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Bill Analysis
Legislative Service Commission

Sub. H.B. 267

127th General Assembly

(As Reported by S. Health, Human Services, & Aging)

Reps. Huffman, Evans, Chandler, Seitz, R. McGregor, Uecker, Dyer, Batchelder, Blessing, Bolon, Book, Boyd, Combs, Domenick, Fende, Flowers, Gibbs, R. Hagan, Hite, Letson, Mallory, J. Otterman, Sears, D. Stewart, Webster, White, Yates

BILL SUMMARY

MAYOR'S COURTS

- Limits by size the municipal corporations in which a mayor's court may be established.
- Requires a mayor who presides over a mayor's court to meet the same qualifications as those for a mayor's court magistrate.
- Permits or requires the Attorney General to have a court enjoin a mayor's court that violates state law.

LOAN REPAYMENT PROGRAM

- Expands the authority of the Department of Rehabilitation and Correction to establish an educational loan repayment program for the recruitment of health professionals by extending the program to nurses, dentists, optometrists, and psychologists.

CORRECTIONAL INSTITUTION INSPECTION COMMITTEE

- Modifies the procedures used by the Correctional Institution Inspection Committee (CIIC) in inspecting correctional institutions and facilities by (1) requiring inspections to be conducted by CIIC staff, (2) authorizing, rather than requiring, the attendance of CIIC members, and (3) removing procedures for conducting inspections through CIIC subcommittees.

CONTENT AND OPERATION

MAYOR'S COURTS

Background: mayor's courts

(R.C. 1905.01, 1905.03, 1905.031, 1905.033, and 1905.05)

In general, the mayor of a municipal corporation with a population exceeding 100 may establish a mayor's court to hear certain criminal cases involving minor offenses unless the municipal corporation is the site of a municipal court or is one of the locations in which a judge of certain municipal courts is statutorily required to sit or is required to sit by designation of the judges of the court.¹

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. 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 statutorily required to be handled by a parking violations bureau.

(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 with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the blood, 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, not in the bill) if the violation occurred on a state highway within the boundaries of the municipal corporation, but only if the person charged with the violation has not been convicted of or pleaded guilty to a municipal, state, or federal OVI offense within six years of the date of the violation.

¹ One exception is Batavia, which is specifically precluded from having a mayor's court. The locations specifically excepted are the sites of the Auglaize County, Crawford County, Jackson County, Miami County, Portage County, and Wayne County municipal courts. The mayors of Georgetown and Mount Gilead are specifically authorized to have mayor's courts although both have populations exceeding 100.

(3) A mayor's court may hear the following types of prosecutions if the person charged with the violation has not been convicted of or pleaded guilty to the same type of offense, whether municipal or state within six years of the date of the violation: (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.

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 including material on the judicial system, principles of law, and ethical considerations. Also pursuant to statute, the Supreme Court has adopted standards relating to the operational and procedural aspects of a mayor's court such as facilities, demeanor, treatment of defendants, and journal entries. Mayors who conduct mayor's courts must file reports with the Supreme Court on the activities of the court.²

A mayor may appoint a magistrate to hear cases in mayor's court. A magistrate must be a lawyer who, for a total of at least three years preceding the appointment or 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. 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 educational requirements. The municipal corporation pays the magistrate either a fixed annual salary set by its legislative authority or a fixed annual amount or fees for services rendered set under a contract between the magistrate and the municipal corporation.

The bill

(R.C. 1905.01, 1905.05, and 1905.06)

The bill adds additional population limits for municipal corporations in which a mayor may establish a mayor's court. The municipality must have a population of more than 200 (rather than 100) but less than 45,000 (rather than no limit). As an exception, Put-in-Bay in Ottawa County is added to Georgetown and

² Ohio Rules of Court Service, Mayor's Court Education and Procedure Rules.

Mount Gilead as communities in which a mayor's court may be established regardless of population.

The bill requires that a mayor of a municipal corporation that has a mayor's court appoint a court magistrate if the mayor does not meet the qualifications of a court magistrate under current law. Therefore, under the bill, a mayor is required to appoint a court magistrate if the mayor is not a lawyer who, for a total of at least three years preceding the commencement of service in the court, 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.

The bill, in certain instances, permits or requires oversight of mayor's courts. Under the bill, the Attorney General is permitted to bring an action in the court of common pleas of the county in which the municipal corporation is located to have that court enjoin the operation of the mayor's court if the Attorney General has reasonable cause to believe that a mayor, municipal corporation, or other person is operating a mayor's court that is not authorized by Ohio law. The Attorney General is required to bring such action if, by the Attorney General's own inquiries or as a result of complaints, the Attorney General becomes aware that an audit conducted by the Auditor of State indicates that the court is not being operated in accordance with Ohio statutes or rules.³

LOAN REPAYMENT PROGRAM

Health professional recruitment program for prisons

(R.C. 5120.55)

Current law authorizes the Department of Rehabilitation and Correction (DRC) to establish a physician recruitment program by repaying all or part of a physician's government or other educational loans in return for services to inmates of correctional institutions. According to DRC personnel, a program for recruitment of physicians has not been implemented.

The bill expands DRC's authority to establish a loan repayment program for recruitment of licensed health professionals by extending the program to any or all

³ The bill does not specify what rules are meant. However, pursuant to sections 1905.03 and 1905.031 of the Revised Code and Section 6 of Am. Sub. S.B. 131 of the 118th General Assembly, the Supreme Court has adopted the Mayor's Court Education and Procedure Rules (Ohio Rules of Court Service, Mayor's Court Education and Procedure Rules).

of the following: (1) registered nurses,⁴ (2) licensed practical nurses, (3) dentists, (4) optometrists, and (5) psychologists.

