



Sub. H.B. 154
127th General Assembly
(As Reported by H. Judiciary)

Reps. Wolpert, Collier, Stebelton

BILL SUMMARY

- Abolishes mayor's courts effective January 1, 2009.
- Authorizes each municipal corporation that on the bill's effective date, has a legally functioning mayor's court and either has a population of 1,600 or more or is located on an island in Lake Erie to establish a community court.
- Transfers the proceedings of the mayor's court of a municipal corporation that on December 31, 2008, has fewer than 1,600 inhabitants and is not located on an island in Lake Erie 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 either has a population of 1,600 or more or is located on an island in Lake Erie 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, 2009, 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.
- Defines "urban township" as a township having a population of 15,000 or more and a limited home rule government.

- Authorizes an urban township, on or after January 1, 2009, to establish a community court.
- Authorizes an urban township to adopt resolutions that create criminal offenses that are substantially equivalent to offenses contained in Title 29 or Title 45 of the Revised Code and that impose criminal penalties for those offenses to the same extent as the legislative authority of a municipal corporation.
- Authorizes, within 90 days after the bill's effective date, the legislative authorities of certain municipal corporations and urban townships to contract for the creation of a joint community court on or after January 1, 2009, if the territories of the subdivisions adjoin and are within the territorial jurisdiction of a single municipal or county 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 and who meets the qualifications for magistrates established by the Supreme Court, has a clerk appointed by the legislative authority of the municipal corporation or township, and generally has the same jurisdiction and powers as a mayor's court plus jurisdiction over forcible entry and detainer actions.
- Provides that dockets and files of a community court are governed by the law pertaining to municipal courts.
- Provides that objections to a community court decision may be filed pursuant to the Civil Rules and that appeals from a judge's decision on the objections 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.
- Authorizes the Attorney General to bring an action to enjoin the operation of an unauthorized mayor's court or community court.
- Provides that in county courts and county-operated municipal courts, fine money received for the violation of municipal ordinances is disbursed to the municipal corporation whose ordinance was violated only if the municipal corporation has a population of 200 or more; that in non-

county operated municipal courts, cases that could have been heard in the mayor's court had that court not been abolished are excluded from a municipal corporation's caseload in calculating the municipal corporation's proportionate share of the operating costs of the municipal court; and that in non-county operated municipal courts, the proportionate-share liability of a municipal corporation that does not have a community court is reduced by the amount of the fines disbursed by the clerk resulting from cases of the type that are within the jurisdiction of a community court if the municipal corporation either (1) lost its mayor's court because it lacked the required population for a community court, has its own police force, and has a population of 200 to 5,000 or (2) elected to transfer its cases to the municipal court.

- Authorizes courts to set the amount of peace bonds.
- Requires the chief law enforcement officers of all municipal corporations and townships to fingerprint certain persons taken into custody and to forward the fingerprints to the Bureau of Criminal Identification and Investigation.
- Changes the penalties for certain offenses related to the registration of dog kennels and the methods of keeping certain dogs.
- Changes the part-time judgeships in the Chardon, Lyndhurst, and Miamisburg Municipal Courts to full-time judgeships.
- Eliminates obsolete references to police justices and unnecessary references to county court judges and magistrates.
- 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, 2009, and creates a community court in each municipal corporation that on that date (1) has a legally functioning mayor's court, (2) has a population according to the most recent federal decennial census of 1,600 or more, and (3) 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, 2008, has a population of less than 1,600 and is not located on an island in Lake Erie 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 a legally functioning mayor's court on that effective date and either has a population of 1,600 or more or is located on an island in Lake Erie must (1) elect in a resolution adopted and filed with the Supreme Court and the appropriate municipal or county 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, 2008, will be transferred to the appropriate municipal court or county court. (R.C. 1905.42(C).)

At any time after January 1, 2009, 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 and except for a municipal corporation or community court that is located on an island in Lake Erie, 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) and (F).)

If the population of a municipal corporation served by a community court falls below 1,600 (except for a municipal corporation or community court located on an island in Lake Erie), 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) and (F).)

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(G)).

Municipal 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. One or more magistrates preside over a community court. A magistrate must be a lawyer admitted to the practice of law in Ohio, must meet the qualifications for magistrates established by the Supreme Court, and must have at least four 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. (R.C. 1905.41(B) and (C)(6).)

