



H.B. 154

127th General Assembly
(As Introduced)

Reps. Wolpert, Collier, Stebelton

BILL SUMMARY

- Abolishes mayor's courts effective January 1, 2008.
- Authorizes each municipal corporation that on January 1, 2008, has both a legally functioning mayor's court and a population of 1,600 or more to establish a community court.
- Transfers proceedings of the mayor's court of a municipal corporation that on December 31, 2007, has fewer than 1,600 inhabitants to the municipal court or county court having territorial jurisdiction over the municipal corporation.
- Creates a procedure by which the legislative authority of a municipal corporation that as of the bill's effective date has a mayor's court and a population of 1,600 or more may elect to establish a community court or to transfer pending proceedings in the mayor's court to the appropriate county court or municipal court.
- Authorizes the legislative authority of a municipal corporation that after January 1, 2008, has a population of 1,600 or more to establish a community court, provides for the termination of a community court and transfer of its proceedings if the population of the municipal corporation falls below 1,600, and authorizes the legislative authority of a municipal corporation whose population falls below 1,600 to petition the Supreme Court for the continuation of a community court.
- Provides that a community court is a court of record and subject to supervision by the Supreme Court, is presided over by a magistrate who is a lawyer appointed by the sole judge or administrative judge of the municipal court or county court having territorial jurisdiction over the

municipal corporation, may have a clerk appointed by the legislative authority of the municipal corporation, and generally has the same jurisdiction and powers as a mayor's court.

- Provides that dockets and files of a community court are governed by the law pertaining to municipal courts.
- Provides that appeals from a community court are taken to the court of appeals for the appellate district in which the community court is located.
- Provides that an offender in a community court may be confined for failing to pay a fine only if the offender is financially able to pay.
- Requires that one-half of all costs, fees, and fines collected by a municipal court clerk as a result of summonses issued by law enforcement officers of a municipal corporation in cases that before January 1, 2008, would have been heard in the mayor's court of the municipal corporation and that would have been payable to the municipal treasury be paid to the municipal treasury if either (1) the mayor's court was abolished, the cases were transferred to the municipal court, and the municipal corporation had its own police force at the time the mayor's court was abolished or (2) the legislative authority of the municipal corporation elected to transfer its cases to the municipal court.
- Eliminates obsolete references to police justices.
- Provides that the part-time judge of a municipal court whose territory has a population of 50,000 or more receive the same salary as other part-time judges of municipal courts.
- Makes changes necessary to conform Revised Code sections to the provisions relating to community courts.

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CONTENT AND OPERATION

Replacement of mayor's courts with community courts

Mayor's courts under existing law

The mayor of every municipal corporation with a population exceeding 100, except Batavia, has jurisdiction (that is, may establish a mayor's court) to hear certain criminal cases involving minor offenses unless the municipal corporation is either the site of a municipal court or is one of the locations in which a judge of the Auglaize County, Crawford County, Jackson County, Miami County, Portage County, or Wayne County Municipal Court is statutorily required to sit or is required to sit by designation of the judges of the Court. The Revised Code also expressly confers such jurisdiction on the mayors of Georgetown and Mount Gilead regardless of population, but those municipalities have populations well exceeding 100. The jurisdiction extends to violations of the municipal ordinances of the municipal corporation in which the court is located unless required to be handled by a parking violations bureau or a joint parking violations bureau and any moving traffic violation under the Revised Code that occurs on a state highway within the municipal corporation and for which the defendant does not have a right to a jury trial or waives that right in writing. A mayor does not have to establish a mayor's court. If a municipal corporation does not have a mayor's court, cases that might otherwise be heard in that court are heard in the county court or municipal court that has territorial jurisdiction over the municipality. (R.C. 1905.01.)