Eligibility

To be eligible to participate in DRC's loan repayment program, the bill requires a health professional to hold a current, valid license to practice in Ohio. With regard to the licensed health professional's education, the bill establishes the following eligibility criteria:

Registered nurses and licensed practical nurses: A nurse must have attended a school that was, during the time of attendance, either (1) a U.S. nursing school accredited by the Commission on Collegiate Nursing Education or the National League for Nursing Accrediting Commission or (2) a foreign nursing school that was acknowledged by the World Health Organization and verified by a member state of that Organization as operating within that state's jurisdiction.

Dentists: A dentist must have attended a school that was, during the time of attendance, either (1) a dental college accredited by the Commission on Dental Accreditation or that has educational standards recognized by the Commission and is approved by the State Dental Board or (2) a foreign dental school that meets the Board's standards for providing graduates with a level of education and training equal to that provided by an accredited dental college in the U.S.

Optometrists: An optometrist must have attended a school of optometry that was, during the time of attendance, approved by the State Board of Optometry.

Psychologists: A psychologist must have attended an educational institution that, during the time of attendance, maintained a specific degree program recognized by the State Board of Psychology as acceptable for fulfilling the Board's educational requirements for admission to the psychologist licensing examination.

Contract terms

As under current law with respect to the recruitment of physicians, the bill requires DRC to enter into contracts with the additional licensed health professionals the bill permits DRC to recruit through the loan repayment program.

⁴ The bill specifies that registered nurses may be included in the program regardless of whether they are also authorized to practice as advanced practice nurses, which consist of certified registered nurse anesthetists, clinical nurse specialists, certified nurse midwives, and certified nurse practitioners.

Under the bill, the contract between DRC and a licensed health professional must include at least the following terms:

(1) The licensed health professional agrees to provide a specified scope of services to inmates of one or more specified state correctional institutions for a specified number of hours per week for a specified period of years.

(2) DRC agrees to repay all or a portion of the principal and interest of an educational loan for specified expenses to attend, for a maximum of four years, a school that qualifies the licensed health professional to participate in the program.⁵

(3) The licensed health professional agrees to pay DRC a specified amount, which must be no less than the amount already paid by DRC pursuant to its agreement, as damages if the professional fails to complete the agreed upon service or contract terms. The contract may vary the amount of damages based on the portion of the uncompleted service obligation.

(4) Other terms agreed to by the parties.

The licensed health professional's lending institution or the Ohio Board of Regents may be a party to the contract. The contract may include an assignment to DRC of the duty of the professional to repay the principal and interest of the loan.

Rules

The bill extends DRC's rulemaking requirements regarding the recruitment of physicians to its recruitment of additional licensed health professionals through an educational loan repayment program. Thus, if DRC chooses to establish such a recruitment program, it must adopt implementing rules under the Administrative Procedure Act (R.C. Chapter 119.) that establish all of the following:

(1) Criteria for designating institutions for which licensed health professionals will be recruited;

(2) Criteria for selecting the licensed health professionals for participation in the program;

⁵ These expenses are: tuition; other educational expenses for specific purposes, including fees, books, and laboratory expenses, in amounts determined reasonable in accordance with DRC rules; and room and board in an amount determined reasonable in accordance with DRC rules.

(3) Criteria for determining the portion of a loan which the DRC will agree to repay;

(4) Criteria for determining reasonable amounts to be repaid for educational expenses that are not related to tuition and expenses for room and board;

(5) Procedures for monitoring compliance by a licensed health professional with the terms of the contract the professional enters into with DRC;

(6) Any other criteria or procedures necessary to implement the program.

CORRECTIONAL INSTITUTION INSPECTION COMMITTEE

Inspections by the Correctional Institution Inspection Committee

Background

(R.C. 103.71 to 103.79)

The Correctional Institution Inspection Committee (CIIC) consists of eight members of the General Assembly, four from the Senate and four from the House of Representatives. CIIC is required to maintain an inspection program for correctional institutions and facilities. Each state correctional institution and private correctional facility must be inspected every two years. Local correctional institutions and youth services facilities may be inspected. CIIC is not required to make prior arrangements for or to give notice of its inspections.

Inspection procedures

(R.C. 103.73 and 103.74)

Under current law, the chairperson of CIIC must grant prior approval for the inspection of a correctional institution or facility. In granting the approval, the chairperson must specify whether the inspection is to be conducted by (1) a subcommittee consisting of at least two CIIC members or (2) a means other than a subcommittee. When a subcommittee is used, at least two CIIC members must be present at the inspection; no staff member may be present unless specifically authorized by the chairperson. When a means other than a subcommittee is used, at least one CIIC member and one staff member must be present at the inspection.

The bill provides for each CIIC inspection to be conducted by at least one CIIC staff member. It authorizes one or more CIIC members to be included in the inspection. To correspond with these inspection procedures, the bill eliminates

provisions of existing law that require the presence of CIIC members at inspections and permit the appointment of subcommittees to conduct inspections.

HISTORY

ACTION	DATE
Introduced	06-14-07
Reported, H. Criminal Justice	05-28-08
Passed House (94-0)	11-18-08
Reported, S. Health, Human Services, & Aging	12-11-08

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