



Ohio Legislative Service Commission

Bill Analysis

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(As Introduced)

Sens. Bacon, Seitz

BILL SUMMARY

- Requires that court fees for computerization of a municipal or county court or of a municipal or county court clerk's office and other money collected by a municipal or county court clerk be remitted to the appropriate office or person by the 20th day of each month.
- Authorizes municipal, mayor's, and county courts to work with the Tax Commissioner to collect court costs, fees, or fines that remain unpaid two years after they are due from income tax refunds that are due to the obligor.
- Requires the Auditor of State to maintain a chart detailing the distribution of court costs, fees, and fines collected by the clerks of municipal and county courts.
- Creates the Committee on Court Costs to study the impact of court costs on court operations, to recommend changes to the existing system of court costs, and to report its findings and recommendations to the Chief Justice, Governor, Speaker of the House, and President of the Senate.
- Allows a municipal, mayor's, or county court to issue a declaration of forfeiture of a person's current valid Ohio driver's or commercial driver's license or temporary instruction permit if the person is charged with an offense and either fails to appear in court to answer the charge or fails to pay any fines or costs and provides a procedure for forfeiting that license or permit.

CONTENT AND OPERATION

Date for remittance of money by court clerk

Current law authorizes a municipal or county court to impose additional fees to help fund the computerization of the court or the computerization of the office of the clerk of the court. The clerk must pay any such fees that the clerk collects to the treasurer of the appropriate municipal corporation or county. The bill specifies that payment be made on or before the 20th day of each month.¹

Current law also requires the clerk of a municipal or county court and the judges of a county court to disburse or transmit other fees, costs, fines, and other money received or collected by the clerk or judges to the proper persons or officers. The bill specifies that the disbursements be made on or before the 20th day of each month.²

Collection of costs, fees, or fines from income tax refunds

The bill authorizes each municipal, mayor's, and county court to work with the Tax Commissioner to collect any court costs, fees, or fines that an obligor has not paid to the court at least two years after the date on which the obligor was required by a court order or a statute or rule of court to pay the costs, fees, or fines. Any unpaid costs, fees, or fines may be collected from refunds of state income taxes that are due to the obligor. Any reduction in an obligor's tax refund for the purpose of paying court costs, fees, or fines must come *after* reductions authorized under existing law for the payment of certain debts owed to the state or for the collection of overdue child support, overpayments of public assistance, or overpayments of child support. Any reduction in an obligor's tax refund for court costs, fees, or fines must be made *before* any part of the refund is contributed to certain funds that a taxpayer may designate on the income tax return (the Natural Areas and Preserves Fund, the Nongame and Endangered Wildlife Fund, or the Military Injury Relief Fund) or is credited against tax due in any subsequent year. No reduction may be made for court costs, fees, or fines under this provision if the amount of the refund is less than \$25 after any reduction is made for debts owed to the state under R.C. 5747.12.³

Each municipal, mayor's, and county court and the Tax Commissioner, by rules adopted under the Administrative Procedure Act, must establish procedures to implement the collection of court costs, fees, or fines as described above. The

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

² R.C. 1901.31(F), 1907.20(C), and 1907.26.

³ R.C. 1901.263(A), (B), and (C), 1905.33(A), (B), and (C), and 1907.263(A), (B), and (C).

procedures must provide for notice to an obligor of unpaid court costs, fees, or fines and an opportunity for the obligor to be heard before the obligor's income tax refund is reduced.⁴

The bill expressly requires the Tax Commissioner to cooperate with municipal, mayor's, and county courts to collect unpaid court costs, fees, or fines as described above. It requires the Tax Commissioner, at the request of one of those courts, to release to the court the home address and Social Security number of any obligor of unpaid court costs, fees, or fines whose nonpayment of those court costs, fees, or fines may be collected from a refund of state income taxes under the bill.⁵

The bill provides that in the case of a joint income tax return for two people who were not married to each other at the time one of them had not paid any court costs, fees, or fines, only the portion of a refund that is due to the obligor, as determined by the Tax Commissioner, may be available for collection. An obligor's spouse who objects to the Commissioner's determination may file a complaint with the Commissioner within 21 days after receiving notice of the collection. The Commissioner must afford the spouse an opportunity to be heard on the complaint. The Commissioner must waive or extend the 21-day period if the obligor's spouse establishes that such action is necessary to avoid unjust, unfair, or unreasonable results. After the hearing, the Commissioner must make a final determination of the portion of the refund available for collection of unpaid court costs, fees, or fines.⁶

