



# Ohio Legislative Service Commission

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## Bill Analysis

Dennis M. Papp

### **Am. Sub. H.B. 309** 130th General Assembly (As Passed by the House)

**Reps.** Pelanda and Antonio, Ruhl, Barborak, Gonzales, Ramos, Sheehy, Maag, Cera, Heard, Lundy, R. Hagan, Fedor, Phillips, Williams, Ashford, Grossman, Celebrezze, Reece, Scherer, O'Brien, Stinziano, J. Adams, Amstutz, Baker, Barnes, Bishoff, Blair, Brown, Buchy, Burkley, Conditt, Driehaus, Hackett, Hayes, Huffman, Letson, Mallory, McClain, Milkovich, Pillich, Rogers, Schuring, Sears, Sprague, Strahorn, Wachtmann, Winburn, Young, Batchelder

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## **BILL SUMMARY**

- Prohibits any court or unit of state or local government from charging a petitioner or movant for, or registrant of, a protection order or consent agreement any fee, cost, deposit, or money in connection with the modification, enforcement, dismissal, or withdrawal of a protection order or consent agreement, or in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a witness subpoena, and specifies that the existing prohibition against assessing any fee, cost, deposit, or money in connection with the filing of a petition or motion for, the filing, issuance, registration, or service of, or obtaining a certified copy of a protection order or consent agreement applies only with respect to a petitioner, movant, or registrant.
- Authorizes a court to assess costs against the respondent, defendant (if convicted), or person subject to a registered protection order in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a protection order, consent agreement, or witness subpoena or for obtaining a certified copy of a protection order or consent agreement, regardless of whether a court issues a protection order or approves a consent agreement.
- Prohibits taxation of interpreter's fees as costs if the party to be taxed is indigent.
- Eliminates the requirement that a court make a specific determination regarding the qualifications of an interpreter for a mentally retarded or developmentally disabled

party or witness who cannot readily understand or communicate because of a hearing, speech, or other impairment.

- Eliminates exemptions from additional filing fees for domestic relations and certain juvenile matters.

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## **CONTENT AND OPERATION**

### **Prohibition of fee or other charge in connection with protection orders**

#### **Existing law**

Existing law, unchanged by the bill, prohibits a court or unit of state or local government from charging a fee, cost, deposit, or money in connection with the filing of a petition or motion for, the filing, issuance, registration, or service of, or the obtaining of a certified copy of, a protection order or consent agreement in the following types of cases:

(1) A juvenile court proceeding for a protection order against a minor in which the petition alleges (a) felonious assault, aggravated assault, assault, aggravated menacing, menacing by stalking, menacing, aggravated trespass, or a sexually oriented offense or (b) an offense substantially equivalent to any of the foregoing under a municipal ordinance committed by the respondent against the person to be protected;<sup>1</sup>

(2) A criminal action not involving a family or household member of the alleged victim in which a protection order is sought as a pretrial condition of release of the defendant and in which the complaint alleges (a) felonious assault, aggravated assault, assault, aggravated menacing, menacing by stalking, menacing, or aggravated trespass, (b) an offense substantially similar to any of the foregoing (other than felonious assault or aggravated assault) under a municipal ordinance, or (c) a sexually oriented offense;<sup>2</sup>

(3) A proceeding for a civil protection order in which the petitioner alleges that the respondent engaged in menacing by stalking or committed a sexually oriented offense against the person to be protected;<sup>3</sup>

(4) A criminal action involving a family or household member of the alleged victim in which a protection order is sought as a pretrial condition of release of the defendant and in which the complaint alleges (a) criminal damaging or endangering,

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<sup>1</sup> R.C. 2151.34(B)(2) and (J).

<sup>2</sup> R.C. 2903.213(A) and (I).

<sup>3</sup> R.C. 2903.214(C)(1) and (J).



criminal mischief, burglary, or aggravated trespass, (b) an offense substantially similar to any of the foregoing under a municipal ordinance, (c) an offense of violence (including the offense of domestic violence), or (d) a sexually oriented offense;<sup>4</sup>

(5) A proceeding for a civil protection order in which the petitioner alleges that the respondent engaged in domestic violence (including a sexually oriented offense) against the person to be protected.<sup>5</sup>

Existing law also prohibits the charging of a fee, cost, deposit, or money in connection with the filing, issuance, registration, or service of, or the obtaining of a certified copy of, a protection order or consent agreement issued by a court in another state and registered in Ohio.<sup>6</sup>

### **Operation of the bill**

The bill modifies the prohibition against charging any fee, cost, deposit, or money in all of the foregoing situations by applying it only to the petitioner or movant for or registrant of a protection order or consent agreement and extending it to also apply regarding the modification, enforcement, dismissal, or withdrawal of a protection order or consent agreement. The bill also applies the prohibition to witness subpoenas as well as protection orders and consent agreements.

