BillBoard

AUGUST 20, 2018

BillBoard is a publication of the Ohio Judicial Conference that lists bills that Judicial Conference staff is monitoring on behalf of Ohio Judges and that tracks the status of items on the Judicial Conference Legislative Platform. Bills marked as having a judicial impact are priority bills that the Conference supports, opposes, or seeks to amend. Bills without such a designation are bills that have a minimal impact or that are of interest to judges.

The Ohio Judicial Conference exists for the purpose of studying the coordination of the work of the several courts of Ohio, the encouragement of uniformity in the application of the law, rules, and practice throughout the state and within each division of the courts as an integral part of the judicial system of the state; to promote an exchange of experience and suggestions respecting the operation of the judicial system; and in general to consider the business and problems pertaining to the administration of justice and to make recommendations for its improvement. We are authorized by Revised Code section 105.911 to determine the judicial impact of bills and resolutions introduced in the General Assembly.

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PROGRESS REPORT

2017-2018 LEGISLATIVE PLATFORM

(UPDATED 5-14-18)

PLATFORM ISSUE	ACTIONS/STATUS
Determination of Indigence in Civil Filings. The determination of indigence in civil filings needs to be modernized and made uniform (R.C. 1901.26, 1907.24, 2323.30, 2323.31, 2323.311, 2746.001)	JIS Adopted Possible Sponsor Identified
Jail Cap, R.C. 2929.16. Under R.C. 2929.16(A)(2), a violation of a community control sanction should include a 6-month cap, equivalent to other penalties in that section. This change clarifies that a new violation during community control can lead to a jail penalty, even if the original time sentenced has already been served.	JIS adopted Draft language approved Passed in SB 66
Removing One-Year Minimum, R.C. 2929.13. At R.C. 2929.13(B)(1)(a), the statute currently requires the judge to sentence an offender to a community control sanction for at least one year.	JIS adopted Draft language approved Passed in SB 66
Court Reporting and Transcripts. Make changes to 2301.18-2301.26 such that they are consistent with current practices and can accommodate future technological changes in court reporting.	JIS adopted Seeking Sponsor
Indigent Defense. Improve funding for public defenders and appointed counsel, and ensure that any increased funding is used to improve the overall quality of indigent defense.	JIS Adopted Seeking Sponsor
Judicial Authority to Operate the Court, Make Hiring Decisions, and Compensate Court Personnel. Repeal portions of R.C. 307.01, 2101.11, and 2151.10 as amended in Substitute Senate Bill 63 (effective 7-26-79), consistent with court rulings declaring this change to be an unconstitutional expansion of the powers of local funding authorities over court budgets, and modify R.C. 1901.31, 1901.33, 1901.331, 1901.36, 1907.20, and 1907.201 to ensure that all judges, regardless of whether in the municipal, county or common pleas courts, have the statutory power to hire and compensate court personnel.	JIS Adopted Seeking Sponsor
Segregation of Funds Collected by Courts. Enact legislation to direct state and county auditors to keep all monies collected by a court segregated in a separate account from the general revenue fund at the state, county and local level. (This entry was adopted and added to the Platform on February 25, 2011.)	JIS Adopted Seeking Sponsors

Exempting Judges' Addresses from County Auditors' Databases.	JIS Adopted Pending in HB 341
Criminal Code, Traffic/DUI Law, and Drug Law Simplification. Work with the Criminal Sentencing Commission and other interested parties in the criminal justice system to revise and simplify Title 29, Title 39 (Drug Laws), and Title 45 (Traffic Laws/DUI Law)	JIS adopted Draft language approved Seeking sponsors
Definition of Drug of Abuse. Review 4511.19, 3719.011, and 4511.181 and clarify references to "drugs of abuse," "harmful intoxicants," and "dangerous drugs," especially with regard to the establishment of impairment in OVI cases.	JIS adopted
F4/F5 45-day Offender Placement Language. Make changes to 2929.13(B)(1)(a), 2929.13(B)(1)(b) and 2929.13(B)(1)(c) to reinstate judicial discretion to sentence offenders to a term of imprisonment in cases where the offender has been convicted or pleaded guilty to a felony of the fourth or fifth degree and the court believes that no community control sanctions would adequately fulfill the overriding principles and purposes of sentencing; modify 2951.03 to grant permissive authority for courts to order presentence investigation reports for felony offenders where necessary.	JIS adopted Submitted to Criminal Recodification Committee
***State v. Bodyke* (126 Ohio St.3d 266, 2010).** Develop changes consistent with the *State v. Bodyke* ruling by eliminating 2950.031 and 2950.032.	JIS adopted Submitted to Criminal Recodification Committee
Re-Offender Sentencing. Unless the journal entry provides otherwise, a sentence imposed pursuant to R.C. § 2929.141 (Person On Release Committing a Felony) shall be served before any other sentence, including specifications. Various specifications (such as gun specifications) state that the sentence shall be served consecutively and prior to the underlying sentence, but no such direction is given regarding post-release control.	JIS Adopted Submitted to Criminal Recodification Committee
Sec. 2929.19(B)(2)(f). R.C. 341.26, 753.33, and 5120.63 lay out the authority of county and municipal jails and the ODRC to conduct random drug testing of inmates. R.C. 2929.19(B)(2)(f) needlessly duplicates these sections and requires a sentencing judge to inform an offender about the prohibition against using drugs. In instances where a judge has overlooked this requirement, almost all appeals have found it to be harmless error, but the appeals are nonetheless unnecessary and costly. R.C. 2929.19(B)(2)(f) should be deleted.	JIS adopted Draft language approved Passed in SB 66
State v. Nucklos (2009). To change the definition of "affirmative defense" to correspond with recent case law.	JIS Adopted Submitted to Criminal Recodification Committee