Unless the charter of a municipal corporation provides otherwise, the legislative authority of a municipal corporation that has a community court must appoint a court clerk to serve at the pleasure of the legislative authority. The legislative authority sets the clerk's compensation, which is payable at intervals determined by the legislative authority 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. If the charter of a municipal corporation provides for the appointment, term, compensation, bond, or power and duties of the clerk of the community court or mayor's court, the charter provisions apply. (R.C. 1905.41(D).)

Application of mayor's court statutes to municipal 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 part of one section to a different chapter of the Revised Code (R.C. 1905.29 to R.C. 737.24). Otherwise, the bill retains to some degree and applies to community courts the substance of most other mayor's court sections. The following chart compares the existing law for mayor's courts with the bill's provisions for community courts of municipal corporations.

	<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 plus forcible entry and detainer, agricultural marketing under R.C. 925.31, township resolutions (cases arising within the municipal corporation if the municipal corporation lies within the territory of an urban township that has a community court), and public utilities extending beyond the limits of the municipal corporation under R.C. 743.14 (R.C. 1905.44(A), (B), (C), and (D) and 1923.01(A))
Docket and files	Governed by county court law (R.C. 1905.01(F))	Governed by municipal court law (R.C. 1905.44(E))
Proceedings	Governed by county court law insofar as applicable if within jurisdiction of a county court (R.C. 1905.02)	No provision
Jury	No jury; failure to waive jury requires transfer of case (R.C. 2937.08 and 2938.04)	Same; also specifies that demand for jury requires transfer of forcible entry

	<i>Mayor's Court</i>	<i>Community Court</i>
		and detainer case (<i>R.C. 1905.44(D)(4), 1923.10(B), 2937.08, and 2938.04</i>)
Transfer of cases	Mandatory transfer to county, municipal, or common pleas court if mayor's court lacks jurisdiction; optional transfer if concurrent jurisdiction; requires defendant to enter into recognizance upon transfer (<i>R.C. 1905.032</i>)	Same except adds optional transfer of forcible entry and detainer actions and requires appearance bond instead of recognizance (<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>)	No provision
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; eliminates reference to seal (<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>)	No provision

	<i>Mayor's Court</i>	<i>Community Court</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
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 except magistrate instead of mayor, eliminates reference to seal, and requires municipal corporation to pay court's operating costs (<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>)	Objections may be filed with the community court clerk under Civil Rule 53(D)(3)(b); clerk must deliver the certified transcript of proceedings or affidavit of evidence, the original papers used on the trial, and written objections to the magistrate's decision to municipal or county court having territorial jurisdiction over the municipal corporation or township for independent review of and ruling on objections; appeals from decision of judge on objections may be taken to court of appeals by filing notice of appeal within 30 days of decision; filing of notice stays further proceedings; on filing of notice of appeal, community court clerk must deliver record described

	<i>Mayor's Court</i>	<i>Community Court</i>
		above and decision of the judge on review to court of appeals within 15 days of decision and judgment; court of appeals clerk must file transcript and papers and docket appeal; filing of appeal by convicted defendant does not suspend execution of sentence, but common pleas or appeals court may suspend pending appeal and must consider bail (<i>R.C. 1905.52 and 2953.09(A)(2)(a)</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
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>)	Magistrate may punish contempts and compel the attendance of witnesses (<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</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>)

	<i>Mayor's Court</i>	<i>Community Court</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 (R.C. 1905.32)	Same (R.C. 1905.55)
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 (R.C. 1905.35, 1905.36, and 1905.37)	Shall be in municipal workhouse or jail or, if none, in county jail at municipal expense (R.C. 1905.56)

Community courts in urban townships

The bill defines "urban township" as a township that has a population of 15,000 or more and that adopts a limited home rule government (R.C. 1905.43(A)).

