



Ohio Legislative Service Commission

Bill Analysis

Andrea Holmes

H.B. 465

129th General Assembly
(As Introduced)

Reps. Foley, Yuko, Letson, Driehaus, Murray, Antonio, Ramos, R. Hagan, Williams

BILL SUMMARY

- Permits the trial of a corporation in absentia in a criminal proceeding initiated by complaint.

CONTENT AND OPERATION

Under existing law, when a corporation is indicted or an information is filed against it, the prosecuting attorney may request the court to order the sheriff to notify the corporation of that fact. The summons, with a copy of the *indictment*, must be served and returned in the same manner as for service upon corporations in civil actions. If the service cannot be made in the county where the prosecution began, the sheriff may make service in any other Ohio county, upon specified corporate officers, or by leaving a copy at the corporation's general or branch office or usual place of doing business, with the person having charge of that office or place. The corporation must appear and answer the indictment or information. Upon failure to make such an appearance and answer, the clerk of the *court of common pleas* must enter a plea of "not guilty." The corporation is then before the court until the case's final disposition. No warrant of arrest may issue on the indictment or information except for individuals included in the indictment or information.

In *Cleveland v. Washington Mutual Bank* (2010), 2010-Ohio-2219, the Ohio Supreme Court held that this provision does not authorize the trial of a corporation in absentia in a criminal proceeding that is initiated by affidavit or complaint in a municipal court.

The bill expands this provision to include (1) situations in which the criminal charges are brought by complaint and (2) situations in which the criminal charges are brought in a court other than the court of common pleas. It also provides that the summons must be served with a copy of the information or complaint when charges are

brought by information or complaint must be served and returned in the manner provided for service of summons upon corporations in civil actions. The bill also repeals the provision describing the methods by which service may be made on the corporation out-of-county; service upon the corporation is covered by Rule 4.2 of the Rules of Civil Procedure. (R.C. 2941.47.)

HISTORY

ACTION	DATE
Introduced	02-28-12

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