
JUDICIARY-SUPREME COURT

Court electronic filings and computerization fees

- Allows electronic filing of pleadings or documents in municipal and county courts.
- Allows municipal, county, and common pleas court clerks to increase their additional fees to cover office computerization costs from \$10 to \$25.
- Delays the effective date of the provisions regarding electronic filing of pleadings in municipal and county courts until January 1, 2025.

Appeals of administrative orders

- Restructures and modifies the current Administrative Procedure Act provisions regarding appeals by a party adversely affected by an order of an agency by:
 - Retaining current law that specifies that, subject to the provisions described below, an appeal from an order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture must be filed in the county in which the place of business of the licensee is located or the county in which the licensee is a resident.
 - Retaining and modifying current law that requires that appeals of orders of specified agencies must be to the Franklin County Court of Common Pleas or, as added, the county in which the place of business of the licensee is located or in which the licensee is a resident.
 - Retaining and modifying current law that requires, instead of permits, appeals from orders of the State Fire Marshal be to the court of common pleas of the county in which the aggrieved person's building is located.
 - Retaining current law pertaining to appeals from a decision of the State Personnel Board of Review or a municipal or civil service township civil service commission.
 - Requiring, instead of permitting as under current law, that appeals from specified administrative orders by any party who is not a resident of and has no place of business in Ohio must be to the Franklin County Court of Common Pleas.
 - Retaining and modifying current law providing that any party adversely affected by any agency order issued pursuant to any other adjudication may appeal to the Franklin County Court of Common Pleas or, as added, the county in which the business of the party is located or in which the party is a resident.
- Modifies specific statutes governing adjudication orders of specified agencies to replace current provisions regarding appeals of the orders to the Franklin County Court of Common Pleas, the Environmental Division of the Franklin County Municipal Court, or the court of the county in which an appointing authority resides, with the bill's venue provision described in the first dot point.

Special court procedures

- Provides special court procedures regarding the consideration and determination of:
 - Cases that, prior to its effective date, would have been solely within the jurisdiction on appeal of the 10th District Court of Appeals, and that on that date are pending in a common pleas court and are not pending in the 10th District.
 - Matters that, on or after its effective date, are being considered by a court of appeals other than the 10th District or a common pleas court within the territory of a court of appeals other than the 10th District and that, prior to that date, would have been solely within the jurisdiction on appeal of the 10th District.

No claim preclusion in zoning appeals

- Provides that a final judgment on the merits by a court pursuant to its power of review of administrative orders on claims brought under the law regarding county rural zoning or the renewal of slums and blighted areas in a county, the Township Zoning Law, or the law regarding municipal zoning, regional and county planning commissions, or interstate regional planning commissions does not preclude later claims for damages.
- States that the General Assembly intends that the above provisions in the respective laws be construed to override the federal Sixth Circuit Court of Appeals decision in the case of *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir. 2021).

Changes related to S.B. 288 of the 134th General Assembly

- Makes a series of changes to the Criminal Code to correct inconsistencies, ambiguities, oversights, and technical issues created by the passage of S.B. 288 of the 134th General Assembly, including changes related to all of the following:
 - Sealing and expungement;
 - Criminal and traffic offense penalties;
 - Crime victims – notice and opportunity to be heard;
 - Adult Parole Authority warrantless search authority;
 - Removal of warrants from the National Crime Information Center;
 - Emergency judicial release;
 - Other technical changes.

Court electronic filings and computerization of courts

(R.C. 1901.261, 1901.313, 1907.202, 1907.261, 2303.081, and 2303.201)

The bill permits pleadings or documents to be filed with county and municipal clerks of court either in paper format or electronic format. Additionally, the bill specifies that such pleadings or documents filed in paper format may be converted to an electronic format, and

permits documents created by a county or municipal clerk in the exercise of the clerk's duties to be created in an electronic format. Finally, the bill specifies that, in county and municipal courts, when pleadings or documents are received or created in, or converted to, an electronic format, the pleadings or documents in that format must be considered the official version of the record. These new provisions that the bill applies to county and municipal courts regarding electronic filing of pleadings or documents already apply to courts of common pleas under existing law.

