



BOARD

Long /Willamowski Letter

The Ohio Statehouse has been a very busy place since the 128th General Assembly has commenced. While the major focus has been on the economic hard times and the state budget, legislators have been busy introducing other legislation as well.

The Ohio Judicial Conference has added to the excitement by distributing our *2009-10 Legislative Platform*. The platform presents issues that are important to Ohio judges and the judiciary, and refers legislators to more information on the OJC website at www.ohiojudges.org. As co-chairs of the Legislative Committee, and former legislators, we have been at the Statehouse introducing ourselves to new members and getting reacquainted with old friends. In February and March Retired Judge Mark Schweikert, Executive Director, made introductory presentations before several House and Senate Committees that will be hearing bills on topics of interest to judges and that will affect courts.

The Judicial Conference is making a special effort to build relations between local judges and legislators, and has designed programs to promote collaboration and partnership between the branches of government. On March 10th, 2009 we hosted a reception for legislators along with the Supreme Court of Ohio and the Ohio State Bar Association at the Ohio Judicial Center.

On March 25th, 2009, the Judicial Conference brought in 14 judges to visit their local legislators and observe them in hearings and in legislative session. The judges gained some insight into what the legislative process is like and experienced first hand what it is like to be a legislator. Next the legislators will visit their local courthouses to observe their local judges at work. Legislators are expected to learn more about the judicial process and come to understand what it is like to serve as a judge. This Judicial-Legislative Exchange Program is sponsored by the Ohio Judicial Conference, and Chief Justice Tom Moyer hosts a luncheon of judges and legislators whenever there are organized statehouse visits. We hope that many of you will get involved in this program when we begin another round of reciprocal visits next fall.

*Judge Jan Michael Long, Pickaway County Probate/Juvenile Court
Judge John Willamowski, Third District Court of Appeals
Co-Chairs, Ohio Judicial Conference Legislative Committee*

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If you have any questions about any of the articles in *Bill Board*, please contact the Judicial Conference Legislative Activities Staff listed on the following page.

2009 Ohio Judicial Conference Law & Procedure Committee Meetings

Civil Law & Procedure

May 8, 2009

2:00 – 4:00 p.m.

September 16, 2009

8:00 – 9:45 a.m.

(in conjunction with OJC Annual Meeting)

December 11, 2009

2:00 – 4:00 p.m.

Court Administration

May 14, 2009

6:00 – 8:00 p.m.

(in conjunction with Court Tech. Conference)

July 14, 2009

6:00 – 8:00 p.m.

September 18, 2009

1:00 – 3:00 p.m.

(in conjunction with OJC Annual Meeting)

November 5, 2009

6:00 – 8:00 p.m.

(in conjunction with OJC Executive Committee)

Criminal Law & Procedure

July 19, 2009

(prior to AMCJO Board meeting)

December 2, 2009

6:00 – 8:00 p.m.

Domestic Relations Law & Procedure

June 8, 2009

6:00 – 9:00 p.m.

September 16, 2009

6:00 – 9:00 p.m.

(in conjunction with OJC Annual Meeting)

November 30, 2009

6:00 – 9:00 p.m.

Juvenile Law & Procedure

June 8, 2009

1:00 – 4:00 p.m.

September 15, 2009

11:00 a.m. – 2:00 p.m.

December 11, 2009

1:00 – 4:00 p.m.

Probate Law & Procedure

June 8, 2009

4:00 – 6:00 p.m.

September 16, 2009

3:00 – 5:00 p.m.

(in conjunction with OJC Annual Meeting)

November 5, 2009

2:00 – 4:00 p.m.

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For further meeting information, visit the
Judicial Conference website at
www.ohiojudges.org. Click on
Committees.

Judicial/Legislative Relations

Legislative Reception a Success



Representative Tyrone Yates and Barb Howard of the OSBA

On March 10th 2009, the Ohio Judicial Conference along with the Supreme Court of Ohio and the Ohio State Bar Association co-hosted a reception welcoming members of the 128th General Assembly. This was the first year that the Conference invited all members of the state legislature, and as a result, had the largest turnout ever to a legislative event.



OJC Executive Director Mark Schweikert, Judge Frederick Hany and Representative Jeff Wagner at the March 10th Legislative Reception

In spite of late-running committee hearings and several competing receptions, nearly fifty legislators and several legislative staffers attended the Tuesday evening affair. More than thirty judges from across the state drove to the capital that day to meet and greet their local legislators. Chief Justice Moyer addressed the one hundred and fifty guests, which also included Supreme Court staff and representatives from the Ohio State Bar Association, about the importance of maintaining positive relationships between the separate branches of government.

Judicial-Legislative Exchange Program

The Judicial Conference recognizes the following judges and legislators for participating in the March 25th Exchange Program:

Judge Richard James	Representative Tom Letson
Judge Alan Goldsberry	Representative Sandra Stabile Harwood
Judge Taryn Heath	Representative Debbie Phillips
Judge Michael Nunner	Representative Stephen Slesnick
Judge Michael Goulding	Representative Allan Sayre
Judge Mark Wall	Representative Barbara Sears
Judge Nick Kuntz	Representative Timothy Derickson
Judge John Wallace	Representative Clayton Luckie
Judge Robert Konstam	Representative Jay Goyal
Judge James Flannery	Representative Shannon Jones
Judge Mary Jane Trapp	Representative Dan Dodd
	Representative Raymond Pryor
	Senator Tom Sawyer
	Senator Tim Schaffer

On March 25th, the Conference hosted its annual “Judicial-Legislative Exchange Program” in Columbus.

This program brings together judges and legislators to observe each other at work. Last month, eleven judges travelled to Columbus to visit fourteen local legislators and observe legislative hearings, voting sessions, press conferences and interested party meetings. The judges experience the legislative process first-hand and gained understanding about what it is like to be a legislator. Reciprocal visits of legislators to local courthouses will take place over the coming few months. Legislators will get the opportunity to learn about the judicial process and the role of the judge both in and out of the courtroom.

As part of the program Chief Justice Moyer hosted lunch at the Ohio Judicial Center for all participants as well as legislative staff. The Judicial Conference plans another round of visits to the state capital in the fall; please contact us if you would like to participate

Budget News

GENERAL ASSEMBLY CONSIDERS CRIMINAL JUSTICE REFORMS AIMED AT PRISON CROWDING

House Bill 1, the biennial budget bill, and Senate Bill 22, sponsored by Senator Bill Seitz (R—Cincinnati), contain a number of essentially identical provisions relevant to the criminal justice system. The bills propose increasing the felony theft threshold, requiring community control sanctions for felony nonsupport violations, removing absconding from Adult Parole Authority (APA) supervision as an escape offense, and increasing the number of credit days an offender can earn while incarcerated.

Each of the proposals is intended to alleviate Ohio's prison crowding problem. Recent estimates put Ohio's prison population at over 50,000 inmates. The Ohio Department of Rehabilitation and Correction (DRC) predicts substantial increases in the prison population over the next ten years, reaching over 59,000 inmates by 2018.

The Judicial Conference's Community Corrections and Criminal Law and Procedure Committees reviewed each of the proposals. As introduced, provisions in the bills requiring community control sanctions for felony nonsupport violations, removing absconding from APA supervision as an escape offense, and increasing the number of credit days incarcerated offenders can earn by participating in educational and vocational programs are potentially problematic from the standpoint of judicial independence and the criminal justice system's credibility. The committees concluded that some of the provisions might also undermine the principle of "truth in sentencing" that is at the foundation of Ohio's criminal sentencing system.

The Judicial Conference has been actively engaging in discussions with Senator Seitz, DRC, and other interested parties about modifying the proposals to ameliorate their potentially negative impact on the criminal justice system. These discussions have been very productive. The Judicial Conference thanks Senator Seitz and DRC for working with the Judicial Conference on this legislation. The Judicial Conference is closely monitoring both bills and will continue to work with the General Assembly and interested parties in developing the bills' provisions.

Budget Bill Raises Court Costs for Indigent Defense



In a recent letter to House Speaker Armond Budish and Senate President Bill Harris, Mark Schweikert indicated that the Ohio Judicial Conference's Executive Committee had endorsed a Court Administration Committee recommendation to oppose House Bill 1's provisions raising funds for indigent defense by increasing surcharges, court costs, and court fees. The letter explains that the money raised from increased court costs would not even go to improve indigent defense, but would instead go to reimburse counties for money they are currently spending on indigent defense. In effect, the increased court costs would end up in the county general fund without being used for court operations or to improve indigent defense.

Executive Director Judge Schweikert told the House and Senate leaders that the vote to oppose raising court costs was consistent with the Judicial Conference's Policy Statement on Court Costs. That statement articulates the Judicial Conference's longstanding position that court costs and fees should be nominal and should be used to support only programs and projects that are court functions. This was a recommendation subsequently adopted by the Supreme Court of Ohio/General Assembly Joint Committee to Study Court Costs and Filing Fees, which was established by House Bill 336, 126th General Assembly.