A mayor's court decides cases without a jury. Therefore, a mayor's court does not have jurisdiction to hear a case in which a defendant has a right to and demands a trial by jury. Subject to that restriction, a mayor's court has jurisdiction to hear and determine prosecutions for the violation of municipal ordinances and for state moving traffic violations that occur on a state highway located within the boundaries of the municipal corporation (R.C. 1905.01(A)). The following limitations apply:

(1) A mayor's court may hear a case involving a violation of a vehicle parking or standing ordinance of the municipal corporation unless the violation is



not required to be handled by a parking violations bureau or joint parking violations bureau pursuant to R.C. Chapter 4521. (R.C. 1905.01(A).)

(2) A mayor's court may hear certain OVI cases. An OVI offense involves the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or the operation of a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine. A mayor's court may hear a prosecution involving a violation of (a) a municipal OVI ordinance or (b) the state OVI statute (R.C. 4511.19) if the violation occurred on a state highway within the boundaries of the municipal corporation, but only if the person charged with the violation, within six years of the date of the violation charged, has not been convicted of or pleaded guilty to a municipal, state, or federal OVI offense (R.C. 1905.01(B)).

(3) A mayor's court may hear the following types of prosecutions only if the person charged with the violation, within six years of the date of the violation charged, has not been convicted of or pleaded guilty to the same type of offense, whether municipal or state: (a) a violation of a municipal ordinance that prohibits driving under an OVI suspension or a financial responsibility suspension or cancellation or (b) a moving traffic violation or a violation of the state prohibition against driving under an OVI suspension or a financial responsibility suspension or cancellation (R.C. 4510.14 and 4510.16) that occurs on a state highway located within the boundaries of the municipal corporation (R.C. 1905.01(C)).

A mayor's court is not a court of record and is not under the supervision of the Supreme Court. However, the Supreme Court, pursuant to statute, has prescribed basic training and continuing education standards that a mayor must meet in order to hear OVI and non-OVI cases. A mayor who wishes to hear cases of either type must have satisfactorily completed the coursework required for that type of case (the judicial system, principles of law, ethical considerations, etc.). Also pursuant to statute, the Supreme Court has also adopted standards relating to the operational and procedural aspects of a mayor's court (facilities, demeanor, treatment of defendants, journal entries, and so on). The Revised Code requires that mayors who conduct mayor's courts file reports with the Supreme Court on the activities of the court. (R.C. 1905.03, 1905.031, 1905.033, and 1905.05; Mayor's Court Education and Procedure Rules.)

A mayor may appoint a magistrate to hear cases in mayor's court. A magistrate must have been admitted to the practice of law in Ohio and, for a total of at least three years preceding the appointment or the commencement of service as magistrate, been engaged in the practice of law in Ohio or served as a judge of a court of record in any jurisdiction in the United States, or both. A magistrate may hear any cases that are within the court's jurisdiction, including cases that the

mayor would not be able to hear for failure to meet the requisite educational standards. The municipal corporation pays the magistrate either a fixed annual salary set by the legislative authority of the municipal corporation or a fixed annual amount or fees for services rendered set under a contract the magistrate and the municipal corporation enter into. (R.C. 1905.05.)

Abolition of mayor's courts and partial replacement with community courts

The bill abolishes all mayor's courts as of January 1, 2008, and creates a community court in each municipal corporation that on that date has both a legally functioning mayor's court and a population according to the most recent federal decennial census of 1,600 or more and that elects pursuant to a procedure in the bill to have such a court. All proceedings pending in the mayor's court of a municipal corporation that on December 31, 2007, has a population of less than 1,600 will be transferred to the municipal court or the county court that has territorial jurisdiction over the municipal corporation. (R.C. 1905.41(A) and 1905.42(A) and (B) and Section 4(A).)

