



Sub. H.B. 530*

124th General Assembly

(As Reported by S. Judiciary on Civil Justice)

Reps. Peterson, Willamowski, Seitz, Manning, Sulzer, Collier, Grendell, Calvert, Distel, Schmidt, Hartnett, Coates, Sferra, Otterman, Carano, Niehaus, Evans, Flowers, Redfern, Perry, Latell, Raga

BILL SUMMARY

- Modifies from counties with less than 100,000 population to counties with less than 250,000 population the counties that are exempt from the statutorily-required procedure for drawing jurors for each term or part of a term of court.
- Specifically permits an individual judge in addition to a court of common pleas to postpone, excuse, or discharge prospective jurors from jury service under certain circumstances.
- Modifies, updates, and relocates various provisions of existing law regarding the postponement of jury service.
- Creates the Brown County Municipal Court on February 9, 2003.
- Abolishes, effective February 9, 2003, the Brown County County Court.
- Establishes one full-time judgeship in the Brown County Municipal Court.
- Designates one of the part-time judges of the Brown County County Court to continue after that court is abolished as the full-time judge of the Brown County Municipal Court from February 9, 2003, until December 31, 2005.

** This analysis was prepared before the report of the Senate Judiciary on Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Continues the authority of the mayor of Georgetown to conduct a mayor's court.
- Creates the Morrow County Municipal Court on January 1, 2003.
- Abolishes, effective January 1, 2003, the Morrow County County Court.
- Establishes one full-time judgeship in the Morrow County Municipal Court.
- Designates the part-time judge of the Morrow County County Court to continue after that court is abolished as the full-time judge of the Morrow County Municipal court from January 1, 2003, until December 31, 2005.
- Continues the authority of the mayor of Mount Gilead to conduct a mayor's court.
- Declares an emergency.

CONTENT AND OPERATION

Procedure for drawing jurors

Existing law provides that each court of common pleas or a judge of a court of common pleas must specify by written order the number of jurors to be drawn for each term or part of a term. The commissioners of jurors first must draw a proportionate number of jurors ordered for a term or part of a term and issue a summons to them to be present during the first three consecutive calendar weeks of the term or part of a term. This process must be repeated for each succeeding three consecutive calendar week period. Counties with a population of less than 100,000 are exempted from these requirements, and, in those counties, the judge of the court of common pleas must adopt rules applicable to jury drawings. The bill modifies this provision by providing the provisions described above do not apply to counties with a population of less than 250,000. The bill also modifies the language of these provisions without substantive change. (R.C. 2313.24.)

Postponement of jury service

Existing law allows a court of common pleas to postpone, excuse, or discharge prospective jurors from jury service under certain circumstances. The bill specifically states that *an individual judge* of a court of common pleas may also postpone, excise, or discharge prospective jurors from jury service. (R.C. 2313.13.)

Modification and relocation of existing procedures for postponing, excusing, and delaying juror service

Existing law permits a court of common pleas to postpone the whole or a part of the time of service of a juror, after notice for service, to a later date during the same term or part of a term or to a subsequent term or part of a term of the same jury year. The bill moves this provision to R.C. 2313.13(B)(1) and modifies it to read as follows:

(B)(1) The court of common pleas of a county or a judge of the court of common pleas of a county may postpone the whole or a part of a juror's time of service on jury duty, after summoning the juror for jury duty, to either of the following:

- (a) To a later date during the same term of court or part of a term of court;
- (b) To a subsequent term of court or part of a term of court of the same jury year.

Existing law also permits a court of common pleas to excuse a juror, after notice for service, from service at that term for not more than three days at a time. Postponements of the time of jury service and the three-day excuses are authorized only where the exigencies of the prospective juror's business require the prospective juror's temporary excuse. The bill modifies the language in this provision and relocates it to R.C. 2313.13(D). This revised provision reads as follows:

(D) The court of common pleas of a county or a judge of the court of common pleas of a county may excuse a juror, after summoning the juror for jury duty, from service on jury duty at that term of court for not more than three days at a time, if the exigencies of the juror's business require the juror's temporary excuse.

Existing law also allows a court of common pleas to discharge for the term or part of a term, or excuse until a day certain, one or more jurors so notified whose attendance is not required for the trial of issues at that term or part of a term, or until that day. The bill modifies this provision and relocates it to R.C. 2313.13(C), and the relocated provision reads as follows:

(C) The court of common pleas of a county, or a judge of the court of common pleas of a county, may excuse

until a specified date one or more jurors summoned for jury duty whose attendance is not required for the trial of issues until that day. Each juror excused until a specified date may be required to attend the opening of court on that day and on each day after that day until the juror is discharged, without additional summons from the court.