This position was not an easy one for the Executive Committee of the Ohio Judicial Conference, especially since the Conference has a long history of encouraging full funding of adequate indigent defense services. Director Schweikert has offered testimony supporting the budget requests of the state public defender and has echoed the funding recommendations of the Pro Se and Indigent Litigants Task Force in support of indigent defense. As that report suggested, Ohio judges are particularly concerned that any new funding provided be directed to the improvement of indigent defense in Ohio, not just to provide greater reimbursement to counties.

In the letter, the Ohio Judicial Conference also expressed concerns about the continued increases to driver's license reinstatement fees and explained how these increases can be counterproductive. There are now so many possible restrictions on Ohio driving privileges that courts are establishing special programs to help people work their way through the maze to have their licenses restored. Most often they have created the problem by their own irresponsible conduct. Nonetheless, the burden to achieve legal status can become so great that it is overwhelming and leads to continued violations and escalating punishment.

The Ohio Judicial Conference recognizes that the General Assembly has the authority to make these changes and is sympathetic to the many challenges legislators face in funding indigent defense. Nonetheless, the Judicial Conference felt it was important to encourage the General Assembly to fund indigent defense at a level that is dependable and adequate without relying on the courts as a routine state revenue source or increasing the financial obstacles to restoring driving privileges for the deserving.

For more information on our Policy Statement on Court Costs, please visit www.ohiojudges.org.

House Bill 1 (Budget Bill), 128th GA Indigent Defense Support Fund (IDSF)

Code Reference	Description of change	Cost/Fee Increase
R.C. 2937.22	Imposes a \$25 surcharge on bail postings. The \$25 goes to the Indigent Defense Support Fund.	Surcharge increases from \$0 to \$25.
R.C. 2949.091 (A)(1) and A(2). This applies to adult offenders and juvenile offenders (child determined to be a delinquent or a juvenile traffic offender)	Increases costs to be assigned on felony, misdemeanor, and traffic offenses. These costs and increases (\$15, \$5, and \$10) go to the Indigent Defense Support Fund.	Costs on felony offenses are increased from \$15 to \$30. Costs on misdemeanor and moving traffic offenses are increased from \$15 to \$20. Costs on non-moving traffic (except parking) offenses increase from \$0 to \$10.
R.C. 4507.45	Increases license reinstatement fee. The \$10 increase goes to the Indigent Defense Support Fund.	Fee for reinstatement fee is increased from \$30 to \$40.
R.C. 4509.101	Increases financial responsibility reinstatement fee. The increases (\$25, \$50, \$100) go to the Indigent Defense Support Fund.	Fee increases from \$75 to \$100 for first violation. Fee increases from \$250 to \$300 for second violation. Fee increases from \$500 to \$600 for three or more violations.
R.C. 4510.22	Increases the driving under suspension reinstatement fee. The \$10 increase goes to the Indigent Defense Support Fund.	Fee increases from \$15 to \$25.

CCAO Testifies Before House Finance Committee

Before the legislature's spring recess, the House Finance and Appropriations Committee heard testimony from the County Commissioners Association of Ohio (CCAO) regarding proposals that CCAO claimed would help counties deal with the economic hard times. The spokesman for the CCAO was a former legislator, Kerry Metzger, who is now serving as a commissioner in Tuscarawas County. Mr. Metzger is the current President of the CCAO and, among other things, he asked for the authority to control funds restricted to court purposes, increase court costs to reimburse counties for indigent defense expenses, and the authority to set the salaries of court personnel.

Access to Restricted Funds. Ohio judges oppose giving county commissioners the authority to declare a surplus in funds restricted to court purposes and control and to move those dollars to the county general fund. The creation of those funds was originally requested by the courts for the purpose of addressing the lack of funding available from local county general funds for support of special projects to improve the courts and their services. They have been used to improve court facilities, to expand probation services, to support special docket courts, to enhance computerization and technology efforts, and to provide special services for jurors, children, witnesses, or victims. Under existing law courts can stop collecting the special funds and/or declare a surplus. This responsibility properly rests with the judge and not the county commissioners.

Indigent Defense. Ohio judges oppose increasing court costs for the purpose of reimbursing counties for their indigent defense expenses. Unfortunately, the Ohio General Assembly's share of local indigent defense expenses has declined over time, leaving the local county commissioners paying an increasingly larger percentage of those expenses. As a result, this burden competes with all other county needs, including courts, for limited county funds. Financially strapped county commissioners may exercise their control over county public defenders by setting unrealistic public defender budgets and appointed counsel rates. A state funding model may be a better solution. But the proposal advocated by the CCAO that increased amounts included in House Bill 1 for indigent defense be used solely to reimburse counties for current expenditures would not address the real problem, which is the perceived growing decline in the quality of indigent defense. Not only does House Bill 1 unfairly burden the court with the responsibility of assessing court costs to fund a program that is not a court operation, but it requires that 90 percent of those funds be used to supplant existing services rather than to provide needed improvements in indigent defense. The judicial branch of government should not be

required to fund other agencies or to exact taxes upon users or offenders to expand the purses of the county commissioners.

Court Personnel. Ohio judges oppose the effort by the CCAO to seize control over the salaries of court personnel. It would depart from longstanding constitutional and statutory law to give the county commissioners the authority to set the salary of court staff. Making staffing decisions is at the heart of the operational decisions that judges must make to operate their courts. Certainly economic hard times do not justify the county commissioners usurping powers of a branch of government and altering the balance of power between the branches and levels of government.

The Ohio Constitution and statutory law make it clear that judges determine what it takes to run the courts. Indeed, the constitutional system of government is designed so that each branch of government has control over the tools necessary to do its job and to protect itself from the encroachment of another branch of government. The CCAO proposals illustrate that the county commissioners are willing to use the economic crisis to challenge this fundamental concept.

The judges of Ohio understand the economic situation and are prepared to cooperate with the other branches of Ohio government to make sure we get through this economic crisis together. At this time judges understand that they must be fiscally responsible and do what they can to operate their courts efficiently and help their local counties weather this storm. Judges have historically been committed to being fiscally responsible and accountable to the people of Ohio. That is why the Ohio Constitution has been widely interpreted to provide that judges are authorized to determine court budget requirements within the standard of what is reasonable and necessary for that purpose. Unlike county commissioners who have a multitude of competing interests and responsibilities, judges have a primary duty to their oath to ensure that the administration of justice does not falter.

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The principle of separation of powers is at the heart of our democratic government. Just as the legislative and executive branches of government have control over the operation of their branches, the judiciary must defend its capacity to control the operation of the judicial branch and oppose the CCAO's attempt to seize control of the authority of judges to determine such things as how to manage court funds, how to staff court operations, and other essential functions.

Despite the rhetoric, the CCAO proposals are not cost-saving measures, they are an attempt to grab money and power. The Ohio Judicial Conference stands firmly in opposition to these proposals. We encourage our judges to make sure your local legislators understand the important issues that are at stake.

For more information on what OJC has done or plans to do on these matters, please contact Retired Judge Mark R. Schweikert, Executive Director of the Ohio Judicial Conference.

**Visit our website at
ohiojudges.org**

JUDICIAL CONFERENCE OPPOSES CHANGES TO INDIGENT DRIVERS ALCOHOL TREATMENT FUNDS

As introduced, House Bill 1, the biennial budget bill, contains provisions that would change how indigent drivers alcohol treatment (IDAT) funds are administered. Currently, every county, municipal, and juvenile court controls its own IDAT fund. IDAT funds exist for the purpose of administering substance abuse assessments and treatment for indigent OVI offenders. The money in each court's individual fund is comprised largely of OVI-related fines and fees arising from cases within that court's jurisdiction.

When its IDAT fund balance exceeds amounts necessary to provide indigent OVI offenders assessments and treatment, a court may declare a surplus in its fund and use the money for assessments and treatment of indigent offenders convicted of other types of criminal offenses. Surplus funds may also be used to fund all or part of the cost of purchasing electronic continuous alcohol monitoring devices (SCRAM), which are devices that provide to courts continuous data about offenders' alcohol consumption.

Rather than each court having its own IDAT fund, House Bill 1 proposes new regional IDAT funds controlled by the drug addiction services board or board of alcohol, drug addiction, and mental health services that services a region. Money in existing IDAT funds would be transferred into the new regional funds on the bill's effective date. It would become each board's responsibility to declare a surplus and a board would have the authority to expend the surplus on substance abuse assessments, treatment, and SCRAM as it deems appropriate.

On February 27, 2009, the Judicial Conference's Executive Committee voted to oppose House Bill 1's proposed IDAT changes upon the recommendation of the Judicial Conference's Community Corrections and Court Administration Committees. On March 17, 2009, Judge James A. Shriver (Clermont County Municipal Court) testified on the matter before the Human Services Subcommittee to the House Finance and Appropriations Committee. Judge Shriver delivered the testimony on behalf of both the Judicial Conference and the Association of Municipal and County Court Judges of Ohio (AMCJO). The testimony raised potential constitutional considerations related to the proposal and identified potential practical problems with having multiple courts sharing a single IDAT fund controlled by a regional board.