Within 90 days after the bill's effective date, the legislative authority of a municipal corporation that has both a legally functioning mayor's court and a population of 1,600 or more must (1) elect in a resolution adopted and filed with the Supreme Court within that 90-day period to have a community court or (2) elect to not have a community court and to have all proceedings pending in the mayor's court transferred to the municipal court or county court that has territorial jurisdiction over the municipal corporation. If a legislative authority fails to make an election by a resolution adopted and filed with the Supreme Court within 90 days after the bill's effective date, the municipal corporation will not have a community court, and all proceedings pending in the mayor's court on December 31, 2007, will be transferred to the appropriate municipal court or county court. (R.C. 1905.42(C).)

At any time after January 1, 2008, the legislative authority of a municipal corporation that does not have a community court and that has a population of 1,600 or more may adopt a resolution electing to establish a community court and file the resolution with the Supreme Court. Upon the filing of the resolution, the community court is established and has jurisdiction to hear and determine cases on and after its establishment. (R.C. 1905.42(D).)

Except as provided in the following paragraph, if the population of a municipal corporation served by a community court falls below 1,600 according to the most recent federal decennial census, the community court ceases to exist 60 days after the official release of the census, and all proceedings then pending in the community court are transferred to the municipal court or county court that has

territorial jurisdiction over the municipal corporation. The proceedings will proceed as if originally instituted in the transferee court. Parties to those proceedings may make any amendments to their pleadings necessary to conform them to the rules of the transferee court. The clerk or other custodian of the records of the community court must transfer to the transferee court all pleadings, orders, entries, dockets, bonds, papers, records, books, exhibits, files, moneys, property, and persons that belong to, are in the possession of, or are subject to the jurisdiction of the community court, or any officer of that court, at the close of business on the 60th day after the release of the census and that pertain to those proceedings. (R.C. 1905.42(E)(1).)

If the population of a municipal corporation served by a community court falls below 1,600, the legislative authority of the municipal corporation may by resolution adopted and filed with the Supreme Court not later than 30 days after the official release of the census request that the Supreme Court authorize the continued existence of the community court until the next federal decennial census. The Supreme Court, after considering the population of the municipal corporation, the caseload of the community court, and any other factors that it considers relevant, must determine whether the community court should continue to exist and serve written notice of its determination on the legislative authority of the municipal corporation. If the Supreme Court determines that the community court should not continue to exist, the community court ceases to exist 60 days after service of the determination, and all proceedings then pending in the community court are transferred to the appropriate municipal court or county court. (R.C. 1905.42(E).)

The bill does not preclude a municipal corporation from seeking the establishment pursuant to statute of a municipal court for the municipal corporation (R.C. 1905.42(F)).

Community courts

A community court is a court of record and is subject to superintendence by the Supreme Court and rules prescribed by the Supreme Court under Section 5 of Article IV of the Ohio Constitution. The judge of the municipal court or county court that has territorial jurisdiction over the municipal corporation or the administrative judge of that court if it has more than one judge must appoint a magistrate to preside over the community court. If the municipal corporation lies within the territorial jurisdiction of more than one municipal court or county court, the judge or administrative judge of the court that has within its territory the largest number of residents of the municipal corporation appoints the magistrate. The magistrate must be a lawyer admitted to the practice of law in Ohio and must have at least three years' experience in the practice of law in Ohio, as a judge of a court of record in any jurisdiction in the United States, or both. The magistrate

serves at the pleasure of the appointing judge or that judge's successor or, in the case of a municipal corporation that lies within the territorial jurisdiction of more than one municipal or county court, at the pleasure of the judge or administrative judge of the court that according to the latest census has within its territory the largest number of residents of the municipal corporation or that judge's successor. (R.C. 1905.41(B) and (C).)

The legislative authority of a municipal corporation that has a community court, with the concurrence of the magistrate, may appoint a court clerk to serve at the pleasure of the legislative authority. The legislative authority sets the clerk's compensation, which is payable in semimonthly installments from the treasury of the municipal corporation. Before entering upon the duties of the office, an appointed clerk must give bond of at least \$5,000, as determined by the legislative authority, conditioned upon the faithful performance of the clerk's duties. The clerk has the same powers and duties as a clerk of a county court. (R.C. 1905.41(D).)