The bill authorizes the legislative authority of an urban township, on or after January 1, 2009, to establish a community court by adopting a resolution to that effect and filing it with the Supreme Court (R.C. 1905.43(B)(1)). Upon the filing of the resolution, the community court is established and must hear and determine cases within its jurisdiction that arise after it is established. The community court of an urban township has jurisdiction to hear and determine the following types of cases (R.C. 1905.43(B)(1)):

(1) Noncriminal cases arising under resolutions adopted pursuant to R.C. 504.04 (see "**Adoption and enforcement of resolutions by urban townships,**" below);

(2) Forcible entry and detainer actions brought under R.C. Ch. 1923. that arise within the township;



(3) Criminal actions arising under resolutions adopted by the township establishing the court pursuant to R.C. 503.52 or 503.53 (adult entertainment establishments) or R.C. 504.04(E) (see "*Adoption and enforcement of resolutions by urban townships*," below), provided that jurisdiction is subject to the same limitations and conditions that apply to the community court of a municipal corporation under R.C. 1905.44 and 1905.45 (see "*Mayor's courts under existing law*" and "*Application of mayor's court statutes to municipal community courts*," above).

A community court of an urban township has territorial jurisdiction within the township, excluding the territory of any municipal corporation within the township that has its own community court (R.C. 1905.43(B)(2)).

One or more magistrates preside over the community court. No person may be appointed magistrate unless he or she has been admitted to the practice of law in Ohio, meets the qualifications for magistrates established by the Supreme Court, and, for a total of at least four years preceding the appointment or the commencement of service as magistrate, has 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. (R.C. 1905.43(B)(3).)

The legislative authority of the urban township, with the concurrence of the magistrate, may appoint a court clerk. The clerk serves at the pleasure of the legislative authority and receives compensation as set by the legislative authority. The compensation is payable at intervals determined by the legislative authority from the township treasury. Before entering upon the duties of the office, an appointed clerk must give bond of not less than \$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. 1905.43(B)(4).)

The bill's provisions relating to municipal community courts (see "*Application of mayor's court statutes to municipal community courts*," above) generally apply to the community courts of townships. Where appropriate, these provisions include specific references to townships or township resolutions. In addition, the bill expressly states that R.C. Ch. 1905. applies to all community courts established pursuant to the section providing for township and joint community courts (see "*Joint community courts*," below) except where the context clearly indicates that the provision is not applicable to a particular type of community court (R.C. 1905.43(K)).

Joint community courts

Within 90 days after the bill's effective date, the legislative authorities of the following political subdivisions may by municipal ordinance and township resolution agree to enter into a contract for the creation of a community court on or after January 1, 2009, having the territorial jurisdiction specified below, if the territories of the involved municipal corporations and townships adjoin and are all within the territorial jurisdiction of a single municipal or county court (R.C. 1905.43(C) and (F)):

(1) A municipal corporation that had a legally functioning mayor's court on the earlier of the bill's effective date or December 31, 2008, if it has a population of less than 1,600 and an adjoining urban township may enter into a contract for a court with territorial jurisdiction over the municipal corporation and the unincorporated areas of the township.

(2) A municipal corporation that had a legally functioning mayor's court on the earlier of the bill's effective date or December 31, 2008, if it has a population of less than 1,600 and the legislative authority of a municipal corporation that elects to have a community court under R.C. 1905.42(C)(1) may enter into a contract for a court with territorial jurisdiction over both municipal corporations.

(3) Two municipal corporations that elect to have a community court under R.C. 1905.42(C)(1) may enter into a contract for a court with territorial jurisdiction over both municipal corporations.

(4) Two urban townships may enter into a contract for a court with territorial jurisdiction over both townships.

Each ordinance and each resolution must express the intent to enter into the contract and must indicate the other municipal corporation or township with which the municipal corporation or township intends to contract. Each involved municipal corporation and township must provide a copy of its ordinance or resolution and the contract to the Supreme Court (R.C. 1905.43(C) and (F)).

The legislative authority of each of the contracting municipal corporations and townships must approve the contract within 180 days after the bill's effective date. The contract must provide for all of the following (R.C. 1905.43(D)):

(1) The location of the community court;

(2) The manner in which the costs of establishing and operating the court will be shared and the manner in which the money collected by the court will be distributed, which must be consistent with all provisions of the Revised Code that require the distribution of portions of that money to specific funds;

(3) The manner in which employees of the court will be appointed.