Judge Shriver later represented the Judicial Conference and AMCJO at an interested party meeting on House Bill 1's IDAT provisions. The meeting was hosted by the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) and was attended by various interest groups, including court administrators charged with overseeing IDAT funds and representatives from several regional boards. Judge Shriver encouraged ODADAS to withdraw its IDAT provisions from the budget bill.

Following the meeting, ODADAS agreed to support an amendment removing from House Bill 1 the proposed IDAT fund changes. The effect of the planned amendment will be to maintain current law, which allows every county,

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municipal, and juvenile court to control the money in its respective fund, and to require local boards of alcohol, drug addiction, and mental health services to submit an annual report concerning IDAT expenditures and individuals served.

The Judicial Conference has promised to work with ODADAS to identify unexpended surplus IDAT funds across the state and to facilitate a cooperative relationship between courts and their local boards. The goal is to address any obstacles to the expenditure of IDAT funds and to facilitate expenditure of the funds on assessments and treatment. It is the Judicial Conference's view that this planned dialogue between the courts, ODADAS, and the regional boards will render future legislative action in this area unnecessary.

The Judicial Conference has undertaken a survey of each county, municipal, and juvenile court inquiring as to the current balance in their respective funds and a description of any obstacles preventing the funds' expenditure. The Judicial Conference thanks those judges who have already responded to the survey and encourages those judges who have not yet had the opportunity to complete the survey to do so at their earliest convenience.

The Judicial Conference extends its thanks to Judge Shriver for his assistance on this matter. The Judicial Conference also appreciates the efforts of Sarah Morrison, AMCJO's legislative counsel, in helping to communicate to the General Assembly and interested parties the potential negative impact of House Bill 1's proposed IDAT fund reforms.

Courts and Judges

Bills for Enhanced Penalties for Attacks against Judges

The Ohio House of Representatives is considering two bills that would enhance the penalty for assaulting or threatening a judge—House Bill 89 was introduced by Representative Jim Zehringer (R-Fort Recovery) and House Bill 103 was introduced by Representative Lorraine Fende (D-Willowick). Previous General Assemblies have pursued similar legislation. For example, Senate Bill 391, 126th and Senate Bill 100, 127th were introduced by Steve Austria and House Bill 265, 127th was introduced by Representative Fende.

The Ohio Judicial Conference believes this legislation is necessary to prevent assaults like the one experienced by Judge Michael McClurg of the Darke County Probate/Juvenile Court and threats like those experienced by Judge Catherine Barber of the Fairborn Municipal Court in Greene County. These experiences are horrible for the judge as well as disturbing to the citizens of the counties where the violence or threat takes place. The disrespect and violence to these judges resulted from their position as a judge.

Unfortunately, these attacks and threats against judges and their families are not isolated events, and the Ohio Judicial Conference has made the issue of judicial attacks part of its legislative platform in both the 127th and the 128th General Assemblies.

Although we are pleased that Representatives Fende and Zehringer have taken the lead in the 128th General Assembly to deal with this important issue. We believe this change will improve Ohio's capacity to deal more effectively with crimes against judges and magistrates. We cannot allow these violent episodes to take place and erode the confidence of Ohio citizens in the security of the judiciary.

We support both House Bill 89 and House Bill 103 and believe that both bills are consistent with the Judicial Conference's *2009-2010 Legislative Platform*, the Judicial Conference believes there are several advantages to the approach taken by Jim Zehringer in House Bill 89.

- ❖ House Bill 89 revises and expands existing sections in Revised Code chapter 2921

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dealing with intimidation and retaliation. Judges prefer this approach to the solution offered in House Bill 103 to create a new and separate section in the Ohio Revised Code to deal with assaulting or threatening a judge.

- ❖ House Bill 89 distinguishes between a random act of violence where the victim just happens to be a judge and an intentional act of violence against a judge because of his or her office. This ensures that the bill captures within its net only those offenders who knowingly commit assaults against a judge or magistrate. This clarification appears in sections of the Ohio Revised Code dealing with felonious assaults (R.C. 2903.11), aggravated assaults (R.C. 2903.12), assaults (R.C. 2903.13), and aggravated menacing (R.C. 2903.21).

CLERK'S PROPOSAL RAISES FEES

The Ohio Clerk of Courts Association is looking for the support of the Ohio Judicial Conference for a proposal that would raise certain fees that have not been raised since 1996. These fees would go to help Clerks keep up with the technological and computer changes that threaten to outpace existing systems.

The Clerks' Association initially approached the Judicial Conference with a proposal to increase fees and transfer control of court computerization monies to the clerks. That proposal was opposed by the Court Administration Committee of the Judicial Conference, but the committee remained open to negotiating with the clerks if they would leave control of court computerization monies with the judges.

Judge James Shriver, co-chair of the Court Administration Committee and member of the group considering the fee proposal, recently suggested that corresponding costs in the municipal courts also be raised.

- ❖ House Bill 89 clarifies R.C. 2921.03 and 2921.05 such that an "unlawful threat" is one that is direct or indirect/by proxy.
- ❖ House Bill 89 amends R.C. 2903.13, making it a first-degree misdemeanor if the assault takes place on courthouse grounds or on any premises where a courtroom is located.

If you know of a judge or magistrate who has been a victim of threats or assaults, please report these instances to the Ohio Judicial Conference so that they can be documented in the Judicial Impact Statement that is being prepared on House Bills 89 and 103.

Working Group on Clerk Fees

Representatives of the

Ohio Clerk of Courts Association

- Todd Bickle (Muskingum)
- Noreen Saunders (Galia)
- Greg Brush (Montgomery)
- Rockne Clarke (Tuscarawas)
- Pamela Dillard (Lucas)
- Kathy Fortney (Medina)
- Bernie Quilter (Lucas)

Representatives of the Ohio Judicial Conference

- Judge Chad Carey (Clinton)
- Judge Robert Hickson (Morrow)
- Judge Michael Sage (Butler)
- Judge Charles Schneider (Franklin)
- Judge James Shriver (Clermont)
- Kim Switzer (Hancock)
- Judge A.J. Wagner (Montgomery)
- Judge Roger Wilson (Champaign)

Other Representatives

- Jo Ellen Cline, Supreme Court of Ohio
- Steve Stover, Ohio State Bar Association
- Larry Long, County Commissioners Association of Ohio

Law and Procedure Committees

TEEN DATING VIOLENCE BILL RE-INTRODUCED

On February 17, 2009, Representative Edna Brown (D—Toledo) introduced House Bill 10, which deals with teen dating violence. The bill is a reintroduction of House Bill 247 from the 127th General Assembly, which passed the House and was reported by the Senate Judiciary—Civil Justice Committee near the end of the last legislative term but was not enacted. That bill was introduced in the wake of several tragic incidents of teen dating violence in Ohio, including the fatal shooting of a Toledo teenager by her ex-boyfriend.

House Bill 10 would give juvenile courts exclusive original jurisdiction over petitions for civil stalking protection orders when the respondent is a minor, a concept that is included on the Ohio Judicial Conference's *2009-2010 Legislative Platform*. Enactment of the jurisdictional provisions of House Bill 10 will improve the administration of justice and public confidence in the law by placing jurisdiction over civil protection orders involving juvenile respondents in the judicial forum best equipped to adjudicate those cases, and by giving young victims of violence an appropriate forum in which to seek protection orders that law enforcement can enforce.

Other provisions in House Bill 10 would also impact the administration of justice, including expanding the grounds to obtain civil stalking protection orders when the parties are involved in a teen dating relationship; establishing who has standing to file petitions for protection orders on behalf of juvenile petitioners; and providing a right to counsel for indigent parties to protection order proceedings in juvenile courts by operation of existing law. In addition, separate issues raised by the General Assembly with respect to this bill would also impact the administration of justice, including possible amendments to authorize sealing or expunging records of ex parte protection orders when a final order is not issued and expanding electronic monitoring to juvenile respondents to civil stalking protection orders. The Ohio Judicial Conference is committed to working with Representative Brown and other legislators with respect to these issues to ensure that the bill will accurately reflect legislative intent while minimizing unintended consequences.

House Bill 10 has been assigned to the House Civil and Commercial Law Committee, which heard sponsor and proponent testimony on the bill prior to the legislature's spring recess. The Ohio Judicial Conference is preparing a judicial impact statement on House Bill 10 and would like to thank Representative Brown for taking into account the input of Ohio's judges on this bill and its predecessor.

For more information, please contact Corie Marty, legislative liaison to the Juvenile Law and Procedure Committee.

HOUSE BILL 3 PROPOSES GIVING JUDGES AUTHORITY TO MODIFY MORTGAGE TERMS

House Bill 3, sponsored by Representative Mike Foley (D—Cleveland) and Representative Denise Driehaus (D—Cincinnati), proposes a series of reforms aimed at Ohio's current foreclosure crisis. The bill's many provisions include imposing a six-month moratorium on residential mortgage foreclosure actions; authorizing courts to modify mortgage terms; requiring creditors filing foreclosure complaints to transmit a payment of \$1,500 to the Department of Commerce; and prohibiting clerks of courts from accepting foreclosure filings unless the filings are accompanied by certain notices, information, and disclosures.