The bill authorizes a court to assess costs against the respondent, defendant (if convicted), or person subject to a registered protection order in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a protection order, consent agreement, or witness subpoena or for obtaining a certified copy of a protection order or consent agreement (this provision does not expressly apply in connection with the filing of a petition or motion for a protection order). The court may assess such costs regardless of whether it issues a protection order or approves a consent agreement.<sup>7</sup>

The bill modifies the specific authorization for a court to assess costs against a respondent who moves for modification or termination of a civil protection order or

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<sup>4</sup> R.C. 2919.26(A)(1) and (J).

<sup>5</sup> R.C. 3113.31(C)(1) and (J).

<sup>6</sup> R.C. 2919.272(E).

<sup>7</sup> R.C. 2151.34(J), 2903.213(I), 2903.214(J), 2919.26(J), 2919.272(E), and 3113.31(J).



consent agreement of the type described above in (5) by permitting the assessment of costs only if the court denies the motion.<sup>8</sup>

## **Interpreter's fees and qualifications**

### **Taxation of interpreter's fees as costs**

The bill prohibits a court of common pleas from taxing a court interpreter's fees as costs or inserting an interpreter's fees in the judgment of a felony conviction, or a minor state case transferred to the court, if the party taxed with costs or the defendant is indigent. In such cases, the county must pay the fees.<sup>9</sup> The bill further provides that in any criminal proceeding, prosecution for violation of a municipal ordinance, or hearing before a coroner, if the party taxed with costs is indigent, interpreter's fees may not be taxed and the county or, if the court is a municipal court other than a county-operated municipal court, the municipality in which the court is located must pay the fees.<sup>10</sup> Under the bill, the court may not tax an indigent party with the fees of an interpreter appointed to assist a party or witness in a legal proceeding who cannot readily understand or communicate. In such a case, the county or, if the court is a municipal court other than a county-operated municipal court, the municipality in which the court is located must pay the fees.<sup>11</sup> Currently, in these circumstances, interpreter fees must be taxed and collected as costs or paid out of the same funds as witness fees.<sup>12</sup>

### **Determination of interpreter's qualifications**

The bill eliminates a requirement that, before appointing an interpreter for a mentally retarded or developmentally disabled party or witness who cannot readily understand or communicate because of a hearing, speech, or other impairment, the court evaluate the qualifications of the interpreter, make a determination as to the ability of the interpreter to effectively interpret on behalf of the party or witness, and be satisfied that the interpreter is able to interpret effectively. The bill retains the requirement that the court appoint a "qualified interpreter."<sup>13</sup>

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<sup>8</sup> R.C. 3113.31(E)(8)(e).

<sup>9</sup> R.C. 2301.14 and 2335.11.

<sup>10</sup> R.C. 2335.09.

<sup>11</sup> R.C. 2311.14(C).

<sup>12</sup> R.C. 2301.14, 2311.14(C), 2335.09, and 2335.11.

<sup>13</sup> R.C. 2311.14(A)(1).



## Additional filing fees

Under existing law, a court of common pleas must collect \$26 as additional filing fees in each new civil action or proceeding for purpose of providing financial assistance to legal aid societies and State Public Defender's office. The bill eliminates existing exemptions from the additional fee for proceedings concerning annulments, dissolutions of marriage, divorces, legal separation, spousal support, marital property or separate property distribution, support, or other domestic relations matters. The bill retains the existing exemption for proceedings in the juvenile division of a court of common pleas, except that it requires an additional filing fee of \$15 in custody, visitation, and parentage actions. The bill also retains other exemptions without modification.<sup>14</sup>

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## HISTORY

ACTION	DATE
Introduced	10-22-13
Reported, H. Judiciary	01-23-14
Passed House (92-0)	02-12-14

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<sup>14</sup> R.C. 2303.201(C).

