



Lisa Sanderg

Final Analysis
Legislative Service Commission

Am. Sub H.B. 86
125th General Assembly
(As Passed by the General Assembly)

Reps. Hoops, Willamowski, Widowfield, Raga, Buehrer, Daniels, Flowers, Latta, T. Patton, Redfern, Schlichter, Walcher, Webster

Sens. Blessing, Randy Gardner, Mumper

Effective date: Emergency, November 13, 2003; Sections 3 and 4 effective January 1, 2004

ACT SUMMARY

- Adds one additional judge for the Erie County Court of Common Pleas to be elected in 2004 for a term to begin on January 2, 2005.
- Redesignates the judge of the probate division of the Erie County Court of Common Pleas as a judge of the general division.
- Reallocates the jurisdictional responsibilities of the current judges of the Erie County Court of Common Pleas.
- Adds one judge to the Court of Common Pleas of Logan County to be elected in 2004 as judge of the Domestic Relations-Juvenile-Probate Division for a term to begin January 2, 2005.
- Creates a Domestic Relations-Juvenile-Probate Division for the Logan County Court of Common Pleas and gives the division jurisdiction over all juvenile and domestic relations matters and, on and after January 2, 2005, concurrent jurisdiction over all probate matters.
- Prohibits a board of elections from invalidating a petition form filed with the board that does not satisfy the requirements of law on the date the board distributes it.

CONTENT AND OPERATION

Additional judge for Erie County Court of Common Pleas

Under prior law, the Erie County Court of Common Pleas had three judges: one judge of the probate division, one judge of the general division, and one judge of the domestic relations division (R.C. 2101.01--not in the act, 2301.02(B), and 2301.03(N)). The act adds a new judge to the Erie County Court of Common Pleas. The new judge is to be elected initially in 2004 for a term to begin January 2, 2005. (R.C. 2301.02(B).) (See **COMMENT 1**.)

Reallocation of the jurisdictional responsibilities of the current judges of the Erie County Court of Common Pleas

Under prior law, the successors to the judge of the Court of Common Pleas whose term began on January 2, 1971, were elected and designated as judge of the Court of Common Pleas, Division of Domestic Relations. The act modifies this provision by specifying that the successors to that judge whose terms begin before January 2, 2007, are to be elected as judges of the division of domestic relations. The act also provides that on or after January 2, 2007, the judge of the Court of Common Pleas who is elected in 2006 is the successor to the judge of the domestic relations division whose term expires on January 1, 2007, must be designated as judge of the Court of Common Pleas, Juvenile Division, and is the juvenile judge as provided in R.C. Chapters 2151. and 2152. with the powers and jurisdiction conferred by those chapters. (R.C. 2301.03(N)(1).)

Under the act, the judge of the Court of Common Pleas, General Division, whose term begins on January 1, 2005, and successors, the judge of the Court of Common Pleas whose term begins on January 2, 2005, and successors, and the judge of the Court of Common Pleas, General Division, whose term begins February 9, 2009, and successors, must have assigned to them, in addition to all matters that are within the jurisdiction of the general division of the court of common pleas, all divorce, dissolution of marriage, legal separation, and annulment cases coming before court, and all matters that are within the jurisdiction of the probate court under R.C. Chapter 2101., and other provisions of the Revised Code. (R.C. 2301.03(N)(2).)

The act also provides that the judge of the Erie County Court of Common Pleas who is elected in 2008, and successors, is the successor to the judge of the probate division whose term expires on February 8, 2009, must be designated as judge of the Court of Common Pleas, General Division, has all the powers relating to the general division of the Erie County Court of Common Pleas, is the clerk of the probate court, and is to exercise concurrent jurisdiction with the other judges

of the General Division of the Erie County Court of Common Pleas over matters that are within the jurisdiction of the probate division of that court under R.C. Chapter 2101., and other provisions, of the Revised Code and all matters that are within the jurisdiction of the general division of the court as set forth in the act (R.C. 2101.023).

Additional judge for the Logan County Court of Common Pleas

Under prior law, the Court of Common Pleas of Logan County had two judges: one in the general division, and one in the probate division (R.C. 2101.01, not in the act, and R.C. 2301.02(A)). The act creates one additional judgeship for the Court of Common Pleas of Logan County. The new judge first will be elected in 2004, for a term to begin January 2, 2005. The new judge, and successors to that judge, will have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the Court of Common Pleas of Logan County. The new judge will be elected and designated as judge of the new domestic relations-juvenile-probate division of that Court that the act creates, as described below. (R.C. 2301.02(A) and 2301.03(CC)(1).)