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The Judicial Conference's Civil Law and Procedure Committee recently reviewed House Bill 3. Although the committee appreciates the critical situation that led to the bill's introduction, the committee identified several potential problems with the legislation, which have been shared with the House Housing and Urban Revitalization Committee.

The introduced version of House Bill 3 authorized courts to reduce the principal amount of mortgage loans and to reduce the interest rate on those loans. The Civil Law and Procedure Committee was concerned that this provision could constitute a potential contract impairment under the U.S. and Ohio Constitutions and does not provide clear standards for courts to employ in changing loan terms. The House recently adopted a substitute version of the bill that authorizes judges to lower the interest rate on subprime mortgages only. If a reduced interest rate does not lower payments to a "reasonable" amount, the judge may extend the term of the mortgage or reduce the loan payment to a "reasonable" amount if doing so works to the benefit of both the lender and borrower. The difference in payments that results from any adjustment is due as an interest-free balloon payment at the end of the modification period, which cannot exceed five years.

The committee was also troubled by provisions requiring creditors filing foreclosure complaints to simultaneously transmit \$1,500 to the Department of Commerce for deposit into a state trust fund created in the bill, which would be used for various purposes related to assisting homeowners facing foreclosure. The committee questions whether the fee is so onerous as to effectively deny creditors access to Ohio's courts in violation of Article I, Section 16 of the Ohio Constitution, which guarantees every person access to the state's courts to redress injuries. The committee also observed that the \$1,500 fee implicates the Judicial Conference's court cost policy, which posits that court costs should be applied to directly support the courts and should not be levied by courts for the purpose of funding any special interest.

Lastly, House Bill 3 contains provisions prohibiting a clerk of courts from accepting a complaint to initiate a foreclosure action unless the complaint is accompanied by copies of certain notices specified in the bill. The committee is concerned that this provision will result in clerks' staff having to make a legal assessment as to the sufficiency of foreclosure complaints, which could prove burdensome and hinder clerks' office staff's capacity to effectively administer foreclosure complaints and other filings. Conditioning the filing of foreclosure complaints as proposed in House Bill 3 may run afoul of Article IV, Section 5(B) of the Ohio Constitution, which confers upon the Supreme Court the authority to establish rules of practice and procedure in Ohio's courts.

The Judicial Conference is closely monitoring House Bill 3 and will continue to advocate for modifications to the legislation that will ameliorate its potentially negative judicial impact. Director Schweikert, accompanied by Judge Thomas Marcelain, Licking County Court of Common Pleas, testified before the Housing and Urban Revitalization Committee on April 22, 2009. He encouraged the committee to reconsider the issues raised above.

For more information, please contact Andre Imbrogno, legislative liaison to the Civil Law and Procedure Committee.

ENACTMENTS

The following is a brief description of enactments that went into effect April 7, 2009. The summaries below highlight only the key provisions of the bills. Anyone interested in these bills would be well-advised to look at the full text of each bill and accompanying Legislative Service Commission bill analyses, which are available at www.legislature.state.oh.us, or to contact the Judicial Conference for more information.

House Bill 7 (Adoption) As enacted, the bill contains several provisions that will affect Ohio's courts, including the following:

- Authorizes payment of the birth mother's living expenses up to \$3000.
- Streamlines the foster care to adoption process by requiring the Director of Job and Family Services to adopt rules aligning the adoption and foster care home study processes, decreasing the amount of time a child must reside with a foster caregiver before the caregiver may file an adoption petition, and eliminating the requirement that a juvenile court consent to an adoption before a probate court may grant certain adoption petitions involving legal guardians or custodians.
- Permits the probate court to finalize an adoption without the consent of a birth parent if the court finds by clear and convincing evidence that the parent failed to provide more than de minimis contact with the child or to provide for the child's maintenance and support for one year; also requires the clerk of courts to send a notice to the birth parent containing statutorily specified language informing of the right to contest the adoption and warning that the adoption, if granted, will terminate parental rights.
- Provides that an interlocutory order of adoption becomes final not less than six months and not more than one year from the date of the child's placement in the adoptive home, rather than from the date of the order's issuance.
- Prohibits a juvenile court from extending a temporary custody order beyond two years from the earlier of the date the complaint was filed or the date the child was placed in shelter care, and requires a juvenile court to place a child in the permanent custody of a public children services agency under certain circumstances.
- Specifies that when a juvenile court is considering placing a child in a planned permanent living arrangement because the child is in residential or institutional care, the care must be needed for a significant period of time beyond the date of the child's dispositional hearing.

Substitute Senate Bill 108 (Judicial Release) The act makes an offender ineligible for judicial release under R.C. 2929.20 if the offender is serving a stated prison term for committing one of the following felony offenses if the offender committed the offense while holding any elected federal, state, or local government office in Ohio:

- Bribery (R.C. 2921.02), intimidation (R.C. 2921.03), retaliation (R.C. 2921.05), obstructing official business (R.C. 2921.31), obstructing justice (R.C. 2921.32), theft in office (R.C. 2921.41), having an unlawful interest in a public contract (R.C. 2921.42), or engaging in a pattern of corrupt activity (R.C. 2923.32).
- A violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is substantially equivalent to any offense listed in the preceding dot point.
- A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in the two preceding dot points.
- Tampering with records (R.C. 2913.42), intimidation of an attorney, victim, or witness in a criminal case (R.C. 2921.04), perjury (R.C. 2921.11), or tampering with evidence (R.C. 2921.12), when the conduct constituting the offense was related to the duties of the offender's public office or the offender's actions as a public official holding that public office.

- A violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is substantially equivalent to any offense listed in the preceding dot point, when the conduct constituting the offense was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office.
- A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in the two preceding dot points, if the conduct constituting the underlying offense would have been related to the duties of the offender's public office or to the offender's actions as a public official holding that public office.

The bill defines the term "public office" as any elected federal, state, or local government office in Ohio.

Effective April 7, 2009.

Amended Substitute House Bill 130 (DRC Omnibus). The act does all of the following:

- Authorizes a court of common pleas to enter into an agreement with DRC under which the court participates in the post-release supervision of offenders (R.C. 2967.29).
- Requires that, upon the conviction or guilty plea to a new felony by a person on post-release control, the court must either impose a prison term for the post-release control violation or impose a community control sanction for the violation, but not both (R.C. 2929.141).
- Permits a court to require an offender convicted of a drug abuse offense that is a felony of the third, fourth, or fifth degree to be assessed by a properly credentialed professional before sentencing and to impose a community control sanction that includes treatment and recovery support services (R.C. 2929.13(E)(3)).
- Permits a court sentencing a felony offender who is eligible for community control sanctions and who admits to being drug addicted or whom the court has reason to believe is drug addicted to require, if the offense was related to the addiction, that the offender be assessed by a properly credentialed professional and to impose a requirement that the offender participate in an authorized treatment and recovery support services program if convicted of certain specified drug offenses (R.C. 2929.15(A)(3) and (4)).
- Makes drug dependent persons or persons in danger of becoming drug addicted eligible for prosecuting attorney pretrial diversion programs (R.C. 2935.36(A)(4)).
- With respect to the plans required under continuing law for offenders selected for intervention in lieu of conviction, requires that the plan include participation in treatment and recovery support services and permits the plan to include community service or restitution (R.C. 2951.041(D)).
- Requires a court when imposing a mandatory prison term to notify the felony offender that the prison term is mandatory and requires a court that determines that a prison term is necessary or required for a felony offender to include in the sentencing entry the name and section reference to the offense or offenses; the sentence or sentences imposed and whether the sentence or sentences contain mandatory prison terms; if sentences are imposed for multiple counts, whether the sentences are to be served concurrently or consecutively; and the name and section reference for any specification or specifications for which sentence is imposed and the sentence or sentences imposed for the specifications (R.C. 2929.19(B)(3)(a) and (b)). Specifies that the failure of a court to comply with those requirements does not affect the validity of the sentence (R.C. 2929.19(B)(8)).
- Replaces the time periods for filing a motion for judicial release based on the level of the offense with time periods based on the length of the imposed prison term (R.C. 2929.20(C)).
- Specifies that, if a court denies an offender's motion for judicial release without a hearing, both of the following apply:
 - If the court denies the motion *without* prejudice, the court may later consider a judicial release for the offender on a subsequent motion filed by the offender.
 - If the court denies the motion *with* prejudice, the court may later consider judicial release on its own motion. (R.C. 2929.20(D).)

Effective April 7, 2009.