Public Pension Reform and Marital Property. Seek changes to Title 31 to clarify that Deferred Retirement Option Plan (DROP) funds constitute marital property, to clarify that certain post-divorce and post-dissolution disability benefits are marital property, to codify the *Cosby v. Cosby* (96 Ohio St.3d 228, 2002) ruling regarding pre-retirement rights of survivorship, and to require the state retirement systems to automatically implement court division of property orders.	**JIS Adopted** **Proposal drafted** **Seeking Sponsor**
Parenting Time Enforcement. Create a procedural mechanism as an alternative to a motion for contempt that would permit a parent to file a motion for parenting time enforcement.	**JIS Adopted** **Seeking Sponsor**
Parental Duty of Support-Age Limit and School Enrollment. Clarify current law regarding a court's authority to continue a child support order beyond age 18 if, among other things, the child continuously attends a recognized and accredited high school on a full-time basis on and after the child's eighteenth birthday;	**JIS Adopted** **Seeking Sponsor**
Unemployment of Child Support Obligor. To develop an automatic adjustment of a child support obligation when the obligor goes on unemployment.	**JIS Adopted** **Seeking sponsor**
Social Security Benefits. To clarify that receipt of social security benefits does not require the judge to find a person legally disabled in domestic relations court.	**JIS Adopted** **Seeking sponsor**
Permissive Appointment of Use of Private Judge. To make R.C. § 2701.10 permissive in terms of the judge making a referral for adjudication of civil actions or proceedings to a private judge if the parties have agreed to utilize a private judge.	**JIS Adopted** **Seeking sponsor**
Planned Permanent Living Arrangements (PPLA). Amend 2151.353 and 2151.415 to permit juvenile courts to order PPLA if not requested by children services agencies in response to *In re A.B.*, 110 Ohio St.3d 230, 2006.	**JIS Drafted** **Possible sponsor identified**
Juvenile Justice Reform. Problems that have arisen as a result of implementing the juvenile justice reform provisions of 129 HB 86 need to be addressed.	**Partially Addressed in** **HB 394**
Make Computerization Fees uniform for all court Jurisdictions. 129th GA passed increase in Cap for Common Pleas General Division only. Similar provisions in other sections regarding other court jurisdictions should be increased as well.	**JIS Adopted** **Seeking Sponsor**
Court Costs in Transferred Cases. To clarify the law that levying a cost in a case when the juvenile is transferred does not automatically create a final disposition of the case.	**JIS Adopted** **Seeking Sponsor**
Domestic Relations/Juvenile Jurisdiction Transfer. R.C. 2151.23, 2151.231, and 2301.03 and Chapter 3105 should be amended to grant Ohio courts with domestic relations jurisdiction the authority to hear and determine child support and child custody cases in which the child's parents are still married but living separately and enable juvenile courts to certify certain cases to the division of the court with domestic relations jurisdiction.	**JIS Adopted** **Draft language accepted** **Possible bill vehicle identified**