Application of mayor's court statutes to community courts

The bill repeals almost all the Revised Code sections relating to mayor's courts and enacts new sections for community courts. For the most part, the new sections adopt the language and substance of the mayor's court statutes and apply them to community courts, with appropriate changes in terminology. The bill has no sections corresponding to R.C. 1905.03, 1905.031, and 1905.033, which deal with educational standards for mayors hearing OVI cases, standards for mayors hearing non-OVI cases, basic training and continuing education for mayors, annual registration with Supreme Court of mayors with a mayor's court, and required reports of mayor's courts. It moves one entire section and part of another to a different chapter of the Revised Code (R.C. 1905.20(A) and 1905.29 to R.C. 737.24(A) and 737.24(B)). Otherwise, the bill retains to some degree and applies to community courts the substance of all other mayor's court sections. The following chart compares the existing law for mayor's courts with the bill's provisions for community courts.

	<i>Mayor's Court</i>	<i>Community Court</i>
Jurisdiction	Municipal ordinances, minor traffic offenses, and certain moving traffic violations on state highways (R.C. 1905.01(A), (B), (C), (D), and (E))	Same (R.C. 1905.43(A), (B), (C), and (D))
Docket and files	Governed by county court law (R.C. 1905.01(F))	Governed by municipal court law (R.C. 1905.43(E))



	<i>Mayor's Court</i>	<i>Community Court</i>
Proceedings	Governed by county court law insofar as applicable if within jurisdiction of a county court (<i>R.C. 1905.02</i>)	Same (<i>R.C. 1905.44</i>)
Transfer of cases	Mandatory transfer to county, municipal, or common pleas court if mayor's court lacks jurisdiction; optional transfer if concurrent jurisdiction (<i>R.C. 1905.032</i>)	Same (<i>R.C. 1905.45</i>)
Interest in case	Clerk, deputy clerk, and magistrate cannot be counsel or agent in case before court (<i>R.C. 1905.04</i>)	Magistrate, clerk, and deputy clerk of a community court cannot be counsel or agent in case before court (<i>R.C. 1905.46</i>)
Duties of police officers or marshal	Execute orders, serve writs, etc. (<i>R.C. 1905.08</i>)	Same (<i>R.C. 1905.47</i>)
Railroad forming boundary	Boundary is middle of railroad right-of-way that separates adjoining villages (<i>R.C. 1905.17</i>) Municipal corporation has jurisdiction over entire width of right-of-way to punish violations of ordinances (<i>R.C. 1905.31</i>)	Boundary is middle of railroad right-of-way that separates adjoining municipal corporations (<i>R.C. 1905.48(A)</i>) Municipal corporation has jurisdiction over entire width of right-of-way to punish violations of ordinances when middle of right-of-way does not form boundary (<i>R.C. 1905.48(B)</i>)
Writs and process	May be issued by mayor or magistrate (<i>R.C. 1905.20(B)</i>)	May be issued by magistrate (<i>R.C. 1905.49</i>)
Suppressing disorder, keeping peace	Mayor has powers of sheriff to suppress disorder and keep the peace (<i>R.C. 1905.20(A)</i>)	Same (<i>R.C. 737.24(A)</i>)
Mayor as arresting officer, assisting in arrest, or present at arrest	Prohibited from hearing case (<i>R.C. 1905.20(C)</i>)	No provision