Substitute House Bill 215 (*Salvia divinorum*/Vehicular Offenses). The act does all of the following:

- Adds *Salvia divinorum* and salvinorin A as Schedule I controlled substances.¹
- Authorizes the sheriff of a county that lacks sufficient jail space to convey a person who has been charged with an offense and is being held pending trial to a jail in a contiguous county in an adjoining state if the sheriff considers that jail most convenient and secure.
- Provides that the penalty enhancement for aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter for driving under a license suspension and the requirement for a mandatory prison term in certain cases of aggravated vehicular homicide and vehicular homicide for driving under suspension also apply to driving under cancellation and driving without a license.
- Specifies that a law enforcement officer who makes a request that a person with two or more violations of the OMWI or OVI prohibitions submit to a chemical test is not required to advise the person of the consequences of refusing to submit to the test or tests and is not required to give the person a warning form.
- Revises the mechanism for distributing the existing \$1.50 court cost enacted in Amended Substitute House Bill 562 of the 127th General Assembly to fund SCRAM and ignition interlock for indigent traffic offenders by requiring the clerk of court to transmit the court cost to the county, municipal, or county juvenile indigent drivers alcohol treatment fund under the control of the court, rather than to the state treasury.
- Modifies provisions in existing law governing transmittal of the \$50 vehicle immobilization waiver fee imposed under R.C. 4503.235 to require that the clerk of court transmit all of the fees collected during a month on or before the 23rd day of the following month to the state treasury, rather than requiring each fee to be deposited individually in the state treasury.
- Modifies provisions in existing law governing transmittal of the mandatory \$2.50 court cost imposed upon issuance of an order prohibiting an OVI offender from exercising limited driving privileges without ignition interlock or SCRAM to require that the clerk of court transmit the court costs collected during a month to the state treasury on or before the 23rd day of the following month, rather than requiring transmittal on the first day of the following month.
- Makes technical, corrective modifications to provisions enacted in Amended Substitute Senate Bill 17 of the 127th General Assembly (OVI reform bill).
- Modifies the conditions that currently delimit the scope of a person's appeal of an administrative license suspension to provide that if the person was arrested as a repeat offender and was subject to a chemical test even if he or she objected, one of the conditions within the scope of the appeal is whether the arresting officer advised the person at the time of the arrest that if the person refused the chemical test, the officer could employ whatever means reasonably necessary to ensure that the person submitted to the test. Additionally modifies the existing conditions by specifying that if the suspension was imposed under the Vehicle Implied Consent Law Administrative License provisions regarding a refusal, one of the conditions that may be considered as part of the appeal is whether the arrested person refused to submit to a chemical test, or if the suspension was imposed under the Vehicle Implied Consent Law Administrative License provisions regarding having a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance in the person's system, whether the arrest was for a violation of R.C. 4511.19(A) or (B) or a municipal OVI ordinance and, if it was, whether the chemical test results indicate that the arrested person's whole blood contained at least a prohibited concentration of alcohol, a specified controlled substance, or a metabolite of a specified controlled substance.

Effective April 7, 2009.

¹ The Legislative Service Commission bill analysis for Substitute House Bill 215 describes *Salvia divinorum* as a perennial herb in the mint family native to areas of Oaxaca, Mexico. The herb, when chewed or smoked, can produce hallucinations. According to the United States Drug Enforcement Agency, salvinorin A is the active ingredient in the herb that is responsible for its hallucinogenic effects.

Amended Substitute House Bill 280 (Domestic Violence/Human Trafficking/Child Abuse). The act does all of the following:

- Provides that the penalty for domestic violence in the case of an offender who knew that the victim was pregnant at the time of the offense is as follows:
 - If the violation involved knowingly causing or attempting to cause physical harm to a family or household member or involved recklessly causing serious physical harm to a family or household member, the offense is a felony of the fifth degree.
 - If the violation involved knowingly causing a family or household member, by threat of force, to believe that the offender will cause imminent physical harm to the family or household member, the offense is a misdemeanor of the third degree.
- Requires a mandatory prison term for domestic violence in all cases if the offender knew that the victim was pregnant at the time of the offense.
- Requires a mandatory jail or prison term for felonious assault, aggravated assault, or assault for offenders convicted of a specification that the victim was a woman that the offender knew was pregnant at the time of the offense.
- Requires that a person who is convicted of a felony offense of kidnapping (R.C. 2905.01), abducting (R.C. 2905.02), compelling prostitution (R.C. 2907.21), promoting prostitution (R.C. 2907.22), illegal use of a minor in a nudity-oriented material or performance (2907.323), endangering children (R.C. 2919.22), or engaging in a pattern of corrupt activity (R.C. 2923.32) and who also is convicted of or pleads guilty to a specification that the offender knowingly committed the offense in furtherance of “human trafficking” be sentenced to a mandatory prison term and payment of restitution to the victim.
- Modifies the penalty for the offense of engaging in a pattern of corrupt activity by providing that, if an offender who is convicted of the offense also is convicted of a specification charging that the offender knowingly committed the offense in furtherance of human trafficking, the offense is an F1 in all cases.
- Provides that a person who violates the preexisting mandatory child abuse or neglect reporting requirement in R.C. 2151.421 is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made, and that a person who brings an action or proceeding pursuant to the act may use in the action reports of other incidents of known or suspected abuse or neglect, provided that any information in a report that would identify a child who is the subject of the report or the maker of the report has been redacted. Provides that redaction is not required if the maker of the report was the defendant or the defendant’s agent.

Effective April 7, 2009.

House Bill 395 (Divorce Court Jurisdiction) Generally excludes a spouse's social security benefits from a divorce court's jurisdiction.

Substitute House Bill 471 (Civil Stalking Protection Orders/Electronic Monitoring). The act authorizes a petitioner to seek electronic monitoring of the respondent as part of the relief granted under an R.C. 2903.214 civil stalking protection order. After a full hearing, if the court finds that a petitioner seeking that relief has demonstrated, by clear and convincing evidence, that the petitioner reasonably believes that the respondent’s conduct at any time preceding the filing of the petition endangered the health, welfare, or safety of the petitioner, the court may order that the respondent be electronically monitored for a period of time and under terms and conditions specified by the court. Unless the court determines that the respondent is indigent, the court must order that the respondent pay the costs of installing the electronic device and monitoring it. If the respondent is indigent, those costs are paid from the Reparations Fund. The act further provides that if an offender commits the offense of violating a protection order in violation of R.C. 2919.27 and the protection order that was violated required electronic monitoring, the court may require in addition to any other sentence imposed that the offender be electronically monitored for a period of time not exceeding

five years. If the court requires additional electronic monitoring as part of the sentence, the court must order that the offender pay the costs of installing and monitoring the device, unless the offender is indigent, in which case those costs are paid from the Reparations Fund.

Effective April 7, 2009.

Substitute House Bill 648 (Access to Confidential Personal Information). The act requires state agencies to adopt rules governing access to confidential personal information in the agencies' possession that is not a public record under the public records law. The act imposes a criminal penalty for knowingly accessing confidential personal information or using or disclosing confidential personal information in violation of an agency rule governing access to that information. The act makes violation of those prohibitions a first-degree misdemeanor.

Effective April 7, 2009.

Substitute House Bill 74 (Voyeurism). The act modifies the elements of voyeurism committed for the purpose of sexual gratification or arousal when the victim is a minor in a state of nudity so that it prohibits a person, for the purpose of sexually arousing or gratifying the person's self, from trespassing or otherwise surreptitiously invading the privacy of a minor person to videotape, film, photograph, otherwise record, *or spy or eavesdrop upon*, the minor person in a state of nudity. Increases the penalty for the offense to a fifth-degree felony in all cases.

Effective April 7, 2009.

Amended Substitute House Bill 209 (Sexual Battery). The act expands the offense of sexual battery (R.C. 2907.03) so that, in addition to the conduct currently prohibited under the offense, it also prohibits a person who is a peace officer from engaging in sexual conduct with a minor who is more than two years younger than the peace officer. A violation of this new prohibition has the same penalty as provided for a violation of any of the preexisting prohibitions under the sexual battery statute.

Effective April 7, 2009.

Amended Substitute Senate Bill 248 (Unauthorized Use of Persona/Telecommunications Property).

The act does both of the following:

- Establishes a criminal penalty (M1) for unlawfully using a deceased military person's persona for commercial purposes. Specifies that the criminal penalty applies for only 10 years after the date of death.
- Prohibits a person who knows that an unauthorized use of a computer, cable, or telecommunications property has been or is being committed, or who has received information derived from an unauthorized use, from knowingly failing to report the violation to law enforcement authorities. Makes the offense an M2.

Effective April 7, 2009.

Substitute Senate Bill 320 (Corrupt Activity Law). The act amends the existing Corrupt Activity Law in R.C. 2923.31 to 2923.26 by expanding the list of definitions that are within the definition of "corrupt activity" to also include "organized retail theft" and conduct that constitutes one or more violations of any law of any other state that is substantially similar to organized retail theft and that would constitute organized retail theft if committed in Ohio if the person was convicted of the conduct in the other state. The act defines "organized retail theft" as the theft of retail property with a retail value of \$500 or more from one or more retail establishments with the intent to sell, deliver, or transfer the property to a retail property fence. The act also specifies that in addition to the existing penalties for theft, if the offender committed the theft by stealing rented property or rental services, the court may order that the offender make restitution.

