OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 346
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 346's Bill Analysis

Version: As Passed by the House

Primary Sponsors: Reps. Kishman and Williams

Local Impact Statement Procedure Required: No

Jessica Murphy, Senior Budget Analyst, and other LBO staff

Highlights

- Public children services agencies (PCSAs) and law enforcement agencies might realize an increase in investigative costs if the bill's dual reporting requirements result in additional reports of abuse or neglect for either respective entity.
- Adding criminal and civil liabilities to health care professionals who fail to report to both a peace officer and PCSA, is not expected to have a significant ongoing cost on local criminal and civil justice systems assuming that mandatory reporters will largely comply with the bill's reporting requirement.

Detailed Analysis

Procedures for investigations

The bill requires health care professionals to make reports of child abuse or neglect to ***both*** the public children services agency (PCSA) and a peace officer, rather than either the PCSA ***or*** a peace officer. In addition, the bill requires that any law enforcement agency investigating a report, in addition to the PCSA, be provided, on request, any additional reports of medical examinations, tests, or procedures that were performed on the child regarding the alleged abuse or neglect. The bill specifies that the continuing law requirement that the PCSA notify the appropriate law enforcement agency of a report be done promptly, but no later than 48 hours after receiving the report. Generally, under current law and practice, there is information sharing between the PCSAs and law enforcement when there is a report of child abuse or neglect. As such, the notification and evidence-related changes will ensure that this information sharing takes place, with any increase in costs expected to be minimal.

As a result of the bill's dual reporting requirements, PCSAs and law enforcement agencies might experience additional costs to investigate reports of child abuse or neglect if the bill results

in additional reported cases. Such investigations may lead to subsequent criminal charges, impacting local criminal justice systems.

Criminal and civil penalties

The bill extends criminal and civil liabilities for failing to report known or suspected child abuse or neglect to both a peace officer and the PCSA.

Under current law, a mandatory reporter who fails to immediately report known or suspected child abuse or neglect is guilty of a fourth degree misdemeanor, which is punishable by up to 30 days in jail and a fine of up to $250. The offense is elevated to a first degree misdemeanor, punishable by up to 180 days in jail and a fine of up to $1,000, if the known or suspected child abuse or neglect occurs while the child is under the reporter's direct care or supervision in an official or professional capacity, or under the supervision of another person over whom the reporter has control. The bill amends the prohibition by adding the mental state of "knowingly" for failure to report. Furthermore, the bill makes it a first degree misdemeanor charge if the health care professional reports only to a peace officer or only to a PCSA, but fails to report to both.

Regarding civil liability, a mandatory reporter who fails to report known or suspected child abuse or neglect is liable for compensatory and exemplary damages to the child who would have been the subject of the report. The bill extends this existing liability to include a health care professional who fails to report known or suspected abuse or neglect to both a peace officer and the PCSA.

The net effect of these changes is not expected to have a significant ongoing cost on local criminal and civil justice systems. It is assumed that health care professionals will largely comply with the bill's expanded reporting requirements, meaning that violations will be infrequent. Thus, counties and municipalities will experience no discernible ongoing fiscal effects. To the degree there are occasional cases, costs may be offset somewhat by the collection of fines and court costs/fees.[1] Similarly, given the relative infrequency of civil actions in these cases, it is expected that the common pleas, municipal, and county courts will be able to absorb any additional filings into their respective caseloads with little, if any, discernible effect on annual operating expenses.

FNHB0346PH-136/lb

[1] Fines are generally credited to a county's general fund, while local court costs and fees can be deposited for a mix of general and specific purposes. For misdemeanors, state court costs are $29 and credited as follows: $20 to the Indigent Defense Support Fund (Fund 5DY0) and $9 to the Victims of Crime/Reparations Fund (Fund 4020).