



Sub. S.B. 171*

126th General Assembly
(As Reported by H. Judiciary)

Sens. Coughlin, Zurz

BILL SUMMARY

- Clarifies that the former township of Northampton is no longer within the jurisdiction of the Akron Municipal Court.
- Abolishes the Carroll County County Court and the part-time judgeship of that court on January 1, 2007, and creates the Carroll County Municipal Court in Carrollton to replace the abolished County Court.
- Provides that the Carroll County Municipal Court will be a county-operated municipal court with jurisdiction within Carroll County.
- Establishes one full-time judgeship in the Carroll County Municipal Court to be first elected in 2009 and provides that the judge of the former Carroll County County Court is to serve as the judge of the Carroll County Municipal Court until December 31, 2009.
- Creates the Erie County Municipal Court on January 1, 2008, and provides that the new court will be located in Milan or in any other municipal corporation or incorporated territory within Erie County that is within the territorial jurisdiction of the Erie County Municipal Court and is selected by the legislative authority of that court.
- Provides that the Erie County Municipal Court will be a county-operated municipal court and gives the new court jurisdiction within Erie County except within the townships of Florence, Huron, Perkins, and Vermilion

** This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

and the municipal corporations of Bay View, Castalia, Huron, Sandusky, and Vermilion.

- Establishes one full-time judgeship in the Erie County Municipal Court with the judge being initially elected in 2007.
- Abolishes the Erie County County Court and the part-time judge of that court.
- Abolishes the Cuyahoga Falls Municipal Court and creates the Stow Municipal Court as its replacement effective January 1, 2009.
- Adds one judge to the Twelfth District Court of Appeals to be elected in 2008.
- Requires court clerks to add the date of the offense, summons, or arraignment to the weekly reports they send to the Bureau of Criminal Identification and Investigation.
- Requires fingerprinting of a person who is not arrested but appears in court for allegedly committing any of certain offenses pursuant to a criminal summons.
- Declares an emergency.

CONTENT AND OPERATION

Akron Municipal Court jurisdiction

Under current law, the territorial jurisdiction of the Akron Municipal Court includes the township of Northampton, which no longer exists. The bill removes Northampton from the court's jurisdiction. (R.C. 1901.02(B).)

Carroll County Municipal Court (and Carroll County County Court)

Existing law

Existing law establishes a county court in Carroll County. The Carroll County County Court has exclusive original jurisdiction in civil actions for the recovery of sums not exceeding \$500 and original jurisdiction in civil actions for the recovery of sums not exceeding \$15,000. Generally, the Carroll County County Court also has criminal jurisdiction over misdemeanor cases. (R.C.

1907.01, 1907.02, and 1907.03--not in the bill.) The Carroll County County Court is served by a part-time judge, most recently elected in 2006 (R.C. 1907.11).

Operation of the bill

The bill establishes a municipal court in Carrollton and provides that beginning on January 1, 2007, the municipal court will be styled and known as the "Carroll County Municipal Court." Beginning on January 1, 2007, the Carroll County Municipal Court will have jurisdiction within Carroll County. (R.C. 1901.01(A) and 1901.02(A)(25) and (B).) Effective January 1, 2007, the Carroll County County Court is abolished (Section 6(A)).

Under the bill, the part-time judge of the Carroll County County Court elected in 2006 will serve as the full-time judge of the new Carroll County Municipal Court through December 31, 2009, and one full-time judge will be elected in 2009 for the Carroll County Municipal Court. Candidates for the judgeship may be nominated only by petition. (R.C. 1901.07(C)(6) and 1901.08.)

The bill provides that the clerk of the Carroll County Municipal Court is to be paid in biweekly installments out of the county treasury. The judge may appoint deputy clerks and fix their compensation, which is also to be paid in biweekly installments out of the county treasury. (R.C. 1901.31(C)(3) and (H).)

The bill provides that the Carroll County Prosecuting Attorney is to prosecute in the Carroll County Municipal Court all violations of state law arising within the unincorporated areas of Carroll County. By operation of law, except as described in the preceding sentence, the village solicitor, city director of law, or similar chief legal officer for each municipal corporation within the territory of the Carroll County Municipal Court will prosecute all cases brought before the Court for criminal offenses occurring within the municipal corporation that the person serves. By operation of law, the Carroll County Prosecuting Attorney may enter into an agreement with any municipal corporation in the county pursuant to which the Prosecuting Attorney will prosecute all criminal cases brought before the Court for criminal offenses occurring within the municipal corporation. (R.C. 1901.34(A), (B), and (D).)

