class, misuse of credit cards, forgery, forging identification cards or selling or distributing forged identification cards, securing writings by deception, and identity fraud against a person in a protected class.

required to begin investigating reports of adult abuse, neglect, or exploitation within three working days of receiving the report. Therefore, to the extent the number of reported cases increases under the bill, investigation costs will also likely increase. However, CDJFS revenue may also increase due to the previously mentioned additional fine of up to \$50,000.

### **Public service announcements**

The bill requires the Attorney General to distribute at least six public awareness publications each year to inform the public of warning signs to identify, methods to report, and available resources to prevent or remedy elder fraud or financial exploitation. The additional annual operating expenses to comply with this requirement will be minimal at most, as any additional work is expected to be absorbed into the work performed under the Attorney General's existing Elder Justice Initiative.

### **Best practices and standards**

The bill requires the directors of the Department of Aging, Department of Commerce, Ohio Department of Job and Family Services (ODJFS), and the Attorney General, along with CDJFSs and others, to jointly develop best practices and standards for preventing elder fraud and exploitation, provide education on the subject, and ensure victims have access to available services and resources. These requirements will impose an administrative cost. The bill further requires these agencies, with the exception of the Attorney General, to produce a report by December 1, 2018, again likely posing an administrative cost.