Applicable to municipal, county, and common pleas courts, the bill specifies that the clerk must determine whether the filing of pleadings or documents in electronic format may be accomplished either by electronic mail or through the use of an online platform. The fee for filing pleadings or documents in electronic format may be paid after the filing. The clerk cannot require that any fee for the filing of pleadings or documents in electronic format be paid before the filing, unless the clerk has provided for an electronic payment system for such filing. Finally, the clerk cannot require a fee for the filing of pleadings or documents in electronic format that exceeds the applicable fee for the filing of pleadings or documents in paper format. However, the bill specifies that the provisions described in this paragraph do not apply to the filing of pleadings or documents in a probate court or juvenile court.

The bill permits the clerk of the common pleas court, rather than the court, to charge an additional fee for the computerization of the clerk's office and disburse those funds and also permits elected municipal and county court clerks to charge a computerization fee and disburse those funds.

In a county in which the clerk of the municipal court or county court is appointed, the bill retains existing law under which the municipal court or the county court may make the determination as to whether additional funds are necessary and, upon that determination, include a computerization fee in its schedule of fees.

The bill also permits municipal, county, and common pleas courts to increase the maximum amount of their additional fees from \$10 to \$25 to cover the computerization of the clerk's office.

The bill delays the effective date of the provisions regarding electronic filing of pleadings or documents in municipal and county courts until January 1, 2025.

Appeal of administrative agency order

(R.C. 119.12, 124.34, 956.11, 956.15, 3794.09, 3901.321, 3913.13, 3913.23, 5101.35, and 5164.38; Section 701.130)

Current law

Place of appeal

The current Administrative Procedure Act (R.C. Chapter 119, the APA) generally provides that a "party" (see below) adversely affected by any order of an "agency" (see below) issued pursuant to an adjudication denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture rather than suspending operations of a liquor permit holder by order of the Liquor Control Commission, may appeal from the order of the agency to the court

of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident (the provisions do not apply to appeals from the Department of Taxation).

But other provisions regarding appeals of such an order specify that:

1. An appeal of such an order issued by any of the following agencies must be made to the Franklin County Court of Common Pleas (Franklin County CCP): (a) Liquor Control Commission, (b) Ohio Casino Control Commission, (c) State Medical Board, (d) State Chiropractic Board, (e) Board of Nursing, and (f) Bureau of Workers' Compensation regarding participation in the health partnership program administered by the Bureau.

2. If a party appealing from such an order is not an Ohio resident and has no place of business in Ohio, the party may appeal to the Franklin County CCP.

3. A party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the Franklin County CCP, except that: (a) appeals from orders of the State Fire Marshal issued under R.C. Chapter 3737 may be to the court of common pleas of the county in which the building of the aggrieved person is located, and (b) appeals under R.C. 124.34(B) from a decision of the State Personnel Board of Review or a municipal or civil service township civil service commission must be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by the Department of Rehabilitation and Correction (DRC), to the Franklin County CCP.

Definitions

As used in the APA:

1. "Agency" means, except as otherwise specified, any official, board, or commission having authority to promulgate rules or make adjudications in the Civil Service Commission, the Division of Liquor Control, the Department of Taxation, the Industrial Commission, the Bureau of Workers' Compensation, the functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state specifically made subject to the APA, and the licensing functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state having the authority or responsibility of issuing, suspending, revoking, or canceling licenses. The Act does not apply to certain specified government entities or certain specified types of conduct of government entities (e.g., the Public Utilities Commission; the Controlling Board; or certain actions of the Superintendent of Financial Institutions and the Superintendent of Insurance; etc.). "Agency" also means any official or work unit having authority to promulgate rules or make adjudications in the Department of Job and Family Services, but only with respect to both of the following: (1) the adoption, amendment, or rescission of rules required under R.C. 5101.09 to be adopted in accordance with the APA, and (2) the issuance, suspension, revocation, or cancellation of licenses.

