



ENACTMENT NEWS

House Bill 59 Biennial Budget

H.B. 59 was signed by the Governor on June 30, 2013. Some sections take immediate effect on June 30, 2013; some provisions take effect on September 29, 2013, and, some provisions take effect on specific dates provided in the bill.

*R.C. 109.921, 109.91, 307.515, 311.172, 2743.191, 2929.18, 2950.012, Section 221.10 (Rape Crisis Centers, HB 108) – Creates in the state treasury the Rape Crisis Program Trust Fund. Authorizes a court to impose a discretionary fine of \$50 to \$500 on a person convicted of a sexually oriented or child-victim oriented felony offense, with the money going to the Rape Crisis Program. Establishes a one-time \$100 sex offender registration fee that is in addition to any current sex offender registration fees, is collected by the sheriff, and is deposited into the Rape Crisis Program Trust Fund. Authorizes the Attorney General to recover unpaid fees. Also authorizes a court that imposes a community control sanction on a person convicted of a sexually oriented or child-victim-oriented offense to make payment of the fee a condition of community control. The budget contains a GRF appropriation of \$1,000,000 for each of the next two years to the Rape Crisis Center Program Trust Fund. *budget appropriation effective July 1; all other provisions effective September 29, 2013*

*R.C. 120.06 (Duty to provide legal representation to indigent adults and juveniles), R.C. 5139.04 (Powers and duties of Department of Youth Services) – Authorizes the State Public Defender to conduct a legal assistance referral service for children committed to the Department of Youth Services relative to conditions of confinement claims; prohibits the Public Defender from representing a child in court based on a conditions of confinement claim arising under this division; requires DYS to grant the State Public Defender reasonable access to the child and any DYS record that the public defender needs to provide representation and services. *effective July 1, 2013*

*R.C. 169.08 (Filing claim for refund of unclaimed funds) – Specifies that interest earned by the state on unclaimed funds is payable to the claimants of those unclaimed funds in accordance with final court orders derived from *Sogg v. Zurz*, 121 Ohio St.3d 449 (2009).*

*R.C. 172.523, 172.545, 172.56 (Denial of PASSPORT/Assisted Living Benefits) – Authorizes an individual who is an applicant for or participant in the state funded component of the PASSPORT or assisted living program to file an administrative appeal to an adverse action taken by or proposed to be taken by the Department of Aging or an entity designated by the Department if the action will result in a specified outcome; within 30 days of mailing the administrative decision, the decision on the administrative appeal may be appealed to the court of common pleas of the county in which the individual resides or in the Franklin county court of common pleas if the individual does not reside in this state; authorizes the court to extend the time for the appeal by no more than six months. *effective September 29, 2013*

R.C. 517.271 (Recovery of township owned cemeteries) – Authorizes a company, association, or religious society that most recently owned and operated a cemetery currently owned by a board of township trustees to petition the probate court of the county in which the cemetery is located to transfer the ownership of the cemetery to the petitioner; requires the court to transfer ownership and order the board to give the petitioner all necessary records and documents if the court determines that the

petitioner has the necessary financial resources, is in compliance with all applicable laws and administrative rules; and owes no delinquent taxes. **effective September 29, 2013*

R.C. 959.131, 959.132, 959.99 (Cruelty to companion animals, Nitro's Law/HB 90) – Makes it an M2 for a custodian, caretaker, or someone who otherwise confines a companion animal to negligently needlessly kill a companion animal, commit or omit an act, or commit and act of neglect which causes or continues unnecessary pain to the animal; it is an M1 with each subsequent offense. The bill makes it an F5 for an owner, manager, or employee of a kennel to knowingly do any of the above or to torture a companion animal or deprive it of food, water, or necessary shelter. It makes it an M5 for an owner, manager, or employee of a kennel to do any of the above negligently. **effective September 29, 2013*

R.C. 2151.362 (Determining school district to bear cost of educating child) – Prescribes that a county or joint-county juvenile or detention facility that cares for a child is responsible for coordinating the education of that child and provides that the facility, under certain circumstances, may provide the child with in-house education; authorizes the facility to take certain measures in coordinating the education of the child including, but not limited to, arranging with the child's school district for the facility to educate the child, contracting with an ESC, or permitting the continued education of the child at an internet or computer based internet school. **effective September 29, 2013*

