



Ohio Legislative Service Commission

Final Analysis

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Am. Sub. H.B. 197 129th General Assembly (As Passed by the General Assembly)

Reps. Slesnick, Fende, Letson, Murray, O'Brien, Patmon, Yuko, Blair, Combs, Johnson, Milkovich, Terhar, Batchelder

Sens. Wagoner, Bacon, Beagle, Coley, Eklund, Jordan, Kearney, LaRose, Lehner, Manning, Obhof, Patton, Sawyer, Schaffer, Schiavoni, Seitz, Tavares

Effective date: March 22, 2013

ACT SUMMARY

- Authorizes a municipal, mayor's, or county court to order community service in lieu of costs for an offender who is unable to pay costs.
- Authorizes a municipal, mayor's, or county court to order an offender to pay costs in installments if the offender will not be able to pay the costs in full when they are due.
- If a person is charged with an offense in a common pleas, municipal, mayor's, or county court and fails to appear to answer the charge or pleads guilty or is found guilty and fails to pay any fine or costs, requires the court to notify the person of the amount due, direct the person to contact the court clerk, and warn the person that a failure to respond may result in the blocking of the person's motor vehicle registration or transfer of registration.
- Authorizes a person who has received notice from a court of a balance due for unpaid fines or costs to enter into a written agreement with the court to pay the balance due in installments or to perform community service in lieu of payment and requires the agreement to include a warning that failure to comply with the agreement may result in the blocking of the person's motor vehicle registration or transfer of registration.
- If a person referred to in the preceding dot point fails to enter into or comply with an agreement described in the dot point, authorizes the court to provide the

Registrar of Motor Vehicles with information relative to the person's failure to pay any fines or costs when due and prohibits the Registrar from accepting an application for registration or transfer of registration of any motor vehicle owned or leased by the defendant until the court notifies the Registrar that the fines or costs have been paid in full.

- Requires the Registrar to prescribe forms for the notices described in the preceding dot point, authorizes the Registrar to approve the use of other forms, and authorizes the Registrar to require electronic transmission of the forms.
- Requires that municipal and county courts send certain fees and other money they collect to the treasurer of the appropriate political subdivision by the 20th day of the month following the month in which the money is collected.
- Increases from \$3 to \$6 the maximum fee that a court of common pleas may charge to obtain additional funds for computerizing the court and making available computerized legal research services.
- Increases from \$10 to \$20 the maximum fee that a court of common pleas may charge to obtain additional funds to computerize the clerk's office of the court, authorizes other additional fees of \$1 for such purpose, and authorizes also using those fees to make technological advances to the office or the clerk.
- Requires a court, in determining the sentence for a felon or misdemeanor, to consider the offender's military service record and whether the offender has an emotional, mental, or physical condition that is traceable to the offender's military service and that was a contributing factor in the commission of the offense.

CONTENT AND OPERATION

Alternatives to full payment of costs when due

The act authorizes a municipal, mayor's, or county court to order an offender to perform community service in lieu of costs if at the time of sentencing or any time thereafter the court finds that the offender is unable to pay costs. The act also authorizes a municipal, mayor's, or county court to order an offender to pay costs in installments according to a schedule set by the court if at the time of sentencing or any time thereafter the court finds that the offender will be unable to pay the costs in full when they are due. These provisions apply notwithstanding any other provision of the Revised Code.¹

¹ R.C. 1901.44(A), 1905.202(A), and 1907.25(A).

Registration block for failure to appear or to pay fine or costs

Under the act, if a person is charged with an offense and 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 offense and fails within the time allowed by the court to pay any fine or costs imposed by the court, unless the court previously has given written notice to the person, the court must send the person a notice by ordinary mail at the person's last known address stating that there is a balance due, specifying the amount of the balance due, and directing the person to contact the court clerk's office within ten days of the date of the notice. The notice must include the sentence: "WARNING: Failure to timely respond to this notice may result in the blocking of your motor vehicle registration or transfer of registration!" To avoid a block on the person's motor vehicle registration or transfer of registration, the person may enter into a written agreement with the court to pay the balance due in installments or to perform community service in lieu of payment. The agreement must include the sentence: "WARNING: Failure to comply with the payment schedule or to complete your community service requirement may result in the blocking of your motor vehicle registration or transfer of registration!"²