The bill repeals the provision regarding the election of the part-time judge of the Carroll County County Court and provides in uncodified law that, effective January 1, 2007, the Carroll County County Court and the part-time judgeship in the Carroll County County Court are abolished. All causes, executions, and other proceedings pending in the Carroll County County Court at the close of business on December 31, 2006, will be transferred to and proceed in the Carroll County Municipal Court on January 1, 2007, as if originally instituted in the Carroll County Municipal Court. Parties to those causes, judgments, executions, and

proceedings may make any amendments to their pleadings that are required to conform them to the rules of the Carroll County Municipal Court. The Clerk of the Carroll County County Court or other custodian will transfer to the Carroll County Municipal Court all pleadings, orders, entries, dockets, bonds, papers, records, books, exhibits, files, moneys, property, and persons that belong to, are in the possession of, or are subject to the jurisdiction of the Carroll County County Court, or any officer of that court, at the close of business on December 31, 2006, and that pertain to those causes, judgments, executions, and proceedings. All employees of the Carroll County County Court will be transferred to and will become employees of the Carroll County Municipal Court on January 1, 2007. (R.C. 1907.11 and Section 6.)

The act also provides that the "Carroll County Municipal Court" is a "county-operated municipal court" (R.C. 1901.03(F)). This designation as a county-operated court is significant in determining responsibility for funding the court and for paying the compensation of the court's judges and employees under R.C. 1901.024, 1901.026, 1901.10, 1901.11, 1901.111, 1901.121, 1901.14, 1901.26, 1901.261, 1901.262, 1901.311, 1901.312, 1901.32, 1901.33, and 1901.36, none of which are in the bill.

Erie County Municipal Court (and Erie County County Court)

Existing law

Existing law establishes a county court in Erie County. The Erie County County Court has exclusive original jurisdiction in civil actions for the recovery of sums not exceeding \$500 and original jurisdiction in civil actions for the recovery of sums not exceeding \$15,000. Generally, the Erie County County Court also has criminal jurisdiction over misdemeanor cases. (R.C. 1907.01, 1907.02, and 1907.03--not in the bill.) The Erie County County Court is served by a part-time judge, most recently elected in 2000 (R.C. 1907.11).

Operation of the bill

The bill establishes a municipal court in the municipal corporation of Milan or in any other municipal corporation or unincorporated territory that is within Erie County, that is within the territorial jurisdiction of that court, and that is selected by the legislative authority of that court and provides that beginning on January 1, 2008, the municipal court will be styled and known as the "Erie County Municipal Court." Beginning on January 1, 2008, the Erie County Municipal Court will have jurisdiction within Erie County except within the townships of Florence, Huron, Perkins, and Vermilion and the municipal corporations of Bay View, Castalia, Huron, Sandusky, and Vermilion. (R.C. 1901.01(A), 1901.02(A), and 1901.02(A)(25) and (B).) By operation of law, upon the establishment of the

Erie County Municipal Court with the specified jurisdiction, the former Erie County County Court will cease to exist (R.C. 1907.01--not in the bill).

Under the bill, one full-time judge will be elected for the new Erie County Municipal Court in 2007 (R.C. 1901.08).

The bill provides that, beginning January 1, 2008, the Erie County Prosecuting Attorney is to prosecute in the Erie County Municipal Court all violations of state law arising within the unincorporated areas of Erie County. By operation of law, except as described in the preceding sentence, the village solicitor, city director of law, or similar chief legal officer for each municipal corporation within the territory of the Erie County Municipal Court will prosecute all cases brought before the Court for criminal offenses occurring within the municipal corporation that the person serves, and the village solicitor, city director of law, or similar chief legal officer of Milan or any other municipal corporation or unincorporated territory that is within Erie County, that is within the territorial jurisdiction of that court, and that is selected by the legislative authority of that court will prosecute all criminal cases brought before the Court arising in the unincorporated areas within the Court's territory. However, by operation of law, the Erie County Prosecuting Attorney may enter into an agreement with any municipal corporation in the County pursuant to which the Prosecuting Attorney will prosecute all criminal cases brought before the Court for criminal offenses occurring within the municipal corporation. (R.C. 1901.34(A), (B), and (D).)