2. "Party" means the person whose interests are the subject of an adjudication by an agency.

Operation of the bill

The bill modifies current law by providing that a party adversely affected by an order of an agency issued pursuant to an adjudication may appeal from the order to the court of common pleas of the county described in the next paragraph.

Under the bill, an appeal by a party adversely affected by any order of an agency issued pursuant to an adjudication must be filed in the county designated as follows:

1. Except as otherwise described below in (2), an appeal from an order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, denying the issuance or renewal of a license or registration of a licensee, revoking or suspending a license, or allowing the payment of a forfeiture rather than suspending operations of a liquor permit holder by order of the Liquor Control Commission must be filed in the county in which the place of business of the licensee is located or the county in which the licensee is a resident (current law states that such an appeal may be filed in the court of common pleas in either of the specified counties).

2. An appeal from an order issued by any of the following agencies must be made to the Franklin County CCP or the court of common pleas in the county in which the place of business of the licensee is located or the county in which the licensee is a resident: (a) Liquor Control Commission, (b) Ohio Casino Control Commission, (c) State Medical Board, (d) State Chiropractic Board, (e) Board of Nursing, and (f) Bureau of Workers' Compensation regarding participation in the health partnership program administered by the Bureau (currently, such an appeal must be made to the Franklin County CCP).

3. Appeals from orders of the State Fire Marshal issued under R.C. Chapter 3737 must be to the court of common pleas of the county in which the building of the aggrieved person is located (currently, those appeals may be to that court of common pleas or to the Franklin County CCP).

4. As under current law, appeals under R.C. 124.34(B) from a decision of the State Personnel Board of Review or a municipal or civil service township civil service commission must be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by DRC, to the Franklin County CCP.

5. If a party appealing from an order described above in (1) or (2) or described below in (6) is not an Ohio resident and has no place of business in Ohio, the party must appeal to the Franklin County CCP (current law states that such an appeal may be to the Franklin County CCP).

6. A party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the Franklin County CCP or the court of common pleas of the county in which the business of the party is located or in which the party is a resident (currently, the party may appeal to the Franklin County CCP).

Appeal from order of specific agencies

The bill's provision above that a party adversely affected by an order of an agency may appeal from the order to the court of common pleas of the county in which the place of business

of the party is located or the county in which the party is a resident is expressly made applicable to any of the following appeals:

- In cases of removal or reduction in pay for disciplinary reasons, the appointing authority or the officer or employee in the classified service may appeal from the decision of the State Personnel Board of Review or the municipal civil service commission of the city or city school district. The bill replaces current law that provides for the appeal to be made to the court of common pleas of the county in which the appointing authority is located, or to the Franklin County CCP.
- In cases in which the Director of Agriculture or a designated representative impounds and seizes a dog from a high volume breeder or dog broker for violation of applicable law or rule, the high volume breeder's owner or operator or the person acting as a dog broker may appeal from such determination at an adjudication hearing. The bill replaces the existing provision that specifies that the appeal may be made only to the environmental division of the Franklin County Municipal Court.
- In cases in which an application for a license as a high volume breeder or dog broker is denied or such license is suspended or revoked upon a determination of the Director of Agriculture at an adjudication hearing, the applicant or licensee may appeal from such determination. The bill replaces the existing provision that specifies that the appeal may be made only to the environmental division of the Franklin County Municipal Court.
- In cases in which a proprietor of a public place or place of employment or an individual against whom a finding of a violation of any prohibition under the Smoking Ban Law is made by the Director of the Department of Health or designee, the proprietor or individual may appeal the finding. The bill replaces current law that provides that the proprietor or individual may appeal the finding to the Franklin County CCP.
- In cases in which, after a public hearing, the Superintendent of Insurance issues an order of disapproval of any merger or other acquisition of control of a domestic insurer, the order may be appealed by filing a notice of appeal with the Superintendent and a copy of the notice of appeal with the court that will hear the appeal, within 15 calendar days after the transmittal of the copy of the order. The bill replaces current law that specifies that the order of disapproval may be appealed to the Franklin County CCP.
- In cases in which the Superintendent of Insurance issues an order regarding the conversion of a domestic mutual life insurance company to a stock life insurance company, an adversely affected policyholder may appeal the order. The bill replaces current law that provides that a policyholder adversely affected by such order may appeal to the Franklin County CCP.
- In cases in which the Superintendent of Insurance issues an order regarding the conversion of a domestic mutual insurance company other than life to a stock insurance corporation other than life, an adversely affected policyholder may appeal the order. The bill replaces current law that provides that a policyholder adversely affected by such order may appeal to the Franklin County CCP.

