



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 217
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 217's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Sens. Blessing and Johnson

Local Impact Statement Procedure Required: No

Jessica Murphy, Senior Budget Analyst

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 more or less 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 the felony offenses of "pandering obscenity involving a minor or impaired person" and "identity fraud" may result in a marginal increase in the size of the prison population that the Department of Rehabilitation and Correction (DRC) will likely absorb by utilizing existing staff and resources.

Detailed Analysis

The bill: (1) requires products generated by artificial intelligence (AI) to have a watermark, (2) prohibits simulated child pornography, (3) prohibits identity fraud using a replica of a person's persona, 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 by also prohibiting simulated obscene material. The bill makes it a third degree felony for a person to make or transmit any simulated obscene material, and a fourth degree felony for a person to buy, procure, possess, or control any simulated obscene material.

The bill also expands the offense of identity fraud to prohibit the use of a replica of a person's persona for certain activities. These activities are described in detail in the bill analysis.

Following continuing law, the offense is a felony (fifth, fourth, third, second, or first degree), with the 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 general sentencing guidance and fines for felony offenses.

Felony Sentences and Fines for Offenses		
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 effect

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 AI.¹ 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 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, a court generally 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 because of violations of the bill 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

¹ As defined by the bill, "artificial intelligence," means a machine-based system that, for a given set of human-defined objectives, uses machine- and human-based inputs to make predictions, recommendations, or decisions influencing real or virtual environments.

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 \$4,000 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.

Civil actions

The bill requires that websites and service providers remove simulated child obscenity and obscene material created using a replica of a person's persona in violation of offenses related to identity fraud from their platform within 24 hours of receiving notice from the Attorney General. A party that fails to remove the simulated child obscenity within 24 hours is liable for civil penalties of up to \$1,000 per day. The Attorney General may bring a civil action seeking compliance with these requirements, and may seek civil penalties, injunctions, and restraining orders. The bill also allows a person whose persona is replicated in violation of this section to also bring a civil action against the violator.

In addition, the bill (1) requires products generated by artificial intelligence to have a watermark, (2) prohibits the removal of these watermarks for the purpose of concealing that the product was created using AI, and (3) provides that any person harmed by a violation of this watermark requirement may bring a civil action against the violator for damages. The Attorney General may also bring a civil action against violators for injunctive relief. If the violator removes an AI-generated watermark, the Attorney General may seek a civil penalty of up to \$10,000.

Fiscal effect

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 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).