Before the legislative authority of a municipal corporation or township passes an ordinance or resolution approving a contract to create a community court, it must hold a public hearing concerning the contract and provide at least 30 days' notice of the time and place of the meeting published in a newspaper of general circulation within the territory of the subdivision. A board of township trustees may provide additional notice in accordance with R.C. 9.03, including the public hearing announcement, a summary of the terms of the contract, a statement that the contract is on file for public examination in the office of the township fiscal officer, and information pertaining to any tax changes that will or may occur as a result of the contract. During the 30-day period before the public hearing, a copy of the contract must be on file for public examination in the office of the clerk of the legislative authority of the municipal corporation or of the township fiscal officer. The public hearing must allow for public comment and recommendations on the proposed contract. The contracting political subdivisions may include in the contract any of those recommendations before approving the contract. (R.C. 1905.43(E).)

A township resolution approving a contract is subject to a referendum. When a referendum petition signed by 10% of the number of township electors who voted for governor at the last general election for the governor and that orders that the resolution be submitted to the township electors for their approval or rejection is presented to the board of township trustees within 30 days after the board adopted the resolution, the board must, after ten days and not later than 4 p.m. of the 75th day before the election, certify the text of the resolution to the board of elections. The board of elections must submit the resolution to the electors at the next general, primary, or special election occurring subsequent to 75 days after the certifying of the petition to the board of elections. The board must notify the Supreme Court of the results of the referendum. (R.C. 1905.43(F).)

A contract may be amended, and it may be renewed, canceled, or terminated as provided in the contract (R.C. 1905.43(H)).

A community court created by contract has with regard to each contracting municipal corporation the jurisdiction set forth in R.C. 1905.44 and with regard to each contracting urban township the jurisdiction set forth in R.C. 1905.43(B) (R.C. 1905.43(I)).

One or more magistrates preside over the community court. No person may be appointed magistrate unless he or she has been admitted to the practice of law in Ohio, meet the qualifications for magistrates established by the Supreme Court, and, for a total of at least four years preceding the appointment or the commencement of service, has 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. (R.C. 1905.43(J).)

The provisions of R.C. Ch. 1905. apply to all township community courts and community courts created by contract except where the context of a provision clearly indicates that the provision is not applicable to a particular type of community court (R.C. 1905.43(K)).

Adoption and enforcement of resolutions by urban townships

The bill authorizes the board of trustees of an urban township that has its own community court or a joint community court created by contract to adopt resolutions that create criminal offenses that are substantially equivalent to offenses contained in R.C. Title 29 (criminal code) or Title 45 (motor vehicle law) and that impose criminal penalties for those offenses to the same extent as the legislative authority of a municipal corporation. It prohibits the board from providing for both a criminal penalty and a civil fine for a violation of a resolution and specifies that a board of township trustees may impose a civil fine for a violation of a resolution that is adopted pursuant to R.C. Ch. 504. and that does not create a criminal offense. (R.C. 504.04(E) and 504.05.)

The bill specifies that the procedure in existing law by which a township police officer issues a citation applies to township resolutions that are enforced by the imposition of a civil fine and that the enforcement of township resolutions by injunctions, liens, and the collection of money judgments applies to resolutions that may be enforced by the imposition of a civil fine (R.C. 504.06(B) and 504.08).

Under the bill, the law director of an urban township, or the prosecuting attorney of the county pursuant to a contract between the prosecuting attorney and the township, must prosecute persons who violate resolutions that are adopted under the bill and that create criminal offenses. If the board of township trustees has not entered into a contract with the prosecuting attorney, the board may enter into a contract with the chief legal officer of a municipal corporation with which the township has created a joint community court for the prosecution of persons who violate resolutions that are adopted under the bill and that create criminal offenses (R.C. 504.15(E)).