Brown County Municipal Court and Morrow County Municipal Court

Creation and territorial jurisdiction

Existing law creates in each Ohio county, in which the territorial jurisdiction of a municipal court or municipal courts is not coextensive with the boundaries of the county, a court known as the county court. The county court has jurisdiction throughout all territory within the county not subject to the territorial jurisdiction of any municipal court. In addition to this territorial jurisdiction, certain county courts, including the Brown County County Court, have jurisdiction beyond the north or northwest shore of the Ohio River extending to the opposite shore line, between the boundary lines of any adjacent municipal courts or adjacent county courts. Each of the county courts that is given jurisdiction on the Ohio River has concurrent jurisdiction on the Ohio River with any adjacent municipal courts or adjacent county courts that border on the Ohio River and with any Kentucky or West Virginia court that borders on the Ohio River and that has jurisdiction on the Ohio River under Kentucky or West Virginia law, whichever is applicable, or under federal law. (R.C. 1907.011 and R.C. 1907.01--not in the bill.)

Operation of the bill

The bill abolishes the Brown County County Court, effective February 9, 2003, and repeals the provisions that give that court jurisdiction over the Ohio River (R.C. 1907.011; Section 6; R.C. 1907.01--not in the bill).

Effective February 9, 2003, the bill establishes a municipal court within Brown County in Georgetown. The court will be styled and known as "the Brown County Municipal Court," and it is a county-operated municipal court. The Brown County Municipal Court has jurisdiction within Brown County. In addition to this territorial jurisdiction, the Brown County Municipal Court has jurisdiction over the Ohio River comparable to the repealed jurisdiction of the Brown County County Court over the Ohio River. (R.C. 1901.01(A), 1901.02(A)(22) and (B), 1901.027, and 1901.03(F).)

The bill also abolishes the Morrow County County Court, effective January 1, 2003.

Effective January 1, 2003, the bill establishes a municipal court within Morrow County in Mount Gilead. The court will be styled and known as "the Morrow County Municipal Court," and it is a county-operated municipal court. The Morrow County Municipal Court has jurisdiction within Morrow County. (R.C. 1901.01(A), 1901.02(A)(23) and (B), and 1901.03(F).)

Mayor's court

Existing law. Under existing law, upon the institution of a municipal court, the jurisdiction of the mayor in all civil and criminal causes terminates within the municipal corporation in which the municipal court is located. All other mayors within the territory may retain any jurisdiction that is now provided in all criminal causes involving violation of ordinances of their respective municipal corporations and in all criminal causes involving moving traffic violations occurring on state highways located within their respective municipal corporations, to be exercised concurrently with the municipal court. (R.C. 1901.04.)

Operation of the bill. The bill provides that the institution of the Brown County Municipal Court and the Morrow County Municipal Court does not terminate or affect the jurisdiction of the mayor of Georgetown or the mayor of Mount Gilead in any civil or criminal cause. Upon the institution of the court, the mayor of Georgetown and the mayor of Mount Gilead retain jurisdiction in causes as described in R.C. 1905.01. The mayor must exercise that jurisdiction concurrently with the municipal court. (R.C. 1901.04 and 1905.01.)

Judgeships

Existing law. Existing law authorizes two part-time judges for the Brown County County Court. Each judge serves a term of six years, with the terms starting on January 1 or 2 of the year following the year of their election. (R.C. 1907.11 and R.C. 1907.13--not in the bill.)

Existing law authorizes one part-time judge for the Morrow County County Court. The judge serves a term of six years, with the term starting on January 1 of the year following the year of the election. (R.C. 1907.11 and R.C. 1907.13--not in the bill.)

Operation of the bill. Effective February 9, 2003, the bill abolishes the two part-time judgeships in the Brown County County Court (R.C. 1907.11; Section 6(A)(4)).

The bill authorizes the election of one full-time judge in the Brown County Municipal Court in 2005. Under the operation of provisions of existing law unaffected by the bill, the judge would serve a term of six years and begin the judge's term on January 1, 2006. Beginning February 9, 2003, the part-time judge of the Brown County County Court that existed prior to that date whose term commenced on January 2, 2001, must serve as the full-time judge of the Brown County Municipal Court until December 31, 2005. (R.C. 1901.08 and R.C. 1901.07(A)--not in the bill.)

Effective January 1, 2003, the bill abolishes the one part-time judgeship in the Morrow County County Court (R.C. 1907.11; Section 6(B)(4)).

The bill authorizes the election of one full-time judge in the Morrow County Municipal Court in 2005. Under the operation of provisions of existing law unaffected by the bill, the judge would serve a term of six years and begin the judge's term on January 1, 2006. Beginning January 1, 2003, the part-time judge of the Morrow County County Court that existed prior to that date must serve as the full-time judge of the Morrow County Municipal Court until December 31, 2005. (R.C. 1901.08(A) and 1901.07(A)--not in the bill.)