Effective April 7, 2009.

OJC PENDING LEGISLATION

(with judicial impact)

128th General Assembly

For Internet access to pending legislation, visit www.legislature.state.oh.us/search.cfm

<i>Bill</i>	<i>Subject and Title</i>	<i>Impact</i>
H.B. 001 Sykes	Budget To make operating appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of state programs. The budget bill also raises court costs, fees, and surcharges to reimburse counties for indigent defense expenses; increases the felony theft threshold; encourages community control sanctions for felony nonsupport violations; removes absconding from AA supervision an escape offense; increases the number of credit days an offender can earn during incarceration; and transfers control of indigent drivers alcohol treatment funds from courts to regional ODADAS boards.	The various provisions were reviewed by OJC committees to determine impact. It was determined that the increases in court costs to support indigent defense were inconsistent with the OJC Policy Statement on Court Costs; the sentencing reforms could have negative consequences for the courts; and the IDAT provisions could intrude on the courts' sentencing function and undermine the courts' capacity to administer those funds. LETTERS SENT TO REP. UJVAGI, REP. SYKES, SPEAKER BUDISH, AND PRESIDENT HARRIS.
H.B. 002 Ujvagi	Transportation Budget To make appropriations for programs related to transportation and public safety for the biennium beginning July 1, 2009, and ending June 30, 2011, and to provide authorization and conditions for the operation of those programs.	Staff will track and notify judges when enacted
H.B. 003 Foley, Driehaus	Home Foreclosures To amend various sections of the Revised Code to address the current mortgage foreclosure crisis.	The Civil Law and Procedure Committee reviewed the legislation and determined that it had practical, technical, and constitutional problems. LETTER SENT TO REP. FOLEY
H.B. 005 Okey, Dodd	Transition Accounts To permit individuals elected or appointed to state office to establish transition funds to receive donations and to make expenditures for transition activities and inaugural celebrations.	FYI
H.B. 010 Brown	Dating Relationships To allow a court to issue a civil protection order to a child who has had or has a dating relationship with the respondent if certain offenses are alleged and to include foster parents under the scope of the domestic violence laws.	The jurisdictional provisions of the bill that will give juvenile courts jurisdiction over civil protection orders involving juvenile respondents is consistent with the OJC Legislative Platform and will improve the administration of justice and public confidence in the law. The Juvenile Law and Procedure Committee is continuing to work with the sponsor on other provisions in the bill.
H.B. 011 Heard, Harris	Sex Offender Registration To provide that any person required to register under Ohio's Sex Offender Registration and Notification Law who establishes or occupies residential premises within one thousand feet of any school premises, recreation center, playground, or other place where it is reasonable to expect children to frequent or linger is guilty of a misdemeanor of the first degree and to require a court to order a violator to vacate the premises as part of any injunctive relief granted for the violation.	The Criminal Law & Procedure Committee reviewed this legislation and determined that the "frequent or linger" standard could be unconstitutionally vague and overbroad. The Juvenile Law and Procedure Committee is reviewing the legislation. LETTER SENT TO REP. HEARD
H.B. 013 Garrison, Harris	Sex Offenders To prohibit Tier III sex offender/child victim offenders who have committed specified offenses against a victim under 16 years of age from knowingly being present on school premises or preschool or child day-care center premises.	The Criminal Law and Procedure Committee reviewed this legislation and determined that the bill's provisions may be overbroad. LETTER SENT TO REP. GARRISON ON HB 430, 127TH G.A.
H.B. 017 Yecker	Motorcycle Operations To clarify the penalties for operating a motorcycle without having either a motorcycle endorsement or the proper restricted license.	Track. OJC is working with sponsor.
H.B. 022 Fende	Bulk Data Requests To authorize public offices to limit the number of bulk data requests, impose charges to cover the actual costs associated with bulk data requests, and charge for the cost of redacting certain information.	Staff will track and notify judges if enacted.

*Bill**Subject and Title Impact*

H.B. 024 Batchelder	Transition Accounts To permit individuals elected or appointed to state office to establish transition funds to receive donations and to make expenditures for transition activities and inaugural ceremonies.	FYI
H.B. 025 Adams, J.	Government Structure To reorganize the executive branch of state government.	FYI
H.B. 029 Mallory, Combs	Abuse of a Corpse To prohibit engaging in sexual conduct with a human corpse.	The Criminal Law and Procedure Committee reviewed the legislation and determined that the criminal penalty appeared to be disproportionate to the offense. LETTER SENT TO REP. COMBS AND REP. MALLORY
H.B. 030 Combs	Retirement Incentives To require an analysis of each proposed retirement incentive plan for Public Employees Retirement System members and to prohibit a member who participates in such a retirement incentive plan from being re-employed by the same employer.	Staff will track and notify judges if enacted.
H.B. 036 Dyer	Legislative Meetings To require expanded minutes for legislative committee meetings or a transcribed record of committee proceedings in lieu of minutes, and to require sworn testimony of all witnesses testifying before legislative committees.	FYI
H.B. 037 Dyer	Competitive Bidding To require the Department of Administrative Services to maintain a web site database including apparent low bidders who failed to be awarded a contract because they were found not to be "responsible," and to require public entities to conduct investigations when apparent low bidders are suspected of failing or fail to meet the "responsible" prong of the "responsive and responsible" competitive bidding threshold.	FYI
H.B. 040 Letson	Parenting Time To require certain employers to allow a parent to exercise court-ordered parenting time without terminating employment, reducing pay, or taking other similar action against the parent.	FYI
H.B. 044 Hagan, Huffman	Insurance Verification To eliminate the financial responsibility random verification program of the Bureau of Motor Vehicles.	FYI
H.B. 045 Ujvagi	Vehicle Headlights To require the headlights of a vehicle to be lighted when its windshield wipers are in use.	Staff will track and notify judges if enacted.
H.B. 055 Combs, Williams	Animal Cruelty To revise the penalties and sentencing provisions regarding violations of the cruelty to animals statutes and to include the protection of companion animals in temporary protection orders, domestic violence protection orders, anti-stalking protection orders, and related protection orders.	The Criminal and Domestic Relations Law and Procedure Committees reviewed the legislation and determined that it limited judicial discretion with regard to the inclusion of companion animals within the scope of protection orders issued under R.C. 3113.31. LETTER SENT TO REP. COMBS AND REP. WILLIAMS
H.B. 061 Hottinger, Grossman	Estate Taxes To reduce the estate tax by increasing the credit amount, to authorize townships and municipal corporations, or electors thereof by initiative, to exempt from the estate tax and any estate property located in the township or municipal corporation, and to distribute all estate tax revenue originating in a township or municipal corporation that does not exempt property from the tax to the township or municipal corporation.	Staff will track and notify judges if enacted.
H.B. 063 Letson, Fende	Civil Marriages To permit members of the General Assembly to perform civil marriage ceremonies in Ohio.	FYI

<i>Bill</i>	<i>Subject and Title</i>	<i>Impact</i>
H.B. 070 Gerberry, Hagan	Companion Animals To increase the penalty for violation of the prohibition against cruel treatment of a companion animal by the animal's custodian or caretaker to a felony of the fifth degree.	The Criminal Law and Procedure Committee reviewed the legislation and determined that it creates disproportionate penalties
H.B. 073 Garrison, Fende	Vehicle Insurance To require proof of financial responsibility to be submitted as a condition of registering a motor vehicle.	FYI
H.B. 078 Hottinger, Weddington	OVI Offenders To require first-time OVI offenders and other OVI offenders to use a certified ignition interlock device and to wear a continuous alcohol monitor if the offender tampers with or otherwise violates an ignition interlock device and to make other changes to OVI law.	The Criminal Law and Procedure Committee reviewed the legislation and determined that it limits judicial discretion.
H.B. 083 Boyd	School Assaults To provide for the reporting of assaults in public schools to school administrators and law enforcement authorities.	FYI
H.B. 085 Boyd, Williams S.	Firearm Possession To prohibit any person under twenty-one years of age from possessing a firearm, subject to specified exceptions for lawful hunting, sporting, or educational purposes and for law enforcement officers; to expand the offense of failure to secure dangerous ordnance so that it also prohibits a failure to secure a firearm and increase the penalty for the offense; and to declare an emergency.	The Juvenile Law and Procedure Committee is currently reviewing the legislation.
H.B. 086 Hagan	Land Use To authorize in certain counties the creation of a land reutilization corporation to facilitate the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property and to authorize in those counties the use of the expedited, nonjudicial foreclosure procedure for abandoned lands.	The Civil Law and Procedure Committee is currently reviewing the legislation.
H.B. 088 Wagner	Property Sales To enable a court of common pleas to order a licensed auctioneer to conduct a sale of real property pursuant to a writ of partition.	The Civil Law and Procedure Committee is currently reviewing the legislation.
H.B. 089 Zehringer	Judicial Attacks To provide that the purposeful killing of a judge or magistrate in specified circumstances is aggravated murder; to increase the penalty for felonious assault, aggravated assault, and assault in specified circumstances when the victim is a judge, a magistrate, or a law enforcement officer, to change the circumstances in which the penalty for those offenses is increased when the victim is a BCII investigator, and to remove the increased penalty for those offenses when the victim is a peace officer; to increase the penalty for assault when the offense is committed in a courthouse in specified circumstances and to change the circumstances in which the penalty for that offense is increased when the victim is a children services worker; to increase the penalty for aggravated menacing in specified circumstances when the victim is a law enforcement officer, judge, or magistrate and to change the circumstances in which the penalty for that offense is increased when the victim is a children services worker; to expand intimidation to also prohibit attempting to intimidate a public servant, party official, attorney, or witness by making an unlawful threat of harm to an unborn of that person; to expand retaliation to also prohibit using force against or making an unlawful threat to harm an unborn of a public servant, party official, attorney, or witness and to modify the culpable mental state for and other elements of that offense; and to make the killing of a judge or magistrate in specified circumstances an aggravating circumstance for the imposition of the death penalty for aggravated murder.	The Criminal Law and Procedure Committee and Court Administration Committees are currently reviewing the legislation.