The bill defines for use in R.C. 4511.181 to 4511.197 "township OVI resolution" and "township OVI offense" as any township resolution prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating 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 (R.C. 4511.181(D)). The bill adds references to urban townships, township resolutions, township OVI resolutions, and township OVI offenses to numerous sections of the Revised Code so that urban township resolutions and offenses are treated in the same way as corresponding municipal ordinances and offenses (R.C. 109.42, 109.572, 109.60, 120.03, 120.14, 120.16, 120.24, 120.26, 120.33, 120.36, 309.08, 341.23, 341.33, 503.44, 503.46, 1905.45, 1905.50, 1905.54, 1905.55, 1905.56, 1923.02, 2152.021, 2152.16, 2152.18, 2152.21, 2152.41, 2335.08, 2335.09, 2743.51, 2743.60, 2743.70, 2901.01, 2903.04, 2903.06, 2903.08, 2903.212, 2903.213, 2903.214, 2907.24, 2907.27, 2907.28, 2907.41, 2913.01, 2915.01, 2917.11, 2917.41, 2919.25, 2919.251, 2919.26, 2919.271, 2921.51, 2921.52, 2929.142, 2929.21, 2930.01, 2935.01, 2935.03, 2935.13, 2935.14, 2935.17, 2935.27, 2935.33, 2935.36, 2937.221, 2937.23, 2937.46, 2937.99, 2938.02, 2941.51, 2945.17, 2947.23, 2949.02, 2950.01, 2951.041, 2953.02, 2953.03, 2953.09, 2953.31, 2953.36, 3113.31, 3301.88, 3313.662, 3319.20, 3319.31, 3327.10, 3345.23, 3375.50, 3375.51, 3397.41, 3397.43, 4112.02, 4113.52, 4301.252, 4501.11, 4503.234, 4506.07, 4506.15, 4506.18, 4507.02, 4507.06, 4507.164, 4510.01, 4510.03, 4510.031, 4510.032, 4510.034, 4510.036, 4510.038, 4510.04, 4510.05, 4510.07, 4510.11, 4510.12, 4510.13, 4510.14, 4510.15, 4510.16, 4510.161, 4510.17, 4510.22, 4510.31, 4510.41, 4510.43, 4510.54, 4511.01, 4511.181, 4511.19, 4511.191, 4511.192, 4511.193, 4511.194, 4511.195, 4511.196, 4511.197, 4511.203, 4511.211, 4511.512, 4511.63, 4511.69, 4511.76, 4511.761, 4511.762, 4511.764, 4511.77, 4511.79, 4511.81, 4513.35, 4513.37, 4549.17, 4730.31, 4731.223, 4760.15, 4762.15, 5104.09, 5123.081, 5126.28, 5321.05, and 5503.04).

Jurisdiction of township and joint community courts

A township community court has territorial jurisdiction within the township, excluding the territory of any municipal corporation within the township that has its own community court, and subject-matter jurisdiction over the following types of cases (R.C. 1905.43(B)(1) and (2)):

(1) Noncriminal cases arising under resolutions adopted pursuant to R.C. 504.04 (continuing law);

(2) Forcible entry and detainer actions brought under R.C. Ch. 1923. that arise within the township;

(3) Criminal actions arising under resolutions adopted pursuant to R.C. 503.52 or 503.53 (adult entertainment establishments) or R.C. 504.04(E) (see "**Adoption and enforcement of resolutions by urban townships**," above) provided that jurisdiction is subject to the same limitations and conditions that apply to the community court of a municipal corporation under R.C. 1905.44 and 1905.45.

A joint community court has with regard to each contracting municipal corporation the jurisdiction set forth in R.C. 1905.44 and with regard to each contracting urban township the jurisdiction set forth in R.C. 1905.43(B) (R.C. 1905.43(I)).

Attorney General's authority to enjoin operation of unauthorized mayor's or community court

Under the bill, if the Attorney General, by his or her own inquiries or as a result of complaints, has reasonable cause to believe that a mayor, municipal corporation, or other person is operating a mayor's court or community court that is not authorized by the Revised Code, he or she may bring an action in the court of common pleas of the county in which the mayor's court or community court is located to enjoin the operation of the unauthorized court (R.C. 1905.57).

Conforming changes

The bill amends numerous 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, 743.14, 753.02, 753.021,¹ 753.04, 753.08, 925.31, 959.99, 1901.021, 1901.04, 1901.181, 2152.03, 2325.15, 2335.06, 2335.08, 2903.212, 2921.25, 2931.01, 2933.02, 2933.03, 2933.04, 2933.05, 2933.06, 2933.10, 2937.08, 2938.04, 2953.03, 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, 4511.75, 4513.263, 4513.37, 4521.01, 4999.06, 5309.54, 5502.61, and 5503.04.)

