



BillBoard

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LEGISLATIVE NEWS



As we say goodbye to the 131st General Assembly and welcome the 132nd we would like to reflect on some of our accomplishments over the past two years and look forward to the next two under the guidance of a new Executive Director.

131st General Assembly: Every General Assembly our staff reviews every bill that is introduced to determine whether there is a judicial impact. The 131st General Assembly was no different with a review of over a thousand bills. The legislative staff actively worked on dozens of these and responded to other legislative inquiries with an eye to helping bill sponsors and other stakeholders understand the impact on the courts and to provide advice on statutory construction. Over the last two years a lot of effort went into work on House Bill 388, a bill regarding ignition interlock devices for first time OVI Offenders, House Bill 347, a bill to reform Ohio's civil asset forfeiture law, House Bill 390, which was amended to include provisions regarding foreclosures and private selling officers, and House Bill 50, regarding guardianships. We also spent a significant amount of time pursuing statutory changes recommended as part of our legislative platform. Items on our legislative platform that were enacted included House Bill 123, regarding the waiver of a pre-sentence investigation report, House Bill 432, which included several changes to probate law sought by our probate judges, House Bill 436 regarding the time periods for license suspension and vehicle immobilization, and Senate Bill 204, regarding discretionary driving privileges. Our thanks goes out to the sponsors of all of these bills for their time and willingness to listen to the judicial perspective and for carrying legislation on our behalf.

132nd General Assembly: We also look forward to working with the next General Assembly and would like to congratulate the new leadership teams in both the House and Senate. The Judicial Conference hopes to be a resource to you and other members as you pursue changes that impact the courts and the administration of justice in Ohio. Our own legislative priorities for the upcoming year include work on rights restoration, structured settlements, uniform waiver of filing fees for indigent civil litigants, harmonization of the court reporting statutes with the Rules of Practice and Procedure, and monitoring the recommendations of the Title 29 Recodification Committee, among other things. Please do not hesitate to contact us for a judicial perspective on your legislation or to sponsor one of our legislative platform items.

Beginning next year, in addition to welcoming a new General Assembly, the Judicial Conference will welcome a new Executive Director in Supreme Court of Ohio Justice Paul Pfeifer who is retiring from the Court after 24 years. Justice Pfeifer's experience in the judiciary along with his background in the legislature will make him a great asset to Ohio judges and valuable resource to the General Assembly. A short interview with Justice Pfeifer can be found in the pages that follow.

Sincerely,

Ohio Judicial Conference Staff

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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.

OHIO JUDICIAL CONFERENCE STANDING COMMITTEES

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OJC Liaison: Marta Mudri, 614-387-9764

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OJC Liaison: Joshua Williams, 614-387-9767

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OJC Liaison: Justin Long, 614-387-9756

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Judge Mary Huffman and Judge Joyce Campbell
OJC Liaison: Marta Mudri, 614-387-9764



Lou Tobin



Marta Mudri



Joshua Williams



Shawn Welch



Justin Long

Interview with Justice Pfeifer

What is the biggest challenge facing Ohio judges? Judges and their staffs face an ever-changing landscape of expectations. The OJC – its officers, committees, and staff – are dedicated to staying in front of unfolding legislation and rule changes. And the OJC is always working to be a voice of reason, testing the need and workability of any changes from a judicial perspective.

What do you think will be the most challenging part of working with the legislature after having been away from it for so long? Due to term limits, most of the faces have changed since I left the Ohio Senate 24 years ago, but much of the legislation that concerns the judiciary still moves in a deliberative, orderly fashion with reasonable opportunity for judges to be heard. I think the biggest area of concern will be the biennial budget, which will undoubtedly contain funding matters that concern the judiciary – matters such as drug and mental health treatment programs that directly impact judicial dispositional options. I know from my experience that budgeting decisions are a very “inside, close to the vest” process. Having been through that process, I think the best approach for judicial input concerning budget matters is a sort of quiet diplomacy.

As a justice on the Supreme Court you’ve been a de facto leader of the judiciary for 24 years. How will your role as Executive Director of the OJC be different? What obstacles do you expect to face in the new role? Covering Supreme Court rule modifications and legislative initiatives in the General Assembly will be a sea-change for me. Instead of being inside the tent with a vote, I’ll be outside the tent now, advocating on behalf of Ohio’s judges, to those who are inside. It’s a constant challenge to be persuasive in the face of strong headwinds. One must always guard against becoming cast as the outside-the-tent personality that LBJ once so colorfully described.

The OJC has been a statutory entity for more than 50 years. What makes it such an integral part of the Ohio judiciary? To me, the strength of the Judicial Conference is that it has been organized to have judges helping judges. Except for a small staff, it’s the volunteer work of Ohio judges, serving on various committees, to identify problems common to all and to seek solutions from the General Assembly and the Supreme Court. Gone are the days when judges only decided matters in their particular jurisdiction. Our courts have become the gatekeepers for measured intervention in myriad situations: they intervene in the lives of drug addicts, the seriously mentally ill, people who are homeless and with people in abusive relationships; they watch over children who are neglected, abused, or completely out of control. While it’s often misunderstood or overlooked, in the end, the judiciary – the “Third Branch” – handles the most difficult problems that our society faces. That means that the OJC is involved in some very important work, and it’s a vital link to help our judges fulfill their expanded role.