Auditor's chart of distribution of court costs, fees, and fines

The bill requires the Auditor of State to develop and periodically update a chart detailing the distribution of court costs, fees, and fines collected by the clerks of municipal courts and county courts.⁷

Committee on Court Costs

The bill creates the Committee on Court Costs, consisting of the following ten members:⁸

⁴ R.C. 1901.263(D), 1905.33(D), and 1907.263(D).

⁵ R.C. 5747.124(A) and (B).

⁶ R.C. 5747.124(C).

⁷ R.C. 117.102.

⁸ R.C. 2303.203(A).

(1) Two members of the public appointed by the Speaker of the House of Representatives;

(2) Two members of the public appointed by the President of the Senate;

(3) One member of the public appointed by the Chief Justice of the Supreme Court;

(4) One municipal clerk of court appointed by the Ohio Association of Municipal/County Court Clerks;

(5) One clerk of the court of common pleas appointed by the Ohio Clerk of Courts Association;

(6) One municipal judge appointed by the Association of Municipal/County Judges of Ohio;

(7) One judge of the court of common pleas appointed by the Ohio Common Pleas Judges Association;

(8) One court administrator appointed by the Ohio Association for Court Administration.

The appointments to the Committee must be made not later than 90 days after the bill's effective date. Vacancies are filled in the manner provided for the original appointments. Committee members have two-year terms of office. The committee selects a chairperson and vice-chairperson. It meets annually at a time and place determined by the Committee. The members serve without compensation.⁹

The bill requires the Committee to study the impact of court costs on court operations and to prepare recommendations for any changes to the existing system of court costs that the committee believes are necessary. The Committee must submit written findings and recommendations to the Chief Justice, Governor, Speaker of the House, and President of the Senate.¹⁰

Forfeiture of driver's license or temporary instruction permit

Under the bill, a municipal, mayor's, or county court may issue a declaration of forfeiture of a person's current valid Ohio driver's or commercial driver's license or temporary instruction permit if a person who has a license or permit is charged with an

⁹ R.C. 2303.203(B), (C), (D), and (E).

¹⁰ R.C. 2303.203(F) and (G).

offense in municipal, mayor's, or county court 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. Within 30 days after the issuance of a declaration of forfeiture, the court clerk informs the Registrar of Motor Vehicles of the forfeiture by entering information relative to the forfeiture on a notice of forfeiture form prescribed or approved by the Registrar and sending the completed form to the Registrar. The clerk also forwards the person's license or permit, if it is in the possession of the court, to the Registrar.¹¹

The bill provides that upon receipt of a notice of forfeiture form, the Registrar must impose a class F suspension of the driver's or commercial driver's license or temporary instruction permit of the person who is the subject of the form until certain conditions are met. The Registrar must send written notification of the suspension to the person at the person's last known address and, if the person is in possession of the license or permit, order the person to surrender the license or permit to the Registrar within 48 hours.¹²

The bill states that neither the Registrar nor any deputy registrar can grant a valid driver's or commercial driver's license or temporary instruction permit to the person after the suspension unless the court having jurisdiction of the offense that led to the suspension orders the termination of the forfeiture. The court must order a termination of the forfeiture if the person appears after the imposition of the suspension to answer the charge and pays any fine and costs imposed by the court or pays the fine and costs originally imposed by the court. The court must inform the Registrar of the termination of the forfeiture by entering information relative to the termination on a form prescribed or approved by the Registrar and sending the completed form to the Registrar. The person who is the subject of the termination must pay a \$25 reinstatement fee to the Bureau of Motor Vehicles. The Registrar must deposit \$15 of the fee into the state treasury to the credit of the State Bureau of Motor Vehicles Fund to cover the costs of the Bureau in administering this section and deposit \$10 of the fee into the state treasury to the credit of the Indigent Defense Support Fund.¹³

The bill provides that, in addition to suspending the driver's or commercial driver's license or temporary instruction permit of the person named in a declaration of forfeiture, the Registrar, upon receipt from the court clerk of the notice of forfeiture

¹¹ R.C. 1901.44(A), 1905.202(A), and 1907.25(A).

