



## **H.B. 376**

127th General Assembly  
(As Introduced)

**Reps. Uecker and Distel, Evans, Batchelder, Collier, Setzer, Chandler, Wagner, Bulp, Stebelton, Foley, Okey, S. Williams, J. Stewart, Fessler, Zehringer, R. McGregor, Carmichael, Peterson, Brown, Otterman, Boyd, Latta, Adams, Hite, Daniels, Fende, Combs, Schindel, Bolon, Goodwin**

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### **BILL SUMMARY**

- Creates in the state treasury the Indigent Support Fund, 2% of which must be used by the State Public Defender for the purpose of appointing assistant state public defenders and for providing other personnel, equipment, and facilities necessary for the operation of the State Public Defender office with the remaining 98% of the money to be used by the State Public Defender for the purpose of reimbursing county governments for expenses incurred in providing public defenders to indigent defendants.
- Provides that the Indigent Support Fund is to be funded with specified amounts collected as part of court costs imposed for offenses other than moving violations, Bureau of Motor Vehicle warrant processing fees, fees for reinstatement of a driver's license, fees for reinstatement of a driver's license after a financial responsibility suspension, driver's license reinstatement fees after a license has been forfeited for a traffic-related misdemeanor, state OVI and drugged driving fines, driver's license reinstatement fees for various OVI-related suspensions, and transfers from Indigent Drivers Alcohol Treatment Funds.

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### **CONTENT AND OPERATION**

#### **Indigent Support Fund**

The bill creates in the state treasury the Indigent Support Fund, consisting of money paid into the Fund, as described below in "**Funding of the Indigent Support Fund**." The State Public Defender must use 2% of the money in the

Fund for the purpose of appointing assistant state public defenders and for providing other personnel, equipment, and facilities necessary for the operation of the State Public Defender office. The State Public Defender must use the remaining 98% of the money in the Fund for the purpose of reimbursing county governments for expenses incurred in providing public defenders to indigent defendants through county public defender systems, joint county public defender systems, or county appointed counsel systems, as applicable. The bill requires the State Public Defender to make disbursements from the Fund to county governments in each fiscal year and to allocate the disbursements proportionately so that each county receives an equal percentage of its total cost for operating its county public defender system, joint county public defender system, or county appointed counsel system. (R.C. 120.08.)

### **Funding of the Indigent Support Fund**

#### **Court costs**

**Current law.** Under current law, the court in which any person is convicted of, pleads guilty to, or is adjudicated a delinquent child or juvenile traffic offender for committing any offense other than a traffic offense that is not a moving violation is required to impose \$15 in court costs in addition to any other court costs.<sup>1</sup> These additional court costs do not apply if the court determines that the offender or child is indigent. This sum must be deposited in the General Revenue Fund. In addition, whenever any person is charged with any offense other than a traffic offense that is not a moving violation, the court must add to the amount of the bail the \$15 court costs. If the person is convicted, pleads guilty, or forfeits bail, the \$15 must be deposited in the General Revenue Fund; otherwise the \$15 is returned to the person. No person can be placed or held in a detention facility for a failure to pay these court costs. (R.C. 2949.091.)

**The bill.** The bill modifies the amount of the additional court costs imposed under R.C. 2949.091 and redirects where the costs are deposited. Under the bill, the court in which any person is convicted of or pleads guilty to any offense or is adjudicated a delinquent child or juvenile traffic offender for committing an act that would be an offense if committed by an adult must impose the following sums as court costs, in addition to any other court costs:

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<sup>1</sup> "Moving violation" means any violation of any statute or ordinance, other than R.C. 4513.263 or an ordinance that is substantially equivalent to that section, that regulates the operation of vehicles, streetcars, or trackless trolleys on highways or streets or that regulates size or load limitations or fitness requirements of vehicles. "Moving violation" does not include the violation of any statute or ordinance that regulates pedestrians or the parking of vehicles. (R.C. 2949.091(D)(1), referencing R.C. 2743.70.)