R.C. 2303.201 (Computerizing court/computerized legal research) – Specifies that if a court of common pleas offers “or requires” a special program or “additional services” in cases of a specific type, the court, by rule, may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. **effective September 29, 2013*

R.C. 2329.192 (State Lien Protection in Judicial Sales of Real Estate) – Presumes the appearance of the state lien-holder for jurisdictional purposes and requires the court to take judicial notice that the state has a lien against the real estate subject to a judicial sale; it requires that, as part of any order confirming the sale of the lands, an undisputed state lien is protected as if the state had appeared in the action and filed an answer asserting the state lien. Any party asserting a dispute of a state lien or of any lien or other interest that has priority over the state lien shall serve a state lien-holder and the attorney general with notice of the dispute, and the state lien-holder shall be permitted to file a responsive pleading and participate in the proceedings as if the state lien-holder had been served with a summons on the date the state lien-holder received notice of the dispute. Upon the judicial sale of the real estate, the interest of any undisputed state lien shall transfer to the proceeds of the sale of the real estate, and the state lien-holder shall be entitled to payment from the proceeds of the sale of the real estate in accordance with the state lien-holder's priority as set forth in the final judicial report. **effective September 29, 2013*

R.C. 2901.13 (Statute of limitations, part of HB 130) – Increases the criminal statute of limitations for human trafficking to 20 years. ** effective September 29, 2013*

R.C. 2907.22 (Promoting prostitution, part of HB 130) – Eliminates the requirement that the transportation of a person be across the boundary of the state or any county of the state in order for someone to be charged with promoting prostitution. In order to include electronic means of promoting prostitution in the definition of the crime, also changes the definition of promoting prostitution from establishing, maintaining, operating, managing, supervising, controlling, or having an interest in a “brothel” to “any enterprise the purpose of which is to facilitate engagement in sexual activity for hire.” ** effective September 29, 2013*

R.C. 2903.13 (Assault) – Increases the penalty for assault on an employee of DRC or DYS that occurs on the grounds of state correctional institution or institution operated by DYS and that is committed by a person incarcerated in the facility from an F5 to F3. **effective September 29, 2013*

R.C. 2919.19, 2919.191, 2919.193 (Abortion, criminal and civil penalties, parts of HB 200) – Makes performing an abortion before determining a fetal heartbeat unless it is a medical emergency an M1 on the first offense and an F4 on each subsequent offense. Also creates a civil cause of action for exemplary and compensatory damages against the person who is performing the abortion if the person fails to determine a fetal heartbeat. **effective September 29, 2013*

R.C. 3737.883 (Political subdivision – underground storage tanks – corrective actions) – Authorizes a political subdivision to apply to the state fire marshal for a loan to assist with the costs of corrective actions on underground storage tanks owned by the political subdivision; authorizes the state fire marshal or any law enforcement agency, at any time after the expenditure of loan funds, to bring an action, in either the court of common pleas having jurisdiction in the county where the underground storage tank is located or in the court of common pleas of Franklin county, to recover the costs incurred by the political subdivision against the person who was previously responsible for the storage tank. **effective September 29, 2013*

R.C. 4511.21 (Speed limits) – Increases the speed limit to 70 mph on all rural freeways; increases the speed limit to 65 mph on all rural expressways without traffic signals; and increases the speed limit to 60 mph on divided highways. “Rural” is defined as outside a business or urban area. Please note that this applies to national and state routes; speed limit changes for interstate routes, which were changed in H.B. 51, went into effect July 1. **effective September 29, 2013*

R.C. 4511.69 (Parking violations) —Allows two (but no more than two) motorcycles to share one parking space, either metered or non-metered, along the side of a road. **effective September 29, 2013*

R.C. 4513.34 (Regional heavy hauling permits/oversize vehicles) – Creates a regional heavy hauling permit, issued by the director of transportation, and allows written permits for oversize vehicles. **effective September 29, 2013*