¹² R.C. 1901.44(A), 1905.202(A), and 1907.25(A).

¹³ R.C. 1901.44(A), 1905.202(A), and 1907.25(A).

form, must take any measures that may be 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 named in the declaration of forfeiture. However, for a motor vehicle leased by a person named in a declaration of forfeiture, the Registrar cannot implement the preceding sentence until the Registrar adopts procedures for that implementation (see below). The period of denial of registration or transfer continues until the court with jurisdiction of the offense that led to the suspension orders the termination of the forfeiture. Upon receipt by the Registrar of a termination of forfeiture form, the Registrar must take any measures necessary to permit the person to register a motor vehicle owned or leased by the person or to transfer the registration of a motor vehicle owned or leased by the person, if the person later applies to register or transfer the registration of a motor vehicle and otherwise is eligible to register the motor vehicle or to transfer its registration. The Registrar may not restore the person's driving or vehicle registration privileges until the person pays the reinstatement fee described above.¹⁴

The period of denial relating to the issuance or transfer of a certificate of registration for a motor vehicle imposed pursuant to this division remains in effect until the person pays any fine and costs imposed by the court relative to the offense.¹⁵

Under the bill, if the court does not issue a declaration of forfeiture of a person's license, it may enter information relative to the person's failure to pay the fine or costs on a form prescribed or approved by the Registrar and send the form to the Registrar. Upon receipt of the form, the Registrar must take any measures necessary to ensure that neither the Registrar nor any deputy registrar does either of the following:¹⁶

(1) Accepts any application from the person for a driver's license, commercial driver's license, or temporary instruction permit or for a renewal of a driver's license, commercial driver's license, or temporary instruction permit until the fine or costs are paid;

(2) 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 shall not implement this requirement until the Registrar adopts procedures for that implementation.

¹⁴ R.C. 1901.44(B), 1905.202(B), and 1907.25(B).

¹⁵ R.C. 1901.44(B), 1905.202(B), and 1907.25(B).

¹⁶ R.C. 1901.44(C), 1905.202(C), and 1907.25(C).

The period of denial relating to the issuance or renewal of a driver's license, commercial driver's license, or temporary instruction permit and the issuance or transfer of a certificate of registration for a motor vehicle imposed remains in effect until the person pays any fine or costs imposed by the court relative to the offense. When the fine or costs have been paid in full, the court must inform the Registrar of the payment by entering information relative to the payment on a notice of payment form prescribed or approved by the Registrar and sending the form to the Registrar.¹⁷

The bill requires the Registrar to prescribe and make available to municipal, mayor's, and county courts forms to be used for a notice of forfeiture and a notice of termination and a notice of failure to pay fines or costs and a notice of payment of fines or costs. The Registrar may approve the use of other forms for these purposes.¹⁸

Under the bill, the Registrar may require that any of the forms prescribed or approved be transmitted to the Registrar electronically. If the Registrar requires electronic transmission, the Registrar is not required to give effect to any form that is not transmitted electronically.¹⁹

Adoption of procedures

The bill modifies existing law by requiring the Registrar of Motor Vehicles to adopt procedures to prevent the Registrar or deputy registrar from accepting any application for the registration or transfer of registration of any motor vehicle leased by or in the name of a person who is precluded from registering or transferring registration of a motor vehicle because of a failure to pay a fine or court costs. The procedures must prescribe the information and methodology necessary to implement the requirements. Currently Ohio law requires the Registrar of Motor Vehicles to adopt procedures to prevent the Registrar or deputy registrar from accepting any application for the registration or transfer of registration of any motor vehicle leased by or in the name of a person who is precluded from registering or transferring registration of a motor vehicle because of a failure to appear in court or pay a fine for violations of certain specified offenses.²⁰

¹⁷ R.C. 1901.44(C), 1905.202(C), and 1907.25(C).

¹⁸ R.C. 1901.44(D), 1905.202(D), and 1907.25(D).

¹⁹ R.C. 1901.44(D), 1905.202(D), and 1907.25(D).

²⁰ R.C. 4503.39.

HISTORY

ACTION

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