- (1) \$30 if the offense is a felony;
- (2) \$20 if the offense is a misdemeanor other than a traffic offense that is not a moving violation;
- (3) \$10 if the offense is a traffic offense that is not a moving violation, excluding parking violations.

As under current law, these additional courts costs do not apply if the court determines that the offender or child is indigent. The bill directs that instead of depositing the court costs in the General Revenue Fund these court costs are to be deposited by the Treasurer of State to the credit of the Indigent Defense Support Fund.

In addition, similar to current law, the court must add to the amount of bail the amount described above whenever any person is charged with one of the above-described offenses. If the person is convicted, pleads guilty, or forfeits bail, the additional court costs must be deposited to the credit of the Indigent Defense Support Fund; otherwise the costs are returned to the person. No person can be placed or held in a detention facility for a failure to pay these court costs. (R.C. 2949.091 and conforming change in R.C. 2949.111(A)(2).)

#### **Bureau of Motor Vehicles warrant processing fee**

Under continuing law, unchanged by the bill, courts have the option of notifying the Bureau of Motor Vehicles (BMV) when a person has an outstanding arrest warrant. If the BMV receives this notice, it must record this information in its records and is prohibited from issuing a certificate of registration to the person until it receives notice that the warrant is no longer outstanding. Upon receipt of notification that the arrest warrant has been executed or cancelled, the BMV must charge and collect from the person named in the warrant a processing fee. After the fee is paid, the BMV must remove the report of the outstanding arrest warrant from its records and, if no other arrest warrants are outstanding and the person is otherwise eligible to be issued a certificate of registration, may issue the person a certificate of registration.

Current law specifies that this processing fee is \$15 to cover the costs of the BMV in administering this requirement of the Revised Code. The fee is to be deposited into the State Bureau of Motor Vehicles Fund.

The bill increases the amount of the processing fee to \$25. Fifteen dollars of the fee is still to be deposited into the State Bureau of Motor Vehicles Fund to cover the costs of administering this requirement. The additional \$10 is to be credited to the Indigent Defense Support Fund. (R.C. 4503.13(B).)

**Fee for reinstatement of a driver's license**

Under continuing law, unchanged by the bill, if a person's driver's license, commercial driver's license, or nonresident operating privilege is suspended, disqualified, or cancelled for an indefinite period of time or for a period of at least 90 days, and if at the end of that period the person is eligible for reinstatement of the license, the Registrar of Motor Vehicles must collect a reinstatement fee when the person requests reinstatement. Current law provides that this fee is \$30.

The bill increases the reinstatement fee to \$40. Thirty dollars of the fee is to be deposited into the State Bureau of Motor Vehicles Fund. The additional \$10 is to be credited to the Indigent Defense Support Fund. (R.C. 4507.45.)

**Financial responsibility reinstatement fee**

Continuing law, unchanged by the bill, prohibits a person from operating or permitting the operation of a motor vehicle without proof of financial responsibility. If a person violates this prohibition, the person is subject to a suspension of varying lengths of the person's driver's license. Among other requirements, before the person may have the license reinstated after such a suspension, the person must pay a financial responsibility reinstatement fee.

Under current law, the amount of the financial responsibility reinstatement fee is \$75 for a first violation, \$250 for a second violation, and \$500 for a third or subsequent violation. These fees are to be credited to the Financial Responsibility Compliance Fund.

The bill increases the amount of the financial responsibility reinstatement fee to \$100 for a first violation, \$300 for a second violation, and \$600 for a third or subsequent violation. The bill provides that \$25 of the fee imposed for a first violation, \$50 of the fee imposed for a second violation, and \$100 of the fee imposed for a third or subsequent violation is to be credited to the Indigent Defense Support Fund with the remainder of the fee credited to the Financial Responsibility Compliance Fund. (R.C. 4509.101(A)(5)(a) and (E).)

**Reinstatement fee after a license forfeited for a traffic-related misdemeanor**

Continuing law, unchanged by the bill, requires a court to order the forfeiture of a person's driver's license if the person is charged with a specified traffic law or motor vehicle crime violation that is a misdemeanor of the first, second, third, or fourth degree and the person either fails to appear in court at the required time and place to answer the charge or pleads guilty to or is found guilty of the violation and fails within the time allowed to pay the court-imposed fee.