<i>Bill</i>	<i>Subject and Title</i>	<i>Impact</i>
H.B. 093 Murray	Bicycle Helmets To require bicycle operators and passengers under 18 years of age to wear protective helmets when the bicycle is operated on a roadway and to establish the Bicycle Safety Fund to be used by the Department of Public Safety to assist low-income families in the purchase of bicycle helmets, to impose a \$25 fine for violations, and to require courts to send fines to the Treasurer of State for deposit in the Bicycle Safety Fund.	Staff will track and notify judges if enacted.
H.B. 095 Skindell	Name Changes/SORN To prohibit a court from ordering a statutory change of name for a person who has committed identity fraud or who must register under the SORN Law for having committed a sexually oriented offense or child-victim oriented offense.	Staff will track and notify judges if enacted.
H.B. 098 Combs	Sex Offender Notices To provide notice to a long-term care facility when a Tier III or similar category sex offender/child-victim offender indicates an intent to reside in the facility or registers an address within the specified geographical notification area including the facility.	Staff will track and notify judges if enacted.
H.B. 099 Weddington, Yates	DNA Testing To make changes relative to the expansion of DNA testing for certain convicted felons, the elimination of the DNA testing mechanism for felons who pleaded guilty or no contest to the offense, the collection of DNA specimens from all persons eighteen years of age or older who are arrested for a felony offense, the preservation and accessibility of biological evidence in a criminal or delinquency investigation or proceeding, the improvement of eyewitness identification procedures, and the electronic or audio recording of custodial interrogations.	See Senate Bill 77 impact information
H.B. 103 Fende, Harwood	Judicial Attacks To increase the penalties for certain offenses when a judge or magistrate is the victim, to prohibit a person from threatening a judge or magistrate, and to make the killing of a judge or magistrate an aggravating circumstance for the imposition of the death penalty for aggravated murder	The Criminal Law and Procedure and Court Administration Committees are currently reviewing the legislation.
H.B. 108 Domenick, Blessing	Cockfighting To increase the penalty for cockfighting.	The Criminal Law and Procedure Committee reviewed the legislation and determined that judges should be given greater discretion relative to the care and confinement of seized roosters.
H.B. 109 Hottinger, Weddington	OVI Conviction To require the Registrar of Motor Vehicles to disqualify the holder of a commercial driver's license from operating a commercial motor vehicle upon a municipal OVI conviction.	The Criminal Law and Procedure Committee reviewed the bill and determined it will have minimal impact.
H.B. 112 Domenick	Protection Orders To authorize a court that issues a temporary protection order in specified criminal cases to require the alleged offender, as a condition of pretrial release, to be monitored by a global positioning system device at the alleged offender's expense.	The Criminal Law and Procedure Committee reviewed the bill and determined that the bill should specify a source of funding to pay for GPS monitoring of indigent offenders.
H.B. 118 Newcomb	MR/DD Name Change To change the name of the Department of Mental Retardation and Developmental Disabilities to the Department of Developmental Disabilities and the name of county boards of mental retardation and developmental disabilities to county boards of developmental disabilities and to make similar name changes for the Joint Council on Mental Retardation and Developmental Disabilities, the Mental Retardation and Developmental Disabilities Developmental Center Closure Commission, and certain state and county funds.	FYI

<i>Bill</i>	<i>Subject and Title</i>	<i>Impact</i>
H.B. 120 Batchelder	Budget Office To establish the Legislative Budget Committee and the Legislative Budget Office of the Legislative Service Commission.	FYI
H.B. 121 Evans	Expired Licenses To permit a person who is issued a ticket for operating a motor vehicle other than a commercial motor vehicle with an expired driver's or commercial driver's license to be issued a seven-day field driving permit.	The Criminal Law and Procedure Committee is currently reviewing the legislation.
H.B. 128 Hagan	Traffic Violations To provide for increased penalties when a person violates the motor vehicle traffic law assured clear distance ahead provision or commits a failure to yield the right-of-way offense that results in serious physical harm or death to another person.	The legislation is currently under review by the Executive Board of the Ohio Municipal and County Judges Association. The Criminal Law and Procedure Committee reviewed the bill and determined that provisions in the bill are vague and that there will be practical obstacles to applying the bill's provisions.
H.B. 129 Adams, J.	Concealed Handguns To authorize a person to carry a concealed handgun without obtaining a license to the same extent as if the person had obtained such a license, except on liquor permit premises, if the person qualifies for a concealed carry license and is legally permitted to purchase a handgun; to remove the requirements that a concealed carry licensee must be carrying the license in order to carry a concealed handgun, must inform approaching law enforcement officers that the person has a license and is carrying the handgun when the person is carrying a concealed handgun, and must submit a new or renewed competency certification when renewing the license; to eliminate as premises in which a concealed carry licensee may not carry a concealed handgun public or private institutions of higher education, places of worship, day-care centers and homes, and government buildings other than schools, courthouses, law enforcement offices, and correctional facilities; to replace the prohibitions that apply only to a concealed carry licensee who is carrying a handgun in a motor vehicle with a prohibition against a licensee who is in a motor vehicle that is stopped by a law enforcement officer knowingly menacing or threatening an officer with a loaded handgun or knowingly pointing a loaded handgun at an officer; to remove the "in plain sight or secure encasement" criterion that a concealed carry licensee must satisfy to legally possess a handgun in a motor vehicle; and to require a sheriff who issues a renewed concealed carry license to return the expired license to the licensee or destroy it.	Staff will track and notify judges if enacted.
H.B. 130 Miller	Mobile Devices To prohibit a person who is less than 17 years of age from talking or text messaging on a mobile communication device while driving.	Staff will track and notify judges if enacted.
S.B. 001 Hughes	Revitalization Debt Authority To implement the additional debt authority for conservation and revitalization programs provided by Section 2q of Article VIII of the Ohio Constitution, to authorize the issuance of that debt, to make new appropriations for the purpose of continuing programs established by Am. Sub. H.B. 554 of the 127th General Assembly, the Bipartisan Job Stimulus Act, and to declare an emergency.	Staff will track and notify judges if enacted.
S.B. 002 Carey	Federal Stimulus Funding To provide for the distribution of moneys received by the state from the federal American Recovery and Reinvestment Act of 2009 by making appropriations and to declare an emergency.	Staff will track and notify judges if enacted.
S.B. 010 Widener	Transition Accounts To permit individuals elected or appointed to state office to establish transition funds to receive donations and to make expenditures for transition activities and inaugural celebrations.	FYI

