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S.B. 163
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 163's Bill Analysis](#)

Version: As Passed by the Senate

Primary Sponsors: Sens. Blessing and Johnson

Local Impact Statement Procedure Required: No

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Highlights

- The bill may result in additional criminal and civil case filings which will likely increase the annual operating costs for affected local judicial systems. Although such a cost increase is not readily quantifiable, it should be minimal and absorbed by utilizing existing staff and resources. Revenue in the form of court costs, fees, and fines may offset those costs to some degree.
- The bill's expansion of certain pandering offenses and identity fraud may result in a marginal increase in the size of the population for the departments of Rehabilitation and Correction (DRC) and Youth Services (DYS). The increase in costs will depend on the number of offenders who are sentenced and the marginal cost per offender for each year of confinement or supervision.

Detailed Analysis

The bill: (1) provides for regulations of “generative artificial intelligence systems” and the content created by such systems, (2) expands current criminal obscenity statutes to include depictions of a purported minor, or an impaired person and certain artificially generated depictions of minors, (3) prohibits identity fraud involving the creation or use of a replica of a person's persona, including replicas produced in whole or in part by generative artificial intelligence systems, and (4) provides a mix of criminal penalties and civil remedies. These changes can be seen, at least in part, as addressing conduct that given rapidly changing technology may not explicitly, or unambiguously, violate an existing criminal prohibition.

Criminal provisions

The bill expands the offense of “pandering obscenity involving a minor or impaired person” to include “depictions of a purported minor.”¹ It also expands the offenses of “pandering sexually oriented matter involving a minor or impaired person” and “illegal use of a minor or impaired person in nudity-oriented material or performance” to include “artificially generated depictions”² of minors. A violation of any of these three offenses ranges from a felony of the fourth degree to a felony of the second degree depending on the type of conduct committed, victim classification, and whether it is a repeat offense.

The bill also expands the offense of identity fraud to prohibit the use of a replica of a person’s persona for certain activities. Following continuing law, the offense is a felony, with the degree (fifth, fourth, third, second, or first degree) depending on the amount of money defrauded, whether the victim belonged to certain protected classes, and if other specified statutes were violated as part of the offending conduct. The table below shows the general sentencing guidance and fines for felony offenses.

Felony Sentences and Fines

Offense Level	Fine	Term of Incarceration
Felony 1 st Degree*	Up to \$20,000	3, 4, 5, 6, 7, 8, 9, 10, or 11 years indefinite prison term
Felony 2 nd Degree	Up to \$15,000	2, 3, 4, 5, 6, 7, or 8 years indefinite prison term
Felony 3 rd Degree	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
Felony 4 th Degree	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term
Felony 5 th Degree	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term

*The sentencing court must impose a minimum sentence for first and second degree felony offenses and specify a maximum sentence that is 50% greater than the minimum sentence. The court, after a hearing, may reduce the minimum sentence by 5% to 15% upon recommendation of the Department of Rehabilitation and Correction.

Fiscal effects

The number of new criminal cases, stemming from prohibited behavior in the bill is difficult to estimate and will, at least in part, be dependent on the evolving development and use of generative artificial intelligence systems. In the near term, the bill will likely affect a relatively small number of cases under the jurisdiction of any given county justice system. However, the

¹ A “depiction of a purported minor,” for purposes of the bill, is a visual representation that appears to depict an actual minor that a reasonable person would believe depicts or represents an actual minor but may or may not depict an actual minor (R.C. 2907.321(E)(2)).

² An “artificially generated depiction,” for purposes of the bill, is a visual depiction of an actual person that was created or edited by artificial intelligence or other computer-generated means and that a reasonable person would believe depicts or represents an actual person who is identifiable by the person’s face, likeness, or other distinguishing characteristic (R.C. 2907.321(E)(1)).

costs associated with adjudication, prosecution, indigent defense (if applicable), and sanctioning, will likely be minimal annually for any single jurisdiction.

Any increase in costs related to prosecuting and adjudicating new cases that result from the bill's changes could be offset to some extent through court cost and fine revenue. Fines would be deposited with the county in which the trial court is located. Of note is that a court rarely imposes the maximum permissible fine, and collecting the fine and court costs and fees can be problematic. This is because offenders can be financially unable or unwilling to pay. In addition to locally collected costs and fines, a court also imposes state court costs that are credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The \$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020. The annual revenue gain to the state will be minimal at most annually.

As a result of any convictions, there could potentially be a small number of additional offenders sentenced to prison. The fiscal effect of a relatively small increase in an existing prison population of approximately 45,000 will not generate a significant increase in the Department of Rehabilitation and Correction's (DRC) annual incarceration expenditures. The marginal cost for DRC to add a relatively small number of offenders to its total inmate population is estimated at around \$4,900 per offender per year. This suggests that any increase in DRC's GRF-funded incarceration costs is likely to be no more than minimal annually.

The Department of Youth Services (DYS) could also experience an increase in population size over time. DYS's average daily facility population in FY 2024 was around 500. The marginal cost to add a juvenile to that population is around \$44.55 per day, or about \$16,261 per year. This suggests that adding a relatively small number of juveniles to that population in any given year will result in no more than a minimal increase in DYS's annual institutional care and custody costs. It should be noted that the majority of youth adjudicated by the juvenile justice system for felony-level offenses are served locally through community-based programs instead of being committed to a DYS facility.

Investigations and civil actions

The bill authorizes the Attorney General to investigate violations of the bill's regulatory provisions regarding generative artificial intelligence systems. The Attorney General may bring a civil action against violators for injunctive relief. If the violator removes an artificial intelligence-generated watermark, the Attorney General may seek a civil penalty of up to \$10,000. A person alleging harm may bring a civil action against the violator for damages only after filing a complaint with the Attorney General and waiting six months without action from the Attorney General.

Fiscal effects

The number of new civil actions that may be filed as a result of the bill is uncertain but likely to be minimal annually for any single jurisdiction. The effect on the daily operations and related operating expenses of the courts will depend on the monetary amount being sought by the victim, the frequency of civil actions being filed, and the matter's legal complexity. Municipal and county courts have limited civil jurisdiction, and may only hear cases in which the amount of money in dispute does not exceed \$15,000. Common pleas courts hear all cases in which the amount of money in dispute is more than \$15,000.

Overall, the magnitude of work involved for the Attorney General's Consumer Protection Section or the courts would depend on the number of complaints filed/reported, investigations

performed, and enforcement actions taken. Any costs are expected to be absorbed utilizing existing staff and resources and partially offset if any civil penalties are assessed and recouped. Any civil penalties collected under the bill must be deposited into the Consumer Protection Enforcement Fund (Fund 6310).