



Am. Sub. S.B. 155
127th General Assembly
(As Passed by the General Assembly)

Sens. Faber, Schuler, Grendell, Spada, Kearney, Austria, Boccieri, Buehrer, Cates, Harris

Reps. Blessing, Wagoner, Coley, Latta, Gerberry, Bacon, Batchelder, Seitz, Bolon, Brady, Budish, DeBose, Dodd, Domenick, Driehaus, Dyer, Flowers, Harwood, Hughes, Letson, Luckie, Mallory, R. McGregor, Mecklenborg, Schindel, Skindell, Strahorn, Yuko, Zehringer

Effective date: *

ACT SUMMARY

- Specifies the rate of compensation of a member of the current or previous General Assembly who is appointed to judicial office.
- Changes the judgeship of the Upper Sandusky Municipal Court from part-time to full-time as of January 1, 2008.
- Makes the Drug Court Judge of the Hamilton County Court of Common Pleas permanent.
- Adds one judge to the Court of Common Pleas of Champaign County to be elected in 2008 as a judge of the Domestic Relations-Juvenile-Probate Division for a term to begin February 10, 2009.
- Creates a Domestic Relations-Juvenile-Probate Division for the Champaign County Court of Common Pleas and gives the division jurisdiction over all juvenile and domestic relations matters and, on and after February 9, 2009, jurisdiction over all probate matters.

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

- Requires the state to pay for special elections to fill vacancies in the office of representative to Congress and appropriates money to reimburse county boards of elections for the cost of any such election in 2008.
- Extends the deadline by which the report of the Joint Committee to Study Court Costs and Filing Fees is due.
- Declares an emergency.

CONTENT AND OPERATION

Compensation of a member of the current or previous General Assembly who is appointed to judicial office

Under Article II, § 4 of the Ohio Constitution, a member of the General Assembly, during the term for which the member was elected or for one year thereafter, may not be appointed to any Ohio public office that was created or the compensation of which was increased during the term for which the member was elected. The act provides that a member of the current General Assembly, or a person who was a member of the current or previous General Assembly, who is appointed to fill the unexpired term of office of the Chief Justice or a justice of the Supreme Court or of any judge must receive compensation for the balance of that unexpired term at the rate that was in effect for that office on the last day of the General Assembly prior to the one during which the person was appointed. (R.C. 141.06.)

Upper Sandusky Municipal Court

Under prior law the Upper Sandusky Municipal Court had one part-time judge who was elected most recently in 2005 for a term beginning on January 1, 2006. The act abolishes the part-time judgeship and replaces it with a full-time judgeship as of January 1, 2012. It further provides that from January 1, 2008, through December 31, 2011, the part-time judge elected in 2005 will serve as a full-time judge and will receive the same salary and be subject to the same restrictions as other full-time judges of municipal courts. (R.C. 1901.08 and Section 7.)

Hamilton County Drug Court

Under continuing law (R.C. 2301.03(B)(3)), one judge of the Hamilton County Court of Common Pleas is designated as the Drug Court Judge of that court. The Drug Court Judge hears cases that are referred from a judge of the General Division of the court or from a judge of the Hamilton County Municipal

Court, and any companion cases, that the referring judge determines meet the criteria described below. A judge may refer a case meeting those criteria that involves a violation of a condition of a community control sanction, and, if the Drug Court Judge accepts the referral, the referring judge and the Drug Court Judge have concurrent jurisdiction over the case.

A case may be referred to the Drug Court Judge if the referring judge determines that both (1) and (2) apply:

(1) One of the following applies:

(a) The case involves a drug abuse offense that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor.

(b) The case involves a theft offense that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, 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 an offense for which a community control sanction may be imposed or is a case in which a mandatory prison term or a mandatory jail 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.

(g) If the defendant is incarcerated, the county prosecutor approves of the referral.

Under prior law, the special designation of the Drug Court Judge was due to expire on January 2, 2009. The act makes the designation of the Drug Court Judge permanent. (R.C. 2301.03(B)(3).)

The act also provides that declarations of candidacy and petitions for the office of judge of the general division of the Court of Common Pleas of Hamilton County to be elected in 2008 for a term beginning on January 3, 2009, that contain signatures that were affixed before the effective date of the act shall be accepted for the office of the Drug Court Judge of the Court of Common Pleas of Hamilton County to be elected in 2008, term beginning on January 3, 2009, if those declarations of candidacy and petitions meet the other requirements of R.C. Title 35 (Section 8).