The bill authorizes the Ohio Public Defender Commission to adopt standards for contracts between a township and a county board of county commissioners, a county public defender commission, and a joint county public defender commission for the representation of indigent defendants charged with violations of township resolutions and provides for such contracts in the same manner as municipal corporations may enter into such contracts for violations of municipal ordinances (R.C. 120.03(B)(6), 120.14(E), 120.15(B)(3), 120.16(A)(2), 120.18(A), 120.24(E), 120.25(B)(2), 120.26(A)(2), 120.28(A), 120.33(A), and 120.36(A)).

The bill provides that the costs of medical tests and examinations of persons charged with certain sex-related offenses in violation of township resolutions are to be paid by the township in the same manner as costs for medical

¹ The references in R.C. 753.02 and 753.021 to R.C. 1905.57 should be to 1905.56 and the words "division (A) of" in R.C. 753.02 and 753.021 should be deleted.

tests and examinations of persons charged with violations of similar municipal ordinances are paid by municipal corporations (R.C. 2907.28(C)).

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, retains the exceptions for community 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.)

Municipal courts

Operating costs of municipal court and disbursements by municipal court clerk

County-operated municipal courts. Under existing law, the board of county commissioners of a county in which a county-operated municipal court is located pays all of the costs of operation of the municipal court. The county receives all of the costs, fees, and other moneys, except fines collected for violations of municipal ordinances and for violations of township resolutions adopted pursuant to R.C. Chapter 504. (50% of such fines in Hamilton, Lawrence, and Ottawa counties) and except as provided in sections of the Revised Code that require a specific manner of disbursement of any moneys received by a municipal court.² Under the bill, the exception for fines collected for violations of municipal ordinances applies only to the ordinances of municipal corporations that have a population of 200 or more according to the most recent federal decennial census. (R.C. 1901.024.)

² Revised Code sections that require a specific manner of disbursement include 3375.50 and 3375.53 (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).

Other municipal courts. Under existing law, the current operating costs of a municipal court, other than a county-operated municipal court, that has territorial jurisdiction that extends beyond the corporate limits of the municipal corporation in which the court is located are apportioned among all of the municipal corporations and townships that are within the territory of the court. Each municipal corporation and township is assigned a proportionate share of the costs of the court based on the percentage of the total criminal and civil caseload of the court that arose in that municipal corporation or township. Each municipal corporation and each township is liable for its assigned proportionate share, but liability is capped by the amount of fine money that the court clerk sends to the municipal corporation or township on a monthly basis over the course of the year. Subject to the Revised Code sections that require a specific manner of disbursement of money received by a municipal court, the clerk pays all fines received for violation of municipal ordinances into the treasury of the municipal corporation the ordinance of which was violated (50% in Hamilton, Lawrence, and Ottawa counties) and all fines received for violation of township resolutions into the treasury of the township the resolution of which was violated. (R.C. 1901.026 and 1901.31(F).)

The bill provides that in determining the caseload of a municipal corporation that had a functioning mayor's court for all of 2008 and that does not have a community court, the cases that could have been heard in the mayor's court had that court not been abolished are excluded. The bill further provides that the proportionate-share liability of a municipal corporation that does not have a community court is reduced by the amount of the fines disbursed by the clerk resulting from cases of the type that are within the jurisdiction of a community court if the municipal corporation is one of the following:

(1) A municipal corporation in which the mayor's court was abolished because it lacked the required population for a community court under R.C. 1905.42, that had its own police force from July 1, 2007, through the date on which the mayor's court was abolished, and that has a population of not less than 200 and not more than 5,000 according to the most recent federal decennial census;

(2) A municipal corporation that elected to transfer its cases to the municipal court under R.C. 1905.42(C)(1)(b). (R.C. 1901.026(A).)

Under the bill, the municipal court clerk disburses fine money to a municipal corporation for violations of its ordinances only if the population of the municipal corporation is 200 or more according to the most recent federal decennial census (R.C. 1901.31(F)).

Part-time municipal court judgeships

The bill changes the part-time judgeships in the Chardon, Lyndhurst, and Miamisburg Municipal Courts to full-time judgeships beginning January 1, 2009, and provides that the existing part-time judge in those courts is to serve as a full-time judge until the expiration of the part-time judge's term (R.C. 1901.08). 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. 141.04(A)(5) and (6) and 1901.11(A) and (B).)