Ohio Criminal Justice Recodification Committee

The Ohio Criminal Justice Recodification Committee was created by the Ohio General Assembly in 130 HB 53, which tasks the Committee to “study the existing criminal statutes of this state, with the goal of enhancing public safety and the administration of criminal justice in Ohio by eliminating duplication in those statutes, aligning those statutes with the purpose of defining a culpable mental state for all crimes, removing or revising crimes included in those statutes for which no culpable mental state is provided, and other appropriate measures.” The purpose of the Committee is to review Ohio Revised Code Title 29 and make recommendations to the legislature, which will be subject to the legislative process required for all changes to the Code.

There are 21 members of the Recodification Committee, led by Chair Judge Fred Pepple and Vice-Chair Tim Young, the Ohio public defender. Other members are Jill Beeler (Appellate Services Division, Public Defender’s Office), Senator John Eklund, D. Timothy Huey (attorney at law), Justice Judith Lanzinger, Representative Nathan Manning, Gary Mohr (director, Department of Rehabilitations and Correction), Joe Morbitzer (Westerville Chief of Police), Phil Nunes (Alvis House), Ron O’Brien (Franklin County prosecutor), Representative Dorothy Pelanda, Harvey Reed (director, Department of Youth Services), Albert Rodenberg (Clermont County sheriff), Representative John Rogers, Judge John Rudduck, Lou Schiavone (attorney at law), David Singleton (director, Ohio Justice and Policy Center), Judge Melody Stewart, Senator Cecil Thomas, and Andy Wilson (Clark County prosecutor).

The Committee has been meeting since 2015 and throughout 2015 and 2016 has been working in 3-person work groups, each of which has reviewed a separate chapter within Title 29. As can be expected, the most controversial work involved the review of Chapter 2925 (Drugs), Chapter 2929 (Sentencing), and Chapter 2953 (Appeals).

The following changes were part of recommendations, which have not yet been finalized, to Chapter 2925: amounts and levels of drugs for charges to apply are generally altered, with marijuana treated differently from other drugs; possession of trace amounts of drugs is decriminalized; there is a greater focus on diversion for drug crimes; and no person sentenced to a prison term for a felony offense of one year or less can serve that term in a DRC prison.

The following changes were part of recommendations, which have not yet been finalized, to Chapter 2929: at sentencing, the judge states the amount of time the offender will serve and imposes $\frac{1}{2}$ of that sentence as a “tail”; the offender serves the stated sentence and is to be released, unless the person commits violent or disruptive acts while in prison, in which case he will be required to serve the “tail” as well; early release authority is only available for (1) judicial release and (2) 70% release for non-violent F4 or F5 offenders; specifications will be served first, followed by mandatory portions of mandatory sentences, and non-mandatory time; all terms will run concurrently unless specifically ordered to run consecutively.

The following changes were part of recommendations, which have not yet been finalized, to Chapter 2953: a new statutory right to appeal is created based upon a “lack of proportionality”; appeals based on proportionality are divided into two general categories – appeals of right and appeals that must be requested; first-time offenders who receive the maximum sentence who were not convicted of an offense of violence, a mandatory sentence offense, or an offense with a specification are eligible for an appeal of right.

The Committee was expected to complete its work by August of 2016 and produced a nearly 4,000 page document, but still has 117 proposed amendments, submitted by Committee members, to review before its recommendations can be finalized.

The Recodification Committee was the subject of recent legislation which extended the life of the Committee and set the date for its final report on June 30, 2017.

Get more information and/or to provide input on the Committee's recommendations, either by contacting the Committee directly or through the Ohio Judicial Conference.

Joshua.Williams@sc.ohio.gov (Ohio Judicial Conference staff)

Two items on the OJC 2015-2016 Legislative Platform, HB 432 and HB 436, were enacted during the last few weeks of legislative activity in 2016. Those and other bills the OJC was tracking during lame duck include:

[HB 347](#) (Reps. Brinkman, McColley) **Civil Asset Forfeiture**, passed out of both chambers, 12.8.16. The bill restricts civil asset forfeiture by permitting civil forfeiture only under certain circumstances; the prosecutor's burden of proof is changed from a preponderance of the evidence to clear and convincing evidence.

[HB 388](#) (Rep. Scherer) **Ignition Interlock Devices**, passed out of both chambers, 12.6.16. The bill encourages the use of ignition interlock devices for first-time OVI offenders.

[HB 432](#) (Rep. Cupp) **Omnibus Probate Bill**, passed out of both chambers, 12.8.16. The bill updates probate law, the Ohio Trust Code, the Uniform Principal and Income Act, and related Acts; an amendment consolidated into HB 432 the Revised Uniform Fiduciary Access to Digital Assets Act ([SB 358](#), Sen. Oelslager).

[HB 436](#) (Reps. Cupp, Rogers) **OVI/Immobilization**, passed out of both chambers, 12.8.16. The bill harmonized the time periods for license suspension and vehicle immobilization for an OVI.

[HB 463](#) (Rep. Dever) **Expedited Foreclosure/Private Selling Officer**, passed out of both chambers, 12.8.16. The meat of this bill had been passed earlier this year, so this bill was used as a vehicle to make minor adjustments to the recently passed expedited foreclosure and private selling officer provisions. The bill was amended to include a version of [SB 134](#) (Sen. Seitz – housing discrimination).

[SB 227](#) (Sen. Bacon) **Attorney General Functions**, passed out of both chambers, 12.6.16. The bill made various changes to the duties and authority of the attorney general. Before passage, the bill was amended to include a change to judgment dormancy law.

[SB 319](#) (Sen. Eklund) **Opiate Omnibus**, passed House and sent to the Governor, 12.7.16. The bill contains a provision giving full immunity to court personnel and probation officers administering naloxone. The bill was amended to include [HB 325](#) (Rep. Green – treatment to pregnant drug users).