



BillBoard

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LEGISLATIVE NEWS



In the June issue of BillBoard we highlighted the Judicial Conference Legislative Platform that we produce based on our statutory charge “to consider the business and problems pertaining to the administration of justice and to make recommendations for its improvement.” A second part of the Judicial Conference’s statutory charge is “to promote an exchange of experience and suggestions respecting the operation of the judicial system.” To this end, the Judicial Conference staff works to bring judges together to provide them with opportunities to discuss the issues of the day and to learn from their colleagues about solutions to problems pertaining to the judicial system. We accomplish this in a variety of ways, but primarily through committee meetings that are held regularly throughout the year and by hosting the Ohio Judicial Conference Annual Meeting every fall.

The Judicial Conference Annual Meeting draws judges from across the state, across jurisdictions, and from all levels of the judiciary for a day of committee meetings and judicial association board meetings followed by two days of judicial education. This year, the theme of our Annual Meeting is “*...And Justice for All: The American Promise*,” a meeting focused on ensuring fairness and increasing public trust in the justice system. This is the only conference each year that is geared broadly toward all judges and that allows judges from all jurisdictions to interact with each other, discuss the problems plaguing the judiciary, and share ideas about improving the administration of justice.

Much as regular legislative sessions, committee hearings, and caucus meetings allow the General Assembly to discuss the policy issues of the day, work through those issues, and come to consensus, our Annual Meeting is a place for judges to come together, learn, and build consensus about the administration of justice in Ohio. We know that judges truly appreciate our Annual Meeting and the opportunities for professional growth that it provides to the end benefit of all Ohioans. The Annual Meeting includes a reception on Thursday evening that is open to attendees, justice system partners, and all legislators. We hope that you will consider attending so that you too can meet Ohio judges and have an opportunity to discuss issues of mutual importance.

Sincerely,

Ohio Judicial Conference Staff

TABLE OF CONTENTS

OJC Fact Sheet.....	2-3
Articles.....	4-5

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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Safe Harbor

On June 27, 2012, 129 HB 262 went into effect. At introduction, the bill had been labeled the “Safe Harbor Act,” and, as-passed it contained a “safe harbor” for juvenile victims of human trafficking who were charged with a crime. Simply put, if a judge suspected that a juvenile charged with a crime was also the victim of human trafficking – in other words, if a judge suspected that the juvenile may have been forced to perform sexual and other labor and could have been forced to commit the crime charged – the judge could hold the charge in abeyance so that the juvenile could participate in treatment. The charge could eventually be dismissed entirely. The bill passed overwhelmingly in the legislature and was supported by the Governor. It is currently operating as a useful tool to helping connect human trafficking victims with treatment and prevent those victims from being pulled into a revolving door of encounters with the criminal justice system.

The Safe Harbor Act, however, was written to allow only a 90-day abeyance of a charge, with the possibility of 2 additional 90-day extensions. Best practices recommend and experience confirms that 270 days is simply not enough time for a juvenile victim of human trafficking to successfully undergo treatment. Juvenile victims of human trafficking often have a substance abuse disorder – either initiated under the duress of a pimp or used as a coping method. Beyond that, juvenile victims of human trafficking often form what are known as “trauma bonds” with their pimps; this is a sort of Stockholm Syndrome wherein the pimp has completely isolated the juvenile and the pimp is perceived by the juvenile as caring at the same time that the juvenile perceives a great danger in angering or leaving the pimp. Because of substance abuse and trauma bonds, a juvenile victim of human trafficking needs a longer period of treatment than a mere 270 days.

The Safe Harbor Act – now ORC 2152.021 – is a great example of well-intentioned and well-written legislation that, once put into practical use, needs a slight adjustment to work even more effectively. Ideally, the Safe Harbor Act would allow a charge against a juvenile victim of human trafficking to be held in abeyance until the judge is satisfied that the juvenile has recovered. This would provide judges with the discretion to ensure that each juvenile victim of human trafficking is receiving the treatment that he or she needs and is recovering fully from both substance dependence and trauma bonds.

Court Reporting and Transcripts

In June 2012, as part of House Bill 487 (Mid-Biennial Review), the General Assembly enacted changes to Revised Code Sections 2301.18 through 2301.26 to modernize language related to court reporting and make changes to the payment procedure for making copies of court transcripts. Some of the language that was adopted created inconsistencies with the Ohio Rules of Court, specifically Appellate Rules 9 and 10 regarding the record on appeal and transmission of the record, and Superintendence Rules 11, 44, and 45 regarding recording of proceedings and court records.

The inconsistencies between the language in the statutes and the language in the Rules has created confusion for Ohio courts and led to a lack of uniformity in the application of the law. For example, RC 2301.20 states that “[A]ll civil and criminal actions in the court of common pleas shall be recorded” and RC 2301.21 establishes a fee for this service of \$25 per day. The Rules of Court, on the other hand, do not require the recording of all proceedings, and are more equitable to parties that may not wish to pay \$25 per day to unnecessarily record everything. Adding to the confusion, RC 2301.20 goes on to say that the “reporter shall take accurate notes of or electronically record the oral testimony.” This is inconsistent with the requirement in the immediately preceding sentence that the action be recorded. The Judicial Conference has worked with courts since the enactment of HB 487 to ensure that they understand the legislative intent of these provisions. Statutory clarity would, nevertheless, resolve a variety of interpretation issues that are a matter of concern to courts.

The court reporter statutes also require some additional language modernization that was not included in HB 487. This additional language will enable courts to adapt to future technological changes in court reporting methods, improving the administration of justice. For example, the statutes require that court reporters “take accurate notes of or electronically record” the action or the oral testimony. This does not reflect the current practice of digitally recording proceedings at the present time. Additionally, it does not allow for other means of recording to be used in the future as court technology advances. As such, the language should be modernized to require the reporter to “carefully preserve the proceeding on an appropriate medium.” Confusion is also created by the use of the word “transcript.” A “transcript” is an official verbatim record of a proceeding which is prepared and certified by a reporter to be a true and accurate record of the proceeding. It is appropriate for filing with trial and appellate courts and for use in court proceedings. Existing law does not adequately distinguish between a transcript and a “duplicate copy of a transcript.” A “duplicate copy of a transcript,” while not certified by a court reporter and not appropriate for filing, is nevertheless sufficient for use by counsel in preparing arguments and appeals and in preparing for the examination of witnesses. These terms should be defined in the Revised Code in order to eliminate confusion about when a court reporter is required to produce a “transcript,” a labor intensive task, as opposed to a “duplicate copy of a transcript” that can be obtained from the clerk of court if the transcript has been filed, or if not filed, from the court reporter but with less labor.

One important reason that the Ohio Judicial Conference was established in 1963 was “for the purpose of...the encouragement of uniformity in the application of the law, rules, and practice throughout the state.” Another reason was “to consider the business and problems pertaining to the administration of justice and to make recommendations for its improvement.” Our proposed changes to the court reporting statutes outlined above help further both of these important goals. Please contact us to learn more about our proposal to address these problems.