The bill modifies the provision regarding the election of the part-time judge of the Erie County County Court to make it effective only until December 31, 2007, and provides that, effective January 1, 2008, the Erie County County Court and the part-time judgeship in the Erie County County Court are abolished. All causes, executions, and other proceedings pending in the Erie County County Court at the close of business on December 31, 2007, will be transferred to and proceed in the Erie County Municipal Court on January 1, 2008, as if originally instituted in the Erie County Municipal Court. Parties to those causes, judgments, executions, and proceedings may make any amendments to their pleadings that are required to conform them to the rules of the Erie County Municipal Court. The Clerk of the Erie County County Court or other custodian will transfer to the Erie County Municipal Court all pleadings, orders, entries, dockets, bonds, papers, records, books, exhibits, files, moneys, property, and persons that belong to, are in the possession of, or are subject to the jurisdiction of the Erie County County Court, or any officer of that court, at the close of business on December 31, 2007, and that pertain to those causes, judgments, executions, and proceedings. All employees of the Erie County County Court will be transferred to and will become employees of the Erie County Municipal Court on January 1, 2008. (R.C. 1907.11 and Section 7.)

The act also provides that, effective January 1, 2008, the "Erie County Municipal Court" is a "county-operated municipal court" (R.C. 1901.03(F)). This designation as a county-operated court is significant in determining responsibility for funding the court and for paying the compensation of the court's judges and employees under R.C. 1901.024, 1901.026, 1901.10, 1901.11, 1901.111, 1901.121, 1901.14, 1901.26, 1901.261, 1901.262, 1901.311, 1901.312, 1901.32, 1901.33, and 1901.36, none of which are in the bill.

Abolition of Cuyahoga Falls Municipal Court and creation of Stow Municipal Court

Existing law establishes the Cuyahoga Falls Municipal Court, with jurisdiction within Boston, Hudson, Northfield Center, Sagamore Hills, and Twinsburg townships and the municipal corporations of Boston Heights, Cuyahoga Falls, Hudson, Munroe Falls, Northfield, Peninsula, Reminderville, Silver Lake, Stow, Tallmadge, Twinsburg, and Macedonia, in Summit County. The bill abolishes the Cuyahoga Falls Municipal Court effective December 31, 2008, and creates as its replacement the Stow Municipal Court with the same territorial jurisdiction effective January 1, 2009. (R.C. 1901.01(E) and (F) and 1901.02(B) and Section 8.)

Effective January 1, 2009, the bill abolishes the two full-time judgeships of the Cuyahoga Falls Municipal Court, names the judges who are elected to those judgeships in 2003 and 2007 as full-time judges of the Stow Municipal Court until December 31, 2009, and December 31, 2013, and transfers the employees and pending proceedings of the Cuyahoga Falls Municipal Court to the Stow Municipal Court. The bill provides for the election of one full-time judge for the Stow Municipal Court in 2009 and one in 2013. The bill eliminates, effective January 1, 2009, language in existing law relating to the election of the clerk of the Cuyahoga Falls Municipal Court and by default applies to the election of the clerk of the Stow Municipal Court the general provisions relating to the election of municipal court clerks. (R.C. 1901.08 and 1901.31(A)(1)(a) and (f) and Section 8.)

Additional judge for Twelfth District Court of Appeals

Under existing law, the Twelfth District Court of Appeals has four judges. The bill adds a fifth judge to be elected in 2008 for a term beginning on January 1, 2009. (R.C. 2501.012.)

Court clerk's weekly report to BCII

Under existing law, the clerk of a trial court of record must send to the Superintendent of the Bureau of Identification and Investigation (BCII) a weekly

report containing a summary of each case involving a felony, any of certain other specified types of offenses, or an adjudication in a case in which a child was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult. The summary must contain the name and number of the case, the date of arrest, the original charge, and other specified information. The bill requires that the summary additionally include "the date of the offense, summons, or arraignment." (R.C. 109.57(A)(2)(c).)

Fingerprinting of persons who receive criminal summonses

Existing law requires a county sheriff or city police chief to have the fingerprints