- In cases in which an appellant who appeals an order of an agency administering a family services program, who is granted a state hearing, and who disagrees with the state hearing decision and generally makes an administrative appeal to the Department of Job and Family Services (JFS), the appellant may appeal from the JFS administrative appeal decision. The bill replaces current law that provides that the person may appeal to the court of common pleas of the county in which the person resides, or to the Franklin County CCP if the person does not reside in Ohio. The bill's new venue provision described above and current law on an appeal by a nonresident to the Franklin County CCP would apply, and the eliminated provision regarding a nonresident would be duplicative.
- In cases in which an adversely affected party may appeal from the Medicaid Department's adjudication order regarding: (1) refusal to enter into a provider agreement with a Medicaid provider, (2) refusal to revalidate a Medicaid provider's provider agreement, (3) suspension or termination of a Medicaid provider's provider agreement, or (4) taking any action based upon a final fiscal audit of a Medicaid provider. The bill replaces current law that provides that any party who is adversely affected by the issuance of any such adjudication order may appeal to the Franklin County CCP.

Special court procedures

Related to the provisions described above in "**Appeal of administrative agency order**," the bill specifies that:

1. All cases pending in the 10th District Court of Appeals on the bill's effective date that were appropriately filed in that court are to be adjudicated by the 10th District;

2. All cases that, prior to the bill's effective date, would have been solely within the jurisdiction on appeal of the 10th District Court of Appeals, and that on that effective date are pending in a common pleas court that is an appropriate venue and are not pending in the 10th District, are to be adjudicated by that common pleas court and remain solely within the jurisdiction on appeal of the 10th District, on and after that effective date;

3. If, on or after the bill's effective date, a court of appeals other than the 10th District Court of Appeals or a common pleas court within the territory of a court of appeals other than the 10th District is considering a matter that, prior to that effective date, would have been solely within the jurisdiction on appeal of the 10th District, all of the following apply:

a. The court of appeals or common pleas court considering the matter may consider judicial decisions of the Franklin County Common Pleas Court and the 10th District that were decided prior to that effective date, in deciding the matter;

b. The judicial decisions of the Franklin County Common Pleas Court and the 10th District that were decided prior to that effective date are not binding on the court of appeals or common pleas court considering the matter; and

c. The court of appeals or common pleas court considering the matter is not required to issue any findings of fact explaining why the court, in deciding the matter, did not consider or follow any precedent on the matter set forth in any judicial decision of the Franklin County Common Pleas Court or the 10th District.

No claim preclusion in zoning appeals

(R.C. 303.65, 519.26, and 713.16)

The bill provides that a final judgment on the merits issued by a court of competent jurisdiction pursuant to its power of review of orders of administrative officers and agencies on claims brought under the law regarding county rural zoning or the renewal of slums and blighted areas in a county, the Township Zoning Law, or the law regarding municipal zoning, regional and county planning commissions, or interstate regional planning commissions does not preclude later claims for damages, including claims brought under 42 U.S.C. 1983, even if the common law doctrine of *res judicata* would otherwise bar the claim.

The bill states that the General Assembly intends that the above provisions in the respective laws be construed to override the federal Sixth Circuit Court of Appeals' decision in the case of *Lavon Moore v. Hiram Twp.*, 988 F.3d 353 (6th Cir. 2021).