Thirty days after the order of forfeiture, the court is required to inform the BMV of the order. The Registrar of Motor Vehicles, then, is required to impose a Class F suspension of the person's license (a period of time that is equal to when the conditions of suspension are met). The person cannot receive a license until the order of forfeiture is lifted.

Under current law, a person must pay the BMV a reinstatement fee of \$15 to have the license reinstated to cover BMV's costs in administering this provision of the Revised Code. The \$15 is deposited to the credit of the State Bureau of Motor Vehicles Fund.

The bill increases the reinstatement fee to \$25. Fifteen dollars of the fee continues to be deposited to the credit of the State Bureau of Motor Vehicles Fund to cover BMV's costs in administering this provision of the Revised Code. The additional \$10 is to be credited to the Indigent Defense Support Fund. (R.C. 4510.22(A).)

### **State OVI and drugged driving fines**

**Current law.** If a person is convicted of or pleads guilty to a state OVI or drugged driving violation, the court, in addition to other penalties, is required to impose a fine. Current law provides that unless a higher fine amount applies, the fine must be not less than \$250 and not more than \$1,000. If the offender has a previous state OVI, state OVUAC, drugged driving, or equivalent conviction or guilty plea in the prior six years, the fine amount must be not less than \$350 and not more than \$1,500. If the offender has two previous state OVI, state OVUAC, drugged driving, or equivalent convictions or guilty pleas in the prior six years, the fine amount must be not less than \$550 and not more than \$2,500. If the offender has three or four previous state OVI, state OVUAC, drugged driving, or equivalent convictions or guilty pleas in the prior six years or the offender within 20 years of the offense previously has been convicted of or pleaded guilty to five or more such violations or the offender previously has been convicted of or pleaded guilty to a felony state OVI or drugged driving violation, regardless of when it occurred, the fine amount must be not less than \$800 and not more than \$10,000.

Current law distributes these fine amounts among enforcement and education funds, the political subdivision that pays the cost of housing the offender during a period of incarceration, county or municipal indigent drivers' alcohol treatment funds, and as otherwise provided by law. (R.C. 4511.19(G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), and (e)(iii) and (G)(5).)

**The bill.** The bill increases these fine amounts as follows (R.C. 4511.19(G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), and (e)(iii) and (G)(5)):

(1) Generally, the fine must be not less than \$325 and not more than \$1,075. Seventy-five dollars of this fine must be credited to the Indigent Defense Support Fund.

(2) If the offender has a previous state OVI, state OVUAC, drugged driving, or equivalent conviction in the prior six years, the fine amount must be not less than \$475 and not more than \$1,625. One hundred twenty-five dollars of this fine must be credited to the Indigent Defense Support Fund.

(3) If the offender has two previous state OVI, state OVUAC, drugged driving, or equivalent convictions in the prior six years, the fine amount must be not less than \$800 and not more than \$2,750. Two hundred fifty dollars of this fine must be credited to the Indigent Defense Support Fund.

(4) If the offender has three or four previous state OVI, state OVUAC, drugged driving, or equivalent convictions or guilty pleas in the prior six years, or the offender within 20 years of the offense previously has been convicted of or pleaded guilty to five or more such violations, or the offender previously has been convicted of or pleaded guilty to a felony state OVI or drugged driving violation, regardless of when it occurred, the fine amount must be not less than \$1,300 and not more than \$10,500. Five hundred dollars of this fine must be credited to the Indigent Defense Support Fund.