County courts

Concurrent jurisdiction

The bill provides that a county court has jurisdiction over violations of township resolutions adopted under R.C. 503.52, 503.53, and Ch. 504. The bill states that for procedural purposes a case in which a person is charged with the violation of a township resolution is treated as a civil case, except as otherwise provided in the Revised Code and except that a violation of a township resolution that is adopted pursuant to R.C. 503.52, 503.53, or 504.04(E) and that creates a criminal offense or imposes criminal penalties is treated as a criminal case (R.C. 1907.012).

Disbursements by county court clerk

Under existing law, the clerk of a county court each month must disburse the costs, fees, fines, penalties, bail, and other moneys received. Subject to Revised Code sections that require a different distribution (see footnote 1), fines received for violations of municipal ordinances or township resolutions are be paid into the treasury of the municipal corporation or township whose ordinance was violated. Under the bill, the clerk disburses fine money to a municipal corporation for violations of its ordinances only if the population of the municipal corporation is 200 or more according to the most recent federal decennial census. (R.C. 1907.20(C).)

Technical changes

The bill eliminates unnecessary references in existing law to the powers or duties of a county court judge or magistrate (R.C. 753.04, 1905.55, 2325.15, and 4513.37).

Peace bonds

Under existing law, when a warrant is issued under a complaint to keep the peace, the accused must show cause why he or she should not find surety to keep the peace and be of good behavior and for the accused's appearance before the proper court. The judge or mayor may grant an adjournment not exceeding two days and direct detention of the accused until the cause of delay is removed, unless the accused gives a bond in a sum fixed by the judge or magistrate but not to exceed \$500, with sufficient surety. If after hearing the parties the judge or mayor finds against the accused, the judge or mayor may order the accused to enter into a bond of not less than \$50 or more than \$500, with sufficient surety, to keep the peace and be of good behavior for such time as may be just. If the accused appeals, he or she must file an appeal bond of not less than \$50 or more than \$500 within 10 days after the decision is rendered. (R.C. 2933.03, 2933.04, 2933.05, and 2933.06.)

The bill replaces the term "find surety" with the phrase "post a cash or security bond with the court in a sum fixed by the judge," eliminates the monetary floors and ceilings of the bonds so that in all the foregoing cases the amount of the bond is fixed by the judge or community court magistrate, and extends the time for filing the appeal bond from 10 days to 30 days after the decision is rendered. The bill also eliminates references to appeals from the decisions of mayors. (R.C. 2933.03, 2933.04, 2933.05, and 2933.06.)

Workhouses and jails

Existing law authorizes a county or municipal corporation in which there is no workhouse to contract with any authority having control of the workhouse of any other city or with the directors of any district of a joint city and county workhouse or county workhouse to house misdemeanants convicted of a misdemeanor by any court or magistrate of that county or municipal corporation and authorizes payment from the general fund of that county or municipal corporation for the costs of housing and for the sheriff's mileage for transporting offenders to the workhouse (R.C. 341.23(A) and (B)). The bill applies these provisions to townships and township resolutions as well as counties and municipal corporations.

Fingerprinting

Under existing law, sheriffs and city police chiefs must fingerprint certain persons taken into custody and forward the fingerprints to the Bureau of Criminal Identification and Investigation and to the clerk of the court having jurisdiction over the prosecution or adjudication. The bill applies these requirements to the

chief law enforcement officers of all municipal corporations and townships. (R.C. 109.60.)

Offenses related to dogs

Under existing law, a person who violates R.C. 955.21 (registration of dog kennels) or 955.22(B) or (C) (methods of keeping certain dogs) may be fined not less than \$25 or more than \$100 on a first offense and not less than \$75 or more than \$250 on each subsequent offense and may be imprisoned for not more than 30 days (R.C. 955.99(E)(1)). The bill eliminates the specified penalties and provides that a person who violates these provisions is guilty of a minor misdemeanor on a first offense and of a misdemeanor of the fourth degree on each subsequent offense (R.C. 955.99(E)(1)).

Technical changes

The bill makes the following technical changes:

- (1) Clarifies the language of R.C. 4509.35 with no substantive change;
- (2) Corrects cross-references in existing R.C. 2951.01(C) and 4510.13(A)(3).
- (3) Makes language gender-neutral where necessary.

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).)

HISTORY

ACTION	DATE
Introduced	11-08-07
Reported, H. Judiciary	04-22-08

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