



**H.B. 132**

124th General Assembly  
(As Introduced)

**Reps. Brinkman, Clancy, Seitz, Schneider, Driehaus, Womer Benjamin, Latta, Schmidt, Raga, Niehaus, Jolivette, Webster, Britton, Willamowski, Cates, Coates, Barrett**

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**BILL SUMMARY**

- Extends for one additional term the designation the Hamilton County Court of Common Pleas Drug Court judgeship as a judgeship of that nature.

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**CONTENT AND OPERATION**

**Existing law**

Under existing law, the judge of the Hamilton County Court of Common Pleas whose term begins on January 3, 1997, is to be elected and designated *for one term only* as the Drug Court judge of the Hamilton County Court of Common Pleas. Existing law also specifies the authority of the Drug Court. The successors to that judge are to be elected and designated as judges of the general division of the Hamilton County Court of Common Pleas and are not to have that authority. (R.C. 2301.03(B)(3).)

**Operation of the bill**

Under the bill, the successor to the current Drug Court judge, also will be elected and designated for one term only as the Drug Court judge of the Hamilton County Court of Common Pleas. The successor's term begins on January 3, 2003. Subsequent successors will be elected and designated as general division judges. (R.C. 2301.03(B)(3).)

**Background--authority of the Drug Court judge of the Hamilton County Court of Common Pleas**

**Referral to Drug Court judge**

Under existing law, unchanged by the bill, the Drug Court judge may accept or reject any case referred to the judge. After the judge accepts a referred case, the judge has full authority over the case, including the authority to conduct arraignment, accept pleas, enter findings and dispositions, conduct trials, order treatment, and if treatment is not successfully completed pronounce and enter sentence.

A general division judge of the Hamilton County Court of Common Pleas and a judge of the Hamilton County Municipal Court may refer to the Drug Court judge any case, and any companion cases, the judge determines meet the referral criteria described below. If the Drug Court judge accepts referral of a referred case, the case, and any companion cases, must be transferred to the Drug Court judge. A judge may refer a case meeting the referral criteria that involves a violation of a term of probation to the Drug Court judge, and, if the Drug Court judge accepts the referral, the referring judge and the Drug Court judge have concurrent jurisdiction over the case.

**Referral criteria**

A general division judge of the Hamilton County Court of Common Pleas and a judge of the Hamilton County Municipal Court may refer a case to the Drug Court judge if the judge determines that both of the following apply:

(1) One of the following applies: (a) the case involves a drug abuse offense that is a third, fourth, or fifth degree felony, or a misdemeanor, or (b) the case involves a theft offense that is a third, fourth, or fifth degree felony or a misdemeanor, and the defendant is drug or alcohol dependent or in danger of becoming drug or alcohol dependent and would benefit from treatment.

(2) All of the following apply: (a) the case involves a probationable offense or a case in which a mandatory prison term is not required to be imposed, (b) the defendant has no history of violent behavior, (c) the defendant has no history of mental illness, (d) the defendant's current or past behavior, or both, is drug or alcohol driven, (e) the defendant demonstrates a sincere willingness to participate in a 15-month treatment process, (f) the defendant has no acute health condition, and (g) if the defendant is incarcerated, the county prosecutor approves of the referral.

### **Assignment of General Division cases to Drug Court judge**

If the administrative judge of the Hamilton County Court of Common Pleas determines that the volume of cases pending before the Drug Court judge does not constitute a sufficient caseload for the Drug Court judge, the administrative judge must assign individual cases to the Drug Court judge from the Court's general docket. The administrative judge must cease making assignments of this nature when the administrative judge determines that the volume of cases pending before the Drug Court judge constitutes a sufficient caseload for the Drug Court judge. (R.C. 2301.03(B)(4).)

### **Definitions**

#### **Drug abuse offense**

Under existing law, "drug abuse offense" means any of the following (R.C. 2925.01(G)--not in the bill):

(1) Theft of drugs (R.C. 2913.02(A) in specified circumstances), corrupting another with drugs (R.C. 2925.02), drug trafficking offenses (R.C. 2925.03), illegal manufacture of drugs or cultivation of marihuana (R.C. 2925.04), funding of drug or marihuana trafficking (R.C. 2925.05), illegal administration or distribution of anabolic steroids (R.C. 2925.06), drug possession offenses (R.C. 2925.11), possessing drug abuse instruments (R.C. 2925.12), permitting drug abuse (R.C. 2925.13), deception to obtain a dangerous drug (R.C. 2925.22), illegal processing of drug documents (R.C. 2925.23), tampering with drugs (R.C. 2925.24), abusing harmful intoxicants (R.C. 2925.31), trafficking in harmful intoxicants (R.C. 2925.32), improperly dispensing or distributing nitrous oxide (R.C. 2925.32), illegal dispensing of drug samples (R.C. 2925.36), or possession of or trafficking in counterfeit controlled substances (R.C. 2925.37);

(2) A violation of an existing or former law of Ohio or any other state or of the United States that is substantially equivalent to any offense listed in paragraph (1), above;

(3) An offense under an existing or former law of Ohio or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element;

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense described in paragraphs (1), (2), and (3), above.

**Theft offense**

Under existing law, "theft offense" means any of the following (R.C. 2912.01(K)--not in the bill):

(1) Aggravated robbery (R.C. 2911.01), robbery (R.C. 2911.02), aggravated burglary (R.C. 2911.11), burglary (R.C. 2911.12), breaking and entering (R.C. 2911.13), safecracking (R.C. 2911.31), tampering with coin machines (R.C. 2911.32), petty theft, theft, grand theft, grand theft of a motor vehicle, aggravated theft, and theft of drugs (R.C. 2913.02), unauthorized use of a vehicle (R.C. 2913.03), unauthorized use of property and unauthorized use of computer property (R.C. 2913.04), possession of an unauthorized device and sale of an unauthorized device (R.C. 2913.041), telecommunications fraud (R.C. 2913.05), unlawful use of a telecommunications device (R.C. 2913.06), passing bad checks (R.C. 2913.11), misuse of credit cards (R.C. 2913.21), forgery and forging identification cards or selling or distributing forged identification cards (R.C. 2913.31), criminal simulation (R.C. 2913.32), making or using slugs (R.C. 2913.33), trademark counterfeiting (R.C. 2913.34), Medicaid fraud (R.C. 2913.40), tampering with records (R.C. 2913.42), securing writings by deception (R.C. 2913.43), personating an officer (R.C. 2913.44), defrauding creditors (R.C. 2913.45), insurance fraud (R.C. 2913.47), receiving stolen property (R.C. 2913.51), cheating (R.C. 2915.05), corrupting sports (R.C. 2915.05), theft in office (R.C. 2921.41), the former offense of insurance fraud (former R.C. 2913.47), or the former offense of workers' compensation fraud (former R.C. 2913.48);

(2) A violation of an existing or former municipal ordinance or law of Ohio, any other state, or the United States, substantially equivalent to any section listed in clause (a) or defrauding a livery or hostelry (former R.C. 2913.41), denying access to a computer (R.C. 2913.81), or corrupting sports (R.C. 2915.06), as those offenses existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of Ohio, any other state, or the United States, involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, or fraud;

(4) A conspiracy to commit, attempt to commit, or complicity in committing any offense identified in (1), (2), or (3).

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	02-27-01	p. 185

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