The remainder of the fine is to be distributed as discussed above in "*Current law.*"

*Driver's license reinstatement fee for various OVI-related suspensions*

*Current law.* At the end of a suspension period imposed for a violation of the Implied Consent Law (see **COMMENT**), having physical control of a vehicle while under the influence, aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, aggravated vehicular assault, vehicular assault, state OVI, drugged driving, or a municipal OVI ordinance, the person whose license was suspended may request the Registrar of Motor Vehicles to return the license. The Registrar is required to do so if the person shows proof of financial responsibility and pays a license reinstatement fee of \$425. Under current law, the license reinstatement fee is deposited in the state treasury and credited as follows (R.C. 4511.191(F)(2)):

(1) \$112.50 is credited to the Statewide Treatment and Prevention Fund, which pays the costs of certain driver treatment and intervention programs.

(2) \$75 is credited to the Crime Victims Reparations Fund.

(3) \$37.50 is credited to the Indigent Drivers Alcohol Treatment Fund, which is used to pay for certain alcohol and drug addiction treatment programs attended by indigent offenders or juvenile traffic offenders who are ordered to attend.

(4) \$75 is credited to the Ohio Rehabilitation Services Commission.

(5) \$75 is credited to the Drug Abuse Resistance Education Programs Fund.

(6) \$30 is credited to the State Bureau of Motor Vehicles Fund.

(7) \$20 is credited to the Trauma and Emergency Medical Services Grants Fund.

**The bill.** The bill decreases the amounts of the reinstatement fee that are deposited in various funds and directs a portion of the reinstatement fee to be credited to the Indigent Defense Support Fund. Under the bill, the license reinstatement fee is deposited in the state treasury and credited as follows (R.C. 4511.191(F)(2)):

(1) \$110 is credited to the Statewide Treatment and Prevention Fund (*decreased from \$112.50*).

(2) \$70 is credited to the Crime Victims Reparations Fund (*decreased from \$75*).

(3) \$35 is credited to the Indigent Drivers Alcohol Treatment Fund (*decreased from \$37.50*).

(4) \$70 is credited to the Ohio Rehabilitation Services Commission (*decreased from \$75*).

(5) \$70 is credited to the Drug Abuse Resistance Education Programs Fund (*decreased from \$75*).

(6) \$30 is credited to the State Bureau of Motor Vehicles Fund (*no change*).

(7) \$20 is credited to the Trauma and Emergency Medical Services Grants Fund (*no change*).

(8) \$20 is credited to the Indigent Defense Support Fund (*new provision*).

**Transfers from Indigent Drivers Alcohol Treatment Funds**

Current law permits a county, juvenile, or municipal court to determine, in consultation with the Alcohol and Drug Addiction Services Board or the Board of Alcohol, Drug Addiction, and Mental Health Services that serves the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county Indigent Drivers Alcohol Treatment Fund, the county Juvenile Indigent Drivers Alcohol Treatment Fund, or the municipal Indigent Drivers Alcohol Treatment Fund under the control of the court are more than sufficient to satisfy the Funds statutorily established purposes. If this determination is made, the court may declare a surplus and expend the surplus amount for either of the following:

(1) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(a) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

(b) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(2) All or part of the cost of purchasing electronic continuous alcohol monitoring devices.

The bill removes this provision of current law regarding the declaration of a surplus in these Funds. The bill, instead, requires a county, juvenile, or municipal court to transmit to the Treasurer of State on or before the 20th day of January each year, 80% of the unencumbered balance of the funds in the county Indigent Drivers Alcohol Treatment Fund, the county Juvenile Indigent Drivers Alcohol Treatment Fund, or the municipal Indigent Drivers Alcohol Treatment Fund under the control of the court as of December 31 of the preceding year. The Treasurer of State must deposit these funds to the credit of the Indigent Defense Support Fund. (R.C. 4511.191(H)(4).)

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**COMMENT**

The Implied Consent Law, unchanged by the bill, provides that any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking in Ohio or who is in physical control of a vehicle, streetcar, or trackless trolley is deemed to

have given consent to a chemical test if arrested for state OVI, state OVUAC, drugged driving, having physical control of a vehicle while under the influence or a substantially equivalent municipal ordinance, or a municipal OVI ordinance. If the person refuses the chemical test, the BMV is notified, and an administrative suspension of the person's driver's license is imposed. (R.C. 4511.191.)

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## **HISTORY**

ACTION	DATE
Introduced	11-01-07

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