If a person either does not enter into or enters into but fails to comply with such an agreement, the court may enter information relative to the person's failure to pay the fine or costs on a form prescribed or approved by the Registrar under the act (see below) and send the form to the Registrar of Motor Vehicles. Upon receipt of the form, the Registrar must take any measures necessary to ensure that neither the Registrar nor any deputy registrar accepts any application for the registration or transfer of registration of any motor vehicle owned or leased by the person. However, for a motor vehicle leased by the person, the Registrar may not implement this requirement until the Registrar adopts procedures for that implementation under R.C. 4503.39. The block on registration or transfer of registration remains in effect until the fine or costs are paid in full. When the fine or costs are paid in full, the court must inform the Registrar of the payment on a notice of payment form prescribed or approved by the Registrar under the act (see below) and sending the form to the Registrar.³

The act requires the Registrar to prescribe the forms to be used for a notice of a failure to pay fines or costs and a notice of payment of fines or costs and make them available to municipal, mayor's, county, and common pleas courts. It also authorizes the Registrar to approve the use of other forms and to require that any of the forms be transmitted to the Registrar electronically. If the Registrar requires electronic

² R.C. 1901.44(B), 1905.202(B), 1907.25(B), and 2947.09(A).

³ R.C. 1901.44(B), 1905.202(B), 1907.25(B), 2947.09(A), and 4503.39.

transmission, the Registrar need not give effect to any form that is not transmitted electronically.⁴

Remittance of computerization fees and other money

Continuing law authorizes a municipal or county court to impose additional fees for the filing or docketing of certain actions to support computerization of the court or the court clerk's office. The court must send the additional fees to the treasurer of the appropriate political subdivision for deposit into a separate fund. The act specifies that the court must remit the fees collected to the appropriate treasurer by the 20th day of the month following the month in which they are collected.⁵

The act also requires that all costs, fees, fines, bail, and other money collected by a municipal or county court clerk be disbursed to the proper persons on or before the 20th day of the month following the month in which they are collected and that all costs and fees set forth in a county court's regular fee schedule or collected by a county court judge for performing a marriage ceremony be transmitted to the county's general fund by the 20th day of the month following the month in which they are collected.⁶

Court of common pleas – fees for computerization

Under continuing law, the court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Under prior law, upon making a determination that additional funds are required for either or both of those purposes, the court had to authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed \$3, on the filing of a specified cause of action or appeal. The act provides that if the court makes this determination the additional fee may not exceed \$6.⁷

Continuing law also provides that the court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court of common pleas. Under prior law, upon that determination, the court had to authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed \$10, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of

⁴ R.C. 1901.44(C), 1905.202(C), 1907.25(C), and 2947.09(B).

⁵ R.C. 1901.261(A)(2) and (B)(1) and 1907.261(A)(2) and (B)(1).

⁶ R.C. 1901.31(F), 1907.20(C), and 1907.26.

⁷ R.C. 2303.201(A)(1).

judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify certain specified judgments. The act provides that if the court makes this determination the additional filing fee may not exceed \$20, that the additional fee may be used to make technological advances to the office of the clerk of the court of common pleas, and that the court may include an additional fee not to exceed \$1 for each undertaking, bond, or recognizance; an additional fee not to exceed \$1 for issuing each writ, order, or notice, except subpoena; an additional fee not to exceed \$1 for each name for issuing subpoena, swearing witness, entering attendance, and certifying fees; an additional fee not to exceed \$1 for each page, for entering on journal, indexing, and posting on any docket; and an additional fee not to exceed \$1 for each page for making complete record, including indexing.⁸

Continuing law also provides that generally all moneys collected as described above must be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the Board of County Commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the court of common pleas. The act provides that these moneys be used for procuring and maintaining technology as well.⁹ Under continuing law, if the court of common pleas of any county makes the determination, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the court of common pleas. The act provides that the general obligation bonds may also be for the purpose of procuring and maintaining technology for the office of the clerk of the court of common pleas.¹⁰

Consideration of offender's military service in sentencing

The felony and misdemeanor sentencing statutes require the court, when determining what sentence to impose, to consider the seriousness of the defendant's criminal conduct, the likelihood of recidivism, and other relevant factors. The act further requires the court to consider when determining what sentence to impose the offender's military service record and whether the offender has an emotional, mental, or physical condition that is traceable to the offender's military service and that was a contributing factor in the commission of the offense.¹¹

⁸ R.C. 2303.201(B)(1).

⁹ R.C. 2303.201(B)(1).

¹⁰ R.C. 2303.201(B)(2).

¹¹ R.C. 2929.12(A) and (F) and 2929.22(B)(1)(f) and (g).

HISTORY

ACTION	DATE
Introduced	04-12-11
Reported, H. Judiciary & Ethics	02-02-12
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Reported, S. Judiciary	12-12-12
Passed Senate (33-0)	12-12-12
House concurred in Senate amendments (85-4)	12-13-12

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