The act specifies that, except as otherwise specified in this paragraph, the new judge of the Logan County Court of Common Pleas, as described above, whose term begins on January 2, 2005, and the successors to that judge, have all the powers relating to juvenile courts. All cases under the Juvenile Code, all cases arising under Chapter 3111. (the Parentage Law), all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings must be assigned to that judge and the successors to that judge. Notwithstanding any other provision of any statute, on and after January 2, 2005, the new judge of the Logan County Court of Common Pleas that the act creates, as described above, whose term begins on January 2, 2005, and the successors to that judge, will have all the powers relating to the probate division of that Court in addition to the powers previously specified in this paragraph, and will exercise concurrent jurisdiction with the judge of the probate division of that Court over all matters that are within the jurisdiction of the probate division of that Court under the Probate Code, and other provisions, in addition to the jurisdiction of the domestic relations-juvenile-probate division of that Court previously specified in this paragraph.

The judge of the domestic relations-juvenile-probate division or the probate judge who is elected as the administrative judge of the probate division of the Court of Common Pleas of Logan County pursuant to Rule 4 of the Rules of Superintendence will be the clerk of the probate division and the juvenile division



of the Court of Common Pleas of Logan County. The clerk of the Logan County Court of Common Pleas who is elected pursuant to R.C. 2303.01 must keep all of the journals, records, books, papers, and files pertaining to the domestic relations cases. (R.C. 2301.03(CC)(2).)

The act specifies that, on and after January 2, 2005, all references in Ohio law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" must be construed, with respect to Logan County, as being references to both "the probate division" and "the juvenile-domestic relations-probate division" and as being references to both "the judge of the probate division" and "the judge of the domestic relations-juvenile-probate division." On and after January 2, 2005, all references in Ohio law to "the clerk of the probate court" must be construed, with respect to Logan County, as being references to the judge who is serving as described in the preceding paragraph as the clerk of the probate division of the Court of Common Pleas of Logan County. (R.C. 2301.03(CC)(3).)

The act also provides that, effective January 2, 2005, the probate judge of the Court of Common Pleas of Logan County will have all the powers relating to the domestic relations-juvenile-probate division of the Court of Common Pleas of Logan County and will exercise concurrent jurisdiction with the judge of the domestic relations-juvenile-probate division of the Court of Common Pleas of Logan County over matters that are within the jurisdiction of the domestic relations-juvenile-probate division (R.C. 2101.024).

Rules regarding petitions

Continuing law

Under continuing law, all declarations of candidacy, nominating petitions, or other petitions presented to or filed with the Secretary of State or a board of elections are governed by specified rules in addition to other specific requirements prescribed by law for the particular type of petition. Among those specified rules are requirements that: (1) each signer be a qualified registered elector, (2) signatures be affixed in ink, (3) a date for the signing be provided along with the signer's address, (4) no person write any name other than his or her own, and (5) the circulator indicate the number of signers and sign a statement that he or she witnessed the affixing of every signature. In addition, all declarations of candidacy, nominating petitions, or other petitions must be accompanied by the following statement in boldface capital letters: "Whoever commits election falsification is guilty of a felony of the fifth degree." (R.C. 3501.38(A) to (E) and (J).)

Operation of the act

The act provides that if (1) a board of elections distributes for use a petition form for a declaration of candidacy, nominating petition, declaration of intent to be a write-in candidate, or any question or issue petition that does not satisfy the requirements of law as of the date of that distribution and (2) that petition form is subsequently filed with the board within 90 days of when the petition is required to be filed, the board cannot invalidate the petition on the basis that the petition *form* does not satisfy the requirements of law as long as the petition is otherwise valid. This provision is applicable if the candidate receives the petition from the board within 90 days of when the petition is required to be filed (R.C. 3501.38(L)). (See **COMMENT 2**.)

COMMENT

1. R.C. 2301.02(B) in the act appears to create two new judgeships for the Court of Common Pleas in Erie County. However, one of these judgeships is actually the probate judgeship that is redesignated as a judgeship of the General Division under R.C. 2101.023. The act vests jurisdiction over probate matters concurrently in the three judges of the General Division.

2. It appears that the act pertains to the use of outdated forms that no longer meet the requirements of current law. For example, an older petition form may contain different language about the penalty for election falsification. The act would prohibit a board of elections from invalidating a petition on the basis of the outdated form as long as the petition is otherwise valid (e.g., meets the rules specified above for qualified registered electors signing a petition).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-25-03	p. 168
Reported, H. Judiciary	03-13-03	p. 253
Passed House (97-0)	03-19-03	p. 271
Reported, S. Judiciary on Civil Justice	10-15-03	p. 1097
Passed Senate (33-0)	10-15-03	pp. 1105-1107
House concurred in Senate amendments (91-0)	10-15-03	pp. 1127-1130

03-hb86-125.doc/kl