	<i>Mayor's Court</i>	<i>Community Court</i>
Suspension of driver's or driver's commercial license or permit or nonresident operating privilege in OVI or OVUAC cases	Must suspend in accordance with applicable law (<i>R.C. 1905.201</i>)	Same (<i>R.C. 1905.50</i>)
Docket, fees, salary, office, seal	Mayor and magistrate to keep docket and account for forfeitures, fees, costs, and fines collected; legislative authority to provide compensation to mayor and magistrate and office and seal for mayor (<i>R.C. 1905.21</i>)	Same, magistrate instead of mayor (<i>R.C. 1905.51</i>)
Appeals	May be taken to municipal or county court; notice of appeal must be filed with mayor's court within ten days of judgment; filing of notice stays further proceedings; clerk of mayor's court must deliver certified transcript of trial proceedings and original papers to municipal or county court within 15 days of judgment; municipal or county court clerk must file transcript and papers and docket appeal new trial held in municipal or county court; appeal from mayor's court is a trial de novo (<i>R.C. 1905.22, 1905.23, 1905.24, and 1905.25</i>)	Shall be taken to court of appeals; notice of appeal must be filed with community court within ten days of judgment; filing of notice stays further proceedings; clerk of community court must deliver certified transcript of trial proceedings and original papers to court of appeals within 15 days of judgment; court of appeals clerk must file transcript and papers and docket appeal; appeal is <u>not</u> a trial de novo (<i>R.C. 1905.52</i>)
Payment of witness fees	In cases for violation of ordinances, paid from treasury of municipal corporation (<i>R.C. 1905.26</i>)	No provision

	<i>Mayor's Court</i>	<i>Community Court</i>
Powers of person presiding at trial	Mayor or magistrate may punish contempts, compel attendance of jurors and witnesses, and make rules for examination and trial of cases in the same manner as county court judges (<i>R.C. 1905.28</i>)	Same (<i>R.C. 1905.53</i>)
Use of municipal jail	Mayor or president of legislative authority may grant temporary use of municipal prison, station house, or watchhouse to adjoining or contiguous townships (<i>R.C. 1905.29</i>)	Same (identical language in existing section in municipal corporation law) (<i>R.C. 737.24(B)</i>)
Failure to pay fine	Mayor's court may order offender who fails to pay fine confined until fine is paid or secured to be paid or the offender is legally discharged (<i>R.C. 1905.30 and 1905.34</i>)	Same if offender is financially able to pay fine and refuses to do so (<i>R.C. 1905.54</i>)
Recovery of fines, penalties, and forfeitures	May be recovered by municipal corporation by action before any judge of a county court or other court of competent jurisdiction (<i>R.C. 1905.32</i>)	Same except that "magistrate" is used instead of "judge" (<i>R.C. 1905.55</i>)
Imprisonment under ordinances of municipal corporation	Shall be in municipal workhouse or jail or, if none, in county jail at municipal expense, unless board of county commissioners on 90 days' notice prohibits such use; if within 90 days after notice, municipal corporation contracts for construction of jail or other correctional facility, it may use county jail until municipal facility built (<i>R.C. 1905.35, 1905.36, and 1905.37</i>)	Same (<i>R.C. 1905.56</i>)

Conforming changes

The bill amends several sections of the Revised Code to conform to the abolition of mayor's courts and the creation of community courts or to harmonize references to section numbers. (R.C. 705.55, 733.40, 733.44, 733.51, 733.52, 753.02, 753.021, 959.99, 1901.021, 1901.04, 1901.181, 2335.06, 2903.212, 2921.25, 2931.01, 2933.02, 2933.03, 2933.04, 2933.05, 2933.06, 2933.10, 2937.08, 2938.04, 2953.03 (bail), 2953.07, 4503.13, 4503.233, 4507.091, 4507.164, 4509.33, 4509.35, 4510.03, 4510.031, 4510.036, 4510.13, 4510.14, 4510.53, 4511.193, 4511.197, 4513.263, 4521.01, 5502.61, and 5503.04.)

Termination of community court on creation of municipal court

Existing law provides that upon the institution of a municipal court, the jurisdiction of the mayor in all civil and criminal cases terminates within the municipal corporation in which the court is located. Existing law allows for the continuation of mayor's courts in Georgetown and Mount Gilead notwithstanding the institution of the Brown County Municipal Court and the Morrow County Municipal Court. The termination of a municipal court that sits in a specified municipal corporation reinstates the jurisdiction of the mayor of that municipal corporation whose jurisdiction ceased with the institution of that municipal court. The bill provides for the termination of the community court in a municipal corporation in which a municipal court is established, eliminates the exceptions for courts in Georgetown and Mount Gilead, and does not provide for the reinstatement of a community court in a municipal corporation if the municipal court that sits in that municipal corporation is terminated. (R.C. 1901.04.)