Clerk of the court

Existing law. The clerk of courts (the clerk of the court of common pleas) generally is the clerk of the county court. The clerk of the court of common pleas, when acting as the clerk of the county court, and upon assuming those county court clerk duties, must receive compensation at one-fourth the statutorily prescribed rate for the clerks of courts of common pleas as determined in accordance with the population of the county. This compensation must be paid from the county treasury and is in addition to the annual compensation received for the performance of duties of the clerk of a court of common pleas. As an alternative to this procedure, the board of county commissioners, with the concurrence of the county court judges, may appoint a clerk for each county court judge, who must serve at the pleasure of the board and receive compensation as set by the board, payable from the county treasury. (R.C. 1907.20(A)--not in the bill.)

Operation of the bill. In the Brown County Municipal Court, the clerk of courts of Brown County (the clerk of the Brown County Court of Common Pleas) must be the clerk of the Brown County Municipal Court. The clerk may appoint a chief deputy clerk for each branch office of the court and may appoint any assistant clerks that the judges of the court determine are necessary. All of the chief deputy clerks and assistant clerks must receive the compensation that the legislative authority prescribes. The Brown County Clerk of Courts, acting as the clerk of the Brown County Municipal Court and assuming the duties of that office, must receive compensation payable from the county treasury in semimonthly

installments at one-fourth the statutorily prescribed rate for the clerks of courts of common pleas as determined in accordance with the population of the county. (R.C. 1901.31(A)(2)(c), (A)(2)(a), and (C).)

In the Morrow County Municipal Court, the clerk must be appointed by the court. The clerk of the municipal court must receive the annual compensation that the presiding judge of the court prescribes, if the revenue of the court for the preceding calendar year is equal to or greater than the expenditures for the operation of the court payable from the county treasury for that calendar year. If the revenue of the Morrow County Municipal Court is not equal to or greater than those expenditures for the operation of the court for that calendar year, the clerk must receive annual compensation that the legislative authority prescribes. (R.C. 1901.31(A)(2)(a) and (C)(1).)

Prosecution of violations of state law

Generally, the village solicitor, city director of law, or similar chief legal officer for each municipal corporation within the territory of the municipal court must prosecute all cases brought before the municipal court for criminal offenses occurring within the municipal corporation for which that person is the solicitor, director of law, or similar chief legal officer. The chief legal officer of the municipal corporation in which a municipal court is located must prosecute all criminal cases brought before the court arising in the unincorporated areas within the territory of the municipal court.

Under the bill, the Brown County and Morrow County prosecuting attorneys must prosecute in the municipal court all violations of state law arising in their respective counties. The prosecuting attorney of either county may enter into an agreement with any municipal corporation in their respective counties pursuant to which the prosecuting attorney prosecutes all violations of that municipal corporation's ordinances. (R.C. 1901.34(B).)

Transitional provisions

Under the bill, all causes, executions, and other proceedings pending in the Brown County County Court at the close of business on February 8, 2003, must be transferred to and proceed in the Brown County Municipal Court as if originally instituted in the Brown County Municipal Court. Parties to those causes, judgments, executions, and proceedings may make any amendments to their pleadings that are required to conform them to the rules of the Brown County Municipal Court. The Clerk of the Brown County County Court or other custodian must transfer to the Brown County Municipal Court all pleadings, orders, entries, files, moneys, property, and persons that belong to, are in the possession of, or are subject to the jurisdiction of the Brown County County



Court, or any officer of that court, at the close of business on February 8, 2003, and that pertain to those causes, judgments, executions, and proceedings. All employees of the Brown County County Court must be transferred to and must become employees of the Brown County Municipal Court on February 9, 2003. (Section 6(A).)

All causes, executions, and other proceedings pending in the Morrow County County Court at the close of business on December 31, 2002, must be transferred to and proceed in the Morrow County Municipal Court as if originally instituted in the Morrow County Municipal Court. Parties to those causes, judgments, executions, and proceedings may make any amendments to their pleadings that are required to conform them to the rules of the Morrow County Municipal Court. The Clerk of the Morrow County County Court or other custodian must transfer to the Morrow County Municipal Court all pleadings, orders, entries, files, moneys, property, and persons that belong to, are in the possession of, or are subject to the jurisdiction of the Morrow County County Court, or any officer of that court, at the close of business on December 31, 2002, and that pertain to those causes, judgments, executions, and proceedings. All employees of the Morrow County County Court must be transferred to and must become employees of the Morrow County Municipal Court on January 1, 2003. (Section 6(B).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-05-02	p. 1488
Reported, H. Civil & Commercial Law	05-15-02	p. 1773
Passed House (93-0)	05-30-02	pp. 1887-1888
Reported, S. Judiciary on Civil Justice	---	---

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