Changes related to S.B. 288 of the 134th General Assembly

Sealing and expungement

(R.C. 2953.31, 2953.32, 2953.33, and 2953.34)

The bill allows a defendant who is found not guilty of an offense, who is named in a dismissed complaint, indictment, or information, or against whom a no bill is entered by a grand jury, to apply to the court for an order to expunge the person's official records in the case. Current law only permits sealing of those records. The process for expungement, as added by the bill, mirrors the process for sealing records in cases of dismissal, not guilty, or no bill, except that expungement requires the court to weigh the interests in the person having the records *expunged* against legitimate governmental needs to maintain such records, while the court in determining whether records should be sealed weighs such legitimate governmental needs against the interests in having the records *sealed*.

S.B. 288 of the 134th General Assembly similarly enacted new provisions under which a person may apply for expungement of a *conviction* record in the same manner that a person may apply for sealing of a conviction record and specified that the procedures applicable to determining a sealing application also generally apply to such an expungement application. The bill clarifies that expungement of criminal records under these provisions requires the destruction, deletion, or erasure of those records so that those records are permanently irretrievable, except to the extent those records are kept by the Bureau of Criminal Identification and Investigation for the limited purpose of determining an individual's qualification or disqualification for law enforcement employment.

Additionally, the bill prohibits the sealing or expungement of convictions of a third degree felony if the offender has more than one other conviction of any felony or, if the person has exactly two convictions of a third degree felony, has more convictions in total than those two third degree felony convictions and two misdemeanor convictions. It also allows for the sealing of a conviction of fourth degree misdemeanor domestic violence, but prohibits expungement of the record. Finally, the bill allows a person who has been arrested for any misdemeanor offense and who has effected a bail forfeiture for the offense to apply for the expungement of a record

of a misdemeanor offense after one year, or after six months for a minor misdemeanor, rather than three years as under current law.

Regarding sealed records specifically, the bill permits a legal representative of a person who is the subject of sealed records to apply to allow the subject to inspect them, exempts officers or employees of the state or a political subdivision from liability for disclosing sealed or expunged records to the subject or the subject's legal representative, and corrects erroneous cross references.

Criminal and traffic offense penalties

(R.C. 2907.231 and 4511.204)

Engaging in prostitution

The bill eliminates an ambiguity in prescribed penalties for the criminal offense of engaging in prostitution. Current law prohibits, as "engaging in prostitution," a person from recklessly inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person. A violation is a first degree misdemeanor. If the other person is a person with a developmental disability and the offender knows or has reason to believe that is the case, the offense is engaging in prostitution with a person with a developmental disability, a felony of the third degree. Current law also requires the sentencing court to require the offender to attend an education or treatment program aimed at preventing behavior that constitutes "engaging in prostitution" and allows the court to impose a fine on the offender of up to \$1,500, despite the financial penalties that ordinarily apply to a first degree misdemeanor.

The bill makes clear that the requirement for education or treatment aimed at behavior that constitutes "engaging in prostitution" applies to all offenders convicted of "engaging in prostitution" or "engaging in prostitution with a person with a developmental disability" and clarifies that the \$1,500 maximum fine that applies to a violation does not apply to "engaging in prostitution with a person with a developmental disability," a third degree felony.

Distracted driving

S.B. 288 of the 134th General Assembly amended Ohio's distracted driving law to create the new unclassified misdemeanor offense of "operating a motor vehicle while using an electronic wireless communication device" (OMVUEWCD). Penalties prescribed for OMVUEWCD may be escalated if the offender has previously been convicted of OMVUEWCD. Current law allows for offenders subject to a \$150 penalty and points assessment for OMVUEWCD to avoid the penalty and points assessment by attending a distracted driving safety course. The bill clarifies that this penalty waiver applies only to OMVUEWCD that does not involve a prior conviction within two years of the violation.

Crime victims – notice and opportunity to be heard

(R.C. 2930.171, 2953.39, and 2967.26)

The bill applies the notice and victim consideration requirements to sections of the Revised Code enacted in S.B. 288 of the 134th General Assembly to conform those sections to the crime victim's rights provisions of H.B. 343 of the 134th General Assembly.