Disbursements by municipal court clerk

Under existing law, the clerk of a municipal court each month must disburse to the proper persons or officers all costs, fees, fines, bail, and other moneys that the clerk collects. Subject to sections of the Revised Code that require a specific manner of disbursement of portions of those moneys, and with exceptions for the Hamilton County, Lawrence County, and Ottawa County municipal courts in which half of the fines go to the county treasury, the clerk must pay all fines received for violation of municipal ordinances into the treasury of the municipal corporation the ordinance of which was violated and must pay all fines received for violation of township resolutions related to adult entertainment establishments or adopted under township home rule provisions into the treasury of the township the resolution of which was violated. Subject to sections of the Revised Code that require a specific manner of disbursement of portions of the fines, the clerk must pay all fines collected for the violation of state laws into the county treasury. The clerk must pay all costs and fees the disbursement of which

is not otherwise provided for in the Revised Code into the city treasury or, if the court is county-operated, into the county treasury. (R.C. 1901.31(F).)

The bill excepts from the foregoing disbursement scheme one-half of all costs, fees, and fines collected as a result of summonses issued by law enforcement officers of the municipal corporation in cases that before January 1, 2008, would have been heard in the mayor's court of the municipal corporation and that would have been payable to the municipal treasury if either of the following applies:

(1) The mayor's court was abolished, the cases in that mayor's court were transferred to the municipal court as provided for in the bill, and the municipal corporation had its own police force at the time the mayor's court was abolished.

(2) The legislative authority of the municipal corporation elected to transfer its cases to the municipal court as permitted under the bill.

In such cases, the clerk must disburse half of the costs, fees, and fines described above to the municipal treasury and half as provided in existing law. (R.C. 1901.31(F)(2).)

The bill amends several sections of the Revised Code that provide for a specific manner of disbursement of costs, fines, and fees to make them subject to the bill's requirement that half of the costs, fines, and fees that would have gone to the municipal treasury of a municipal corporation with a mayor's court under the circumstances described above continue to go to that municipal treasury (R.C. 1901.024; Hamilton County, Lawrence County, Ottawa County municipal courts and other county-operated municipal courts), 3375.50 (local law library associations), 4511.193 (municipal and county indigent and county drivers alcohol treatment funds), 4513.263 (Seat Belt Education Fund, Elementary School Program Fund, Ohio Medical Transportation Trust Fund, Trauma and Emergency Medical Services Fund, and Trauma and Emergency Medical Services Grants Fund), and 5503.04 (General Revenue Fund, Trauma and Emergency Medical Services Grants Fund, and municipal treasury)).

Police justices

Under an obsolete provision of existing law, the chairman of the legislative authority of a municipal corporation that does not have a municipal court is to perform all of the general duties provided in R.C. 733.30 (general duties of mayor; not in the bill), has the jurisdiction provided by R.C. 1905.20 (mayor to issue writs and process, suppress disorder, and keep the peace), and is styled "police justice" in the performance of judicial duties. The bill eliminates this provision and strikes

"police justice" from the definition of magistrate as used in R.C. Chapters 2931. to 2953. (R.C. 705.14 and 2931.01(A).)

Compensation of municipal court judges

Under existing law, a part-time municipal court judge of a territory having a population of 50,000 or more receives the same salary as a full-time municipal court judge, while a part-time municipal court judge of a territory having a population below 50,000 receives a lower salary. The bill places all part-time municipal court judges in the same category and provides that they receive the lower salary. (R.C. 1901.11(A) and (B).)

HISTORY

ACTION	DATE
Introduced	04-17-07

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