<i>Bill</i>	<i>Subject and Title</i>	<i>Impact</i>
S.B. 013 Miller, D.	Foreclosure Actions To require a clerk of courts to notify tenants when a foreclosure action is filed, to require the Director of Commerce to prepare a publication to assist owners and tenants of foreclosed properties, to require clerks of courts to distribute that publication, to require landlords to notify tenants when a property is foreclosed and when a sale is scheduled, to enable tenants to terminate a rental agreement on a foreclosed property, to provide for continuance of a rental agreement after a foreclosure sale, and to provide civil remedies for a tenant whose landlord violates the bill's provisions.	The Civil Law and Procedure Committee is currently reviewing the legislation.
S.B. 022 Seitz	Corrections To increase from \$500 to \$750 the threshold amount that is used in determining increased penalties for theft-related offenses; to provide that if the offense of "nonsupport of dependents" is based on an abandonment of or failure to support a child or a person to whom a court order requires support and is a felony the court must sentence the offender to one or more community control sanctions and that any residential sanction so imposed generally must require that the offender complete a community corrections program; to remove Department of Rehabilitation and Correction supervision of a releasee from the definition of "detention" and specify the method of sanctioning a person under Department supervision who fails to comply in a specified manner with that supervision; and to increase from one day to five days the credit a prisoner in a state correctional institution may earn as a monthly deduction from the prisoner's prison term for productive participation in specified prison programs, remove sex offender treatment programs from the type of programs for which a prisoner can earn the credit, and prohibit granting the credit to a person serving a sentence for a sexually oriented offense.	The Criminal Law and Procedure Committee and the Community Corrections Committee reviewed the bill and determined that increasing the felony theft threshold would shift caseload from common pleas courts to municipal courts; remove discretion of judges to impose a prison sentence for felony nonsupport; undermine the public's perception in the integrity of the criminal justice system by removing absconding from Adult Parole Authority supervision as an escape offense; and undermine the principle of "truth in sentencing" by increasing the number of days offenders could earn as credit against their sentences. LETTER SENT TO SEN. SEITZ
S.B. 030 Schaffer	Arson Registry To establish a registry for arson offenders.	Criminal and Juvenile Law and Procedure Committees reviewed this legislation and determined that the registry would create administrative expenses and burdens for the court. LETTER SENT TO SEN. SCHAFFER
S.B. 031 Patton	Testimonial Privilege To create a testimonial privilege for communications between a representative of an employee organization and a bargaining unit member.	Civil and Criminal Law and Procedure Committees determined the bill would have minimal impact. Staff will track and notify judges if enacted.
S.B. 033 Miller, D.	Inmate Re-Entry To require the Bureau of Examination and Classification within the Department of Rehabilitation and Correction to develop a re-entry plan for each inmate of a correctional institution.	The Criminal Law and Procedure Committee reviewed the legislation and determined it would have minimal impact. Staff will track and notify judges if enacted.
S.B. 036 Kearney	Civil Actions To provide for offers of judgment in civil actions.	The Civil Law and Procedure Committee reviewed this legislation and determined that it might conflict with an existing Ohio Rule of Civil Procedure and might conflict with the Modern Courts Amendment.
S.B. 042 Schaffer	Sex Offenses To specify that the restriction against offenders convicted of a sexually oriented offense or child-victim oriented offense living near school, preschool, or child day-care premises applies regardless of when the offense was committed or the offender began living in the residence and that a registration requirement for children adjudicated delinquent for a sexually oriented offense and classified a juvenile offender registrant applies regardless of when the offense was committed.	The Criminal Law and Procedure Committee determined that the legislation would have a minimal impact on courts in the general division. The Juvenile Law and Procedure Committee determined that retroactive application of the registration requirements raised constitutional questions, and would result in mandatory registration for some juvenile offenders who were not intended to be included on registry lists at the time of adjudication. LETTER SENT TO SEN. SCHAFFER
S.B. 046 Kearney	Property Foreclosures To prohibit requiring a tenant to vacate a foreclosed residential property any earlier than ninety days following a court's confirmation of the sale of the property.	Staff will track and notify judges if enacted.

<i>Bill</i>	<i>Subject and Title</i>	<i>Impact</i>
S.B. 047 Kearney	MR/DD Boards To increase the membership of county boards of mental retardation and developmental disabilities.	Staff will track and notify judges if enacted.
S.B. 048 Kearney	Adoption Day To designate the Saturday before Thanksgiving as "Adoption Day."	FYI
S.B. 049 Kearney	Firearm Offenses To require the imposition of a ten-year prison term upon a person who discharges a firearm while committing an offense and causes injury or death to a child.	Criminal and Juvenile Law and Procedure Committees analyzed impact and determined that by creating a special class of victims the legislation may undermine public confidence in the courts fairness and impartiality; by creating additional specification and offenses the legislation adds complexities to the criminal code that make it more difficult and time-consuming for judges and others involved in the justice system to apply the law; and by using general terms like "injury" instead of clearly defined terms like "serious physical harm to persons" the legislation may produce uneven application of the law. LETTER SENT TO SEN. KEARNEY
S.B. 052 Grendell	Government Reorganization To reorganize the executive branch of state government.	FYI
S.B. 056 Niehaus	Unattended Children To prohibit a person from negligently leaving a child who is less than five years of age unattended in an automobile.	The Criminal Law and Procedure Committee reviewed the legislation and determined it would have minimal impact. Staff will track and notify judges if enacted.
S.B. 058 Hughes	Bodily Substances To prohibit a person from collecting any bodily substance of another person without privilege to do so.	The Criminal Law and Procedure Committee reviewed the legislation and determined that the criminalized behavior was too broad and vague. LETTER SENT TO SEN. HUGHES
S.B. 065 Schaffer	Vehicle Accidents To provide for increased penalties when a person violates the motor vehicle traffic law assured clear distance ahead provision or commits a failure to yield the right-of-way offense that results in serious physical harm or death to another person.	See House Bill 129 impact information.
S.B. 067 Faber	Sex Predators To require that sexually violent predators who are released from prison to be monitored by global positioning system devices, to require sexually violent predators to pay the cost of monitoring by global positioning system devices, and to authorize the civil commitment of certain sexually violent predators.	The Criminal Law and Procedure Committee is reviewing the legislation.
S.B. 068 Sawyer	Insurance Verification To require the registrar of motor vehicles to contract with a third party to implement an electronic insurance verification system in Ohio.	FYI
S.B. 074 Turner	Drug Sentences To require the State Criminal Sentencing Commission to study sentencing for drug-related offenses and to report its findings to the General Assembly.	Staff will track and notify judges if enacted.

*Bill**Subject and Title**Impact*

S.B. 077
Goodman

DNA Testing

To make changes relative to the expansion of DNA testing for certain convicted felons, the elimination of the DNA testing mechanism for felons who pleaded guilty or no contest to the offense, the collection of DNA specimens from all persons eighteen years of age or older who are arrested for a felony offense, the preservation and accessibility of biological evidence in a criminal or delinquency investigation or proceeding, the improvement of eyewitness identification procedures, and the electronic or audio recording of custodial investigations.

The Criminal Law and Procedure Committee reviewed the legislation and determined that it violates the separation of powers doctrine to require the judicial branch to monitor the practices of law enforcement officials; it undermines judicial discretion to limit the capacity of judges to admit statements made during unrecorded interrogations or in determining what evidence is admissible, it increases expenses related to transcription of interrogations, it increases the expense and administrative burdens related to retention of evidence, , and it increases the courts caseload and workload by expanding the class of offenders eligible for post-conviction DNA testing. LETTER SENT TO SEN. GOODMAN

S.B. 080
Seitz

Testimonial Privilege

To create an accountant-client testimonial privilege.

The Civil Law and Procedure Committee reviewed the legislation and determined that the term accountant was vague and that the testimonial privilege undermines the truth-seeking function of the court and may compromise the administration of justice. LETTER SENT TO SEN. SEITZ

S.B. 086
Buehrer

Physician Immunity

To grant qualified civil immunity to a physician who provides emergency medical services, first-aid treatment, or other emergency professional care in compliance with the federal Emergency Medical Treatment and Active Labor Act or as a result of a disaster.

Staff will track and notify judges if enacted.

S.B. 091
Miller, R.

Credit Discrimination

To specify that discrimination by an employer against any person because of the person's credit history is an unlawful discriminatory practice under the Ohio Civil Rights Law.

The Civil Law and Procedure Committee is reviewing the legislation.

S.B. 092
Miller, R.

Parole Board

To limit a member of the Ohio Parole Board who is not a victim representative to two six-year terms.

FYI

S.B. 099
Grendell

Government Reform

To permit an alternative form of county government in a county having a population of 1.2 million or more to have a county council with at-large members and members from districts and to have an elected fiscal officer and an appointed county engineer, county information officer, coroner, and sheriff.

Staff will track and notify judges if enacted.

S.B. 103
Schuler

Image Sending

To prohibit a minor, by use of a telecommunications device, from recklessly creating, receiving, exchanging, sending, or possessing a photograph or other material showing a minor in a state of nudity.

The Juvenile Law and Procedure Committee is currently reviewing the legislation.

S.B. 106
Buehrer, Kearney

Savings Statute

To exclude from the application of the savings statute certain estate and trust proceedings that have limitation periods, to raise the threshold amount for the termination or avoidance of guardianships of small estates of wards, to raise the threshold amount for the avoidance of guardianship upon the settlement of claims of minors or adult incompetents, and to clarify that termination of marriage revokes any trust provision conferring a beneficial interest on the former spouse.

The Probate Law and Procedure Committee is currently reviewing the legislation.

*Bill**Subject and Title**Impact*

S.B. 107
Kearney

Racial Profiling

To specify that it is an unlawful discriminatory practice that is within the jurisdiction of the Ohio Civil Rights Commission for any law enforcement agency or officer in Ohio to engage in racial profiling; to require the Commission to compile data from law enforcement agencies regarding routine or spontaneous investigatory activities of the agencies' officers and analyze the data for significantly significant disparities related to the race, ethnicity, national origin, or gender of the subjects of the activities; to provide for Commission access to LEADS to obtain the data and require law enforcement agencies to enter the data on LEADS; and to require law enforcement agencies to maintain a policy designed to eliminate racial profiling by the agency and its officers and to cease existing practices by the agency and its officers that permit or encourage racial profiling.

FYI

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