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Office of Research and Drafting

Legislative Budget Office

S.B. 422
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 422's Bill Analysis

Version: As Passed by the Senate

Primary Sponsors: Sens. Schaffer and Brenner

Local Impact Statement Procedure Required: No

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Highlights

- It appears unlikely that the bill will create many new criminal cases for county and municipal criminal justice systems to process. That said, any new criminal case that is created as a result of violating the bill's prohibitions carries the potential to increase costs related to the matter's investigation, prosecution, and adjudication; defense counsel if the offender is deemed indigent; and subsequent local sanctioning of the offender. Any resulting increase for any affected county or municipal criminal justice system will be minimal annually, as it seems likely that the number of violations will be relatively small, with costs offset to some degree by fines and fees.
- If, as a result of violating the bill's prohibitions, additional offenders are convicted of a misdemeanor or felony offense, the state GRF and the Victims of Crime/Reparations Fund (Fund 4020) could experience an increase in locally collected state court cost revenues that the court requires such an offender to pay. However, since the likely number of offenders appears to be relatively small, the amount of money that the GRF and Fund 4020 may gain annually is likely to be negligible.
- As a result of violations of the bill's felony prohibitions for three or more violations, it is possible that a few additional offenders will be sentenced to prison. The fiscal effect of such an outcome would be a marginal increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs.

Detailed Analysis

The bill prohibits an adult qualified sex offender/child victim offender from knowingly being present on the premises of any school, preschool, or child care center, or on premises where a school-affiliated ticketed event is occurring, unless for a legitimate purpose as defined

by the bill. The bill also provides for an affirmative defense if certain criteria are met. A "qualified sex offender/child victim offender" means a person who is either of the following: (1) a person who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to criminal child enticement with a sexual motivation or importuning and who is classified as a Tier I sex offender/child-victim offender relative to that offense, or (2) a person who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any sexually oriented offense that qualifies that person for a Tier II or Tier III sex offender/child-victim offender status, and who is classified as such relative to that offense.

According to the Office of the Attorney General, there are currently 20,618 adult, nonincarcerated sex offenders registered in Ohio. Of that number, 3,650 are classified adult Tier I offenders, 6,108 are adult Tier II offenders, and 2,809 are adult Tier III offenders. The prohibition will apply to all adult Tier II and III offenders, and a small subset of Tier I offenders. This population is expected to be relatively small in each county, varying according to the demographic makeup of each jurisdiction (large urban counties would have more sex offenders who would be subject to this new restriction compared to other counties). This would suggest that the number of likely violations of the bill's prohibition that might be generated for any given county or municipal criminal justice system to adjudicate will be few in number relative to overall criminal caseloads, and that any related increase in adjudication and sanctioning costs and revenues in the form of court costs and fines will be minimal annually.

The penalties associated with violating the bill's new prohibition (R.C. 2950.036) are outlined in the table below.

Sentences and Fines for Violating R.C. 2950.036

Offense	Degree of Offense*	Prison/Jail Term	Fine
First offense	Misdemeanor 2nd degree	Jail, not more than 90 days	Up to $750
Second offense	Misdemeanor 1st degree	Jail, not more than 180 days	Up to $1,000
Third and subsequent offenses	Felony 5th degree	6, 7, 8, 9, 10, 11, or 12 months definite prison term	Up to $2,500

*For fifth degree felonies, the sentencing guidelines state a general presumption against a prison term and for community control.

Fiscal effects

Attorney General

The Bureau of Criminal Investigation (BCI), housed within the Attorney General's Office, will be responsible for identifying offenders subject to the bill's Tier II and Tier III prohibition. Once identified, BCI would include this information into the public sex offender registry, as required under the bill, which will generate costs to modify the registry to include additional parameters. Schools would likely receive first notice or complaint of an individual's presence on school premises which would lead to some manner of investigation (verifying the individual's status on the public sex offender registry) and then contacting local law enforcement if necessary. Because the Attorney General must include the relevant restriction information in the publicly accessible registry, schools would likely rely on the existing public online sex offender

search tool to obtain this information. However, it is uncertain whether any additional data sharing process between BCI and schools would be necessary.

Department of Rehabilitation and Correction

As a result of three or more violations of the bill's prohibition, it is possible that additional offenders could be sentenced to prison. In theory, the fiscal effect of such an outcome would be an increase in the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs. It appears, however, that the number of new felony convictions that may result from violations of the bill is likely to be relatively small and any related potential increase in DRC's annual incarceration costs would be no more than marginal. Marginal costs are those that increase or decrease directly on a per-person basis with changes in prison population (i.e., clothing, food, medical services, etc.). For FY 2025, DRC's reported marginal daily cost per offender was $13.47, or $4,917 per year.

Local criminal justice system revenues and expenditures generally

County sheriff expenditures

The bill requires a county sheriff to provide notice at initial registration of the bill's prohibition to an affected offender, including a statement of the legitimate purposes for which the offender may be present on school premises or preschool or child care center premises. If the offender is already registered, notice must be made during their next contact. Presumably, the sheriff will have a list of those offenders requiring the notification, as BCI will have made these notations in the public sex offender database. Since the bill does not require the sheriff to notify each offender more than once, the additional administrative cost to perform these duties should be no more than minimal annually for each county.

However, according to the Buckeye State Sheriffs' Association, given the number of offenders with children in schools, family in schools, and other events that take place in and after school, it may be difficult for law enforcement to monitor compliance with the bill's new restriction. This could require additional time and resources to carry out monitoring responsibilities.

Adjudication costs and revenues

As noted, it appears unlikely that the bill's prohibition will create many new cases for county and municipal criminal justice systems to process. That said, any new criminal case that is created as a result of violating the bill's prohibition, in theory, carries the potential to increase costs related to investigating, prosecuting, adjudicating, and sanctioning the offender, as well as paying for defense counsel if the offender is indigent. Any resulting increase in an affected county or municipal criminal justice system's expenditures is likely to be no more than minimal annually, as it seems likely that the number of violations will be relatively small. This would suggest that the amount of additional annual revenue that a county or municipality might collect from such offenders would be minimal as well, especially as many are unwilling or unable to pay.

As the number of violations of the bill's Tier II and Tier III prohibition is expected to be relatively small, any gain in related state court costs will be negligible annually. "State court costs" are statutorily specified amounts collected by local courts and forwarded for deposit in the state treasury. For a nonmoving traffic violation, the court is generally required to impose state court costs totaling $29 for a misdemeanor and $60 for a felony. The $29 misdemeanor amount is

divided as follows: $20 to the Indigent Defense Support Fund (Fund 5DY0) and $9 to 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.

School meeting and communications alternatives

The bill requires public and nonpublic schools to provide reasonable off-site or remote alternatives for meetings and communications with parents who are prohibited under the bill from knowingly being present on school premises unless it is for a legitimate purpose (a "legitimate purpose" includes transporting the parent's child to and from school or a school-sponsored event in which the child is a participant, picking up the child in the event of an emergency, or attending a parent-teacher conference or similar meetings as long as the meeting occurs during nonschool hours). The bill provides discretion to schools to determine whether an accommodation is necessary. Furthermore, the bill clarifies that this provision must not limit the rights of students with a disability between the ages of 18 and 22 to receive a free appropriate public education or to attend school. In these cases, the bill permits school districts to implement an individualized safety plan and requires them to impose reasonable safety and supervision conditions on the student's presence on school premises, which may result in an increase in workload and administrative costs for school districts. Otherwise, the fiscal effect of these provisions on school districts and other public schools appears to be minimal at most.

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