Additional judge for the Champaign County Court of Common Pleas

Under prior law, the Champaign County Court of Common Pleas had two judges: one in the general division, and one in the probate division (R.C. 2101.01, not in the act, and R.C. 2301.02(A)). The act creates one additional judgeship for the Champaign County Court of Common Pleas. The new judge will be elected in 2008, for a term to begin February 10, 2009. The judge whose term begins February 9, 2003 (the current probate judge), and the new judge, and successors to those judges, will have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the Champaign County Court of Common Pleas. These judges will be elected and designated as judges of the Court of Common Pleas, domestic relations-juvenile-probate division that the act creates, as described below. (R.C. 2301.02(A) and 2301.03(DD)(1).)

The act specifies that, except as otherwise specified in this paragraph, those judges, and the successors to those judges, have all the powers relating to the juvenile courts. All cases under the Juvenile Code, all cases arising under Chapter 3111. (the Parentage Law), all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings must be assigned to those judges and the successors to those judges. Notwithstanding any other provision of any statute, on and after February 9, 2009, the judges designated as judges of the Court of Common Pleas, domestic relations-juvenile-probate division, and the successors to those judges, have all the powers relating to the probate courts in addition to the powers previously specified in this paragraph, and will exercise jurisdiction over all matters that are within the jurisdiction of the probate division of that Court under the Probate Code, and other provisions, in addition to the jurisdiction of the

domestic relations-juvenile- probate division of that Court previously specified in this paragraph. (R.C. 2301.03(DD)(1).)

The act specifies that, on or after February 9, 2009, all references in Ohio law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" must be construed with respect to Champaign County as being references to the "domestic relations-juvenile-probate division" and as being references to the "judge of the domestic relations-juvenile-probate division." On and after February 9, 2009, all references in law to "the clerk of the probate court" must be construed with respect to Champaign County as being references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence as the administrative judge of the Court of Common Pleas, domestic relations-juvenile-probate division. (R.C. 2301.03(DD)(2).)

The act provides that, effective February 9, 2009, the probate judge of the Court of Common Pleas of Champaign County will have all the powers relating to the domestic relations-juvenile-probate division of the Court of Common Pleas of Champaign County and will exercise concurrent jurisdiction with the judges of the domestic relations-juvenile-probate division of the Court of Common Pleas of Champaign County over matters that are within the jurisdiction of the domestic relations-juvenile-probate division (R.C. 2101.025).

The act further provides that the following declarations of candidacy and petitions for the office of judge of the Court of Common Pleas of Champaign County shall be accepted if they meet the other requirements of R.C. Title 35 (Section 8):

(1) For judge of the probate division or judge of the probate-juvenile division to be elected in 2008 for a term beginning on February 9, 2009, that contain signatures that were affixed before the effective date of the act;

(2) For judge of the domestic relations-juvenile-probate division to be elected in 2008 for a term beginning on February 10, 2009, that contain signatures that were affixed before the effective date of the act.

The act declares an emergency to allow it to take effect immediately so that candidates for the new judgeship of the Champaign County Court of Common Pleas will have enough time to file declarations of candidacy and nominating petitions (Section 9).

Costs of special congressional election

Under continuing law, when a vacancy in the office of representative to Congress occurs, the Governor must issue a writ of election directing that a special

election be held to fill the vacancy in the territory. The writ is directed to the appropriate board of elections, and the board must give notice of the time and places of holding the election. The election must be conducted and the returns made in the same manner as for a regular state election. The act adds the requirement that the state pay all costs of any such special election and appropriates \$1.1 million to reimburse county boards of elections for all costs of conducting any special election during FY 2008 (R.C. 3521.03 and Section 3).

Deadline for the report of the Joint Committee to Study Court Costs and Filing Fees

Section 6 of Sub. H.B. 336 of the 126th General Assembly created the Joint Committee to Study Court Costs and Filing Fees to study the determination, assessment, collection, and allocation of court costs and filing fees in criminal and civil actions and proceedings in Ohio, to study where the money collected is deposited, and to make recommendations for any changes that the Committee believes need to be made to the current system for court costs and filing fees. The Committee's report to the Ohio Supreme Court, the General Assembly, and the Governor is due January 18, 2008. The act extends the deadline for submission of the report by six months. (Sections 5 and 6.)

HISTORY

ACTION	DATE
Introduced	04-25-07
Reported, S. Judiciary - Civil Justice	06-12-07
Passed Senate (33-0)	06-20-07
Reported, H. Judiciary	10-04-07
Passed House (91-3)	10-16-07
Senate refused to concur in House amendment (0-33)	10-24-07
House requested conference committee	10-30-07
Senate acceded to request for conference committee	10-31-07
Senate agreed to conference committee report (32-0)	12-12-07
House agreed to conference committee report (93-0)	12-12-07

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