Victims reimbursing for law enforcement services

(R.C. 2930.20)

The bill modifies a current law prohibition against charging a victim of rape, attempted rape, domestic violence, dating violence, abuse, or a sexually oriented offense, or the property owner where the victim resides for the cost of law enforcement assistance related to the offense. The bill modifies the prohibition so that it applies to victims of rape, attempted rape, domestic violence, dating violence, or a sexually oriented offense, and not to victims of "abuse" generally. Additionally, the bill defines "dating violence" and "sexually oriented offense" for purposes of the prohibition.

Adult Parole Authority warrantless searches

(R.C. 2967.131)

The bill expands the search authority of the Adult Parole Authority (APA) to allow authorized field officers to search the person, residence, motor vehicle, and other personal property of a felon released from prison on post-release control when the Adult Parole Authority requires the felon's consent to searches as part of terms and conditions of post-release control.

S.B. 288 of the 134th General Assembly expanded the search authority of the APA regarding an individual who is a felon and is granted a conditional pardon or parole, transitional control, or another form of authorized release from prison and each felon who is under post-release control. Under S.B. 288, APA field officers have the search authority, during the specified period of authorized release, to search, with or without a warrant, the felon's person or residence, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the felon has a right, title, or interest or for which the felon has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if: (1) the APA requires the felon's consent to searches as part of the terms and conditions of the conditional pardon or parole, of the transitional control, or of the other form of authorized release from prison granted to a person and that involves the placement of the person under the APA's supervision, and the felon agreed to those terms and conditions, or (2) the felon otherwise provides consent for the search.

Removal of warrants from NCIC

(R.C. 2935.10)

Current law requires that any warrant issued for a "tier one offense" (32 specified serious offenses) must be entered, by the law enforcement agency requesting the warrant within 48 hours after receipt of the warrant, into the Law Enforcement Automated Data System (LEADS) and the appropriate National Crime Information Center (NCIC) database. Existing law also

requires a law enforcement agency to remove a warrant from LEADS and NCIC within 48 hours of warrant service or dismissal or recall by the issuing court. The bill specifies that the removal requirement likewise applies only to tier one offenses.

Emergency judicial release

(R.C. 2929.20)

Current law allows for a special procedure for the judicial release of certain qualifying offenders during a state of emergency. The bill clarifies that the once-every-six-months filing limit applies separately to each declared state of emergency. The bill also requires the court ruling on a motion for judicial release of an emergency-qualifying offender to notify the prosecuting attorney of that ruling and clarifies that the prosecuting attorney must notify the victim's representative, if applicable, if the court grants a motion for judicial release or if a hearing is held on an offender's judicial release or revocation of judicial release.

Other technical changes

(R.C. 2743.671, 2907.13, 2925.11, 2930.06, and 4731.862)

S.B. 288 of the 134th General Assembly addressed the matter of emergency awards for reparations of "funeral expenses" for victims of crime. The bill clarifies that "funeral expenses" for that purpose, means the payment of cremation or burial services of the decedent, rather than the potentially competing definition of "funeral expenses" that applies to the Crime Victims Reparations Law generally.

S.B. 288 also enacted a civil action for the recovery of remedies for an assisted reproduction procedure performed without consent "and performed recklessly." The act stated that a person may bring a separate action for each child born to the patient or spouse as a result of an assisted reproduction procedure performed without consent – but in this provision, it did not include as a criterion that the procedure was "performed recklessly." The bill adds this criterion.

The bill also corrects an apparently erroneous reference to "health care provider" in the criminal offense of fraudulent assisted reproduction, as enacted by S.B. 288 of the 134th General Assembly. The bill replaces the erroneous reference with a reference to a "health care professional," a defined term in the offense of fraudulent assisted reproduction.

The bill eliminates the orphaned definition of "drug treatment program" from the so-called "good Samaritan law" that applies to specified minor drug possession offenses. The phrase "drug treatment program" is not used in that law.

Finally, the bill corrects an incomplete cross-reference to Ohio's Speedy-Trial Law.