Ex Parte Order Expungement. R.C. 2151.34, 2903.213, 2903.214, 2919.26, and 3113.31. The most recent budget included language that requires, on the court's own motion and after the time for appeals has lapsed, the destruction of records relevant to an ex parte protection order if, after a full hearing, a protection order was not issued. The provision presents several practical burdens, and should be corrected to allow for efficient implementation.	**JIS Adopted** **Seeking Sponsor**
Structured Settlements. R.C. 2323.58 *et seq*. should be modernized to provide a more workable procedure for approval of transfers of structured settlements.	**SIGNED INTO LAW**
Trust to Age 25 in Minor Settlements. A change is needed to mirror in trust actions the authority the court has in wrongful death proceedings where a minor is the beneficiary.	**JIS adopted** **Draft language approved** **Pending in HB 595**
"Safe Harbor" Provision for Trafficked Juveniles. Currently, the law allows a charge against a juvenile to be held in abeyance if the juvenile is a victim of human trafficking and the juvenile is undergoing treatment. The law allows only a 90-day time frame for the abeyance, with the possibility of 2 extensions of 90 days each. This time frame should be extended considerably or left open-ended to allow for the extensive treatment necessary for a trafficked juvenile.	**JIS Adopted** **Pending in HB 56**
Title 45 "Corrections." Several oversights were identified in Title 45, including F3 OVI Sentencing; enhanced penalties for speeding; and an affirmative defense for emergencies when driving under suspension; discrepancy between length of driving suspension and length of vehicle immobilization.	**JIS Adopted** **Possible Sponsor Identified**
Driving Under Suspension. Current statutory language prohibiting driving under suspension of a license should include the language "or whose privilege to obtain a license has been suspended."	**JIS Adopted** **Seeking Sponsor**
Limited Driving Privileges for Child-Support Suspensions. A person who has had his license suspended in domestic relations court for not paying child support has no mechanism, short of being found in contempt, for asking the court to allow limited driving privileges to work.	**JIS Adopted** **Possible bill identified**
Insurance Verification Modernization. The Department of Public Safety Financial Responsibility Study Committee report, most recently published in 2014, recommends eliminating the financial responsibility random verification. Because insurance verification has such a tremendous impact on the caseload of a municipal court, a real-time electronic insurance verification method should be implemented. Proof of insurance should also be required upon renewing or obtaining vehicle registration.	**JIS Adopted** **Seeking Sponsor**

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OHIO JUDICIAL CONFERENCE FACT SHEET

THE OJC IS AN INTEGRAL PART OF THE JUDICIAL BRANCH OF GOVERNMENT.

With every sitting judge in Ohio in its membership, the Ohio Judicial Conference is *the* voice of Ohio's judges. The Conference is organized into 20 working committees that review statutes, legislation, and court rules, and make recommendations aimed at improving the administration of justice. The Conference provides critical analysis of legislative initiatives and makes suggestions for reform and modernization through its legislative platform. The Conference publishes reports, impact statements, enactment news, policy statements, model rules, bench books, resource guides, and newsletters, and writes the Ohio Jury Instructions. The Conference advances judicial and legal education through continuing legal education events in collaboration with the Ohio Judicial College and Ohio State Bar Association.

THE OJC GIVES YOUR LOCAL JUDGES A FORUM, A RESOURCE, AND A VOICE.

The members of the Judicial Conference are kept apprised of legislative developments that impact court administration, criminal, civil, traffic, probate, domestic relations, and juvenile law. The Conference enables judges, who often have divergent opinions individually, to build consensus and speak with one voice. It acts as a forum for them to review and render opinions on the construction and effect of legislation, rules proposals, and other initiatives, and to suggest statutory and rule changes to address problems plaguing the administration of justice. It provides a meaningful way for judges to maintain effective communications with their colleagues, learn about changes in the law, and share ideas for implementation in Ohio's diverse communities.

THE OJC PROVIDES LEGISLATORS INSIGHT, INFORMATION, AND ANALYSIS.

Judges solemnly respect the distinct and separate roles of the legislature, judiciary, and executive branches of government. The Ohio Judicial Conference was statutorily created to serve the Ohio Legislature by providing insight into proposed legislation that could impact courts. The Conference strives to be a resource to the members of the General Assembly. All legislators have access to the Ohio Judicial Conference as a source of judicial feedback, research, and recommendations. Judges are in a unique position to provide early insight and perspectives on the practical impact of changes in the law that will help to avoid unintended consequences and protracted litigation. The combined experience of the Conference's judges give legislators insight that otherwise might be overlooked, to the detriment of the legislative process and the uniform administration of justice.

THE OJC HELPS TO INSTILL PUBLIC CONFIDENCE IN THE JUDICIARY.

Public confidence in the judiciary is one of the priorities of the Ohio Judicial Conference. When the Conference reviews bills, a significant and practical focus is how that bill will impact the public's access to the courts, their ability to obtain justice, and their right to be treated fairly under the law. Another of the Conference's priorities is to provide the General Assembly with insight on how legislation impacts court caseload and workload, insight that helps control the costs to the public of operating Ohio's courts.