R.C. 4755.11, 4755.47, 4755.481 (Occupational therapists, physical therapists, athletic trainers) – Prohibits a court of common pleas from granting a suspension of the occupational therapy, physical therapy, or athletic trainer section’s order of suspension of a professional license pending determination of an administrative appeal. **effective September 29, 2013*

R.C. 5119.36 (Department of Mental Health and Addiction Services) – Requires the Department to maintain a current list of providers whose addiction services have been certified by the Department and to provide a copy of the list to a judge of a court of common pleas who requests a copy for the use of the judge under section 2925.03 of the Revised Code. **effective September 29, 2013*

R.C. 5122.31 (Confidentiality) - Authorizes the Department of Mental Health and Addiction Services to exchange psychiatric hospitalization records and other mental health treatment records with the department of youth services and with boards of alcohol, drug addiction, and mental health services and community mental health services providers to ensure continuity of care for offenders receiving mental health services in an institution and who are scheduled for release within six months. **effective September 29, 2013*

R.C. 5124.081 – Grants a resident of an intermediate care facility for individuals with intellectual disabilities (ICF/IID) a cause of action for breach of the provider agreement obligations or other duties imposed by R.C. 5124.08; states that the action may be commenced by the resident, or on the resident’s behalf by the resident’s sponsor in the court of common pleas of the county in which the facility is located or in Franklin county; authorizes the court to take specified actions. **effective September 29, 2013*

R.C. 5160.20 – Authorizes the Department of Medicaid to conduct any audits or investigations that are necessary in the performance of the department’s duties including the authority to administer oaths

and to enforce the attendance and testimony of witnesses and the production of books and papers; authorizes any judge of any division of the court of common pleas, on application of the department, to compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, by a judgment for contempt or otherwise, in the same manner as in cases before those courts. **effective September 29, 2013*

R.C. 5736.11 – Authorizes the attorney general, upon request of the tax commissioner, to commence an action in quo warranto in the court of appeals of the county in which the person has its principal place of business to forfeit or annul its privileges or franchise within this state for failure to report or pay taxes as required under this chapter within 90 days of the time prescribed for payment of any penalty. **effective July 1, 2014*

OPERS

R.C. 145.037 (Request to be classified as public employee) – Requires a contract between a public employer and a business entity to state that all individuals employed by the business entity who provide personal services to the public employer are not public employees for purposes of this chapter; requires the OPERS Board, within 60 days of the effective date of the amendment, to publish on the PERS website and in at least eight newspapers of general circulation, notice of the right of an individual to seek a determination of whether the individual should have been classified as a public employee; requires the Board to deny a request received after the effective date of this amendment if a determination is made that the individual has had ten or more years of contributing service since the individual last performed the services subject of the request.

R.C. 145.038 (Acknowledgment of independent contractor status) – Requires a public employer to obtain a written acknowledgement from a person it classifies as an independent contractor informing the person that the employer does not consider the individual a public employee, to retain the acknowledgment for a period of five years, and to transmit a copy of the acknowledgment immediately to the OPERS Board.

Uncodified Sections

Permits DYS, for the purposes of implementing juvenile sentencing reforms, to use up to 45% of the unexpended, unencumbered balance of the RECLAIM Ohio line item to expand Targeted RECLAIM, the Behavioral Health Juvenile Justice Initiative, and other evidence-based community programs; Requires a specified portion of the RECLAIM Ohio line item to be used for the same.

Permits a juvenile court, in collaboration with that county's family and children first council, to transfer portions of its allocations from RECLAIM Ohio and Youth Services, to a flexible funding pool as authorized by HB 153 (129th General Assembly).

Requires the Office of Health Transformation to convene a team comprised of the DYS, ODM, ODJFS, ODH, and DMHAS to evaluate the feasibility of implementing a trauma screening tool for high-risk youth and to create a report to be completed by December 1, 2013. The development of such a tool was a recommendation of the Ohio Interagency Task Force on Mental Health and Juvenile Justice (MHJJ) that was created by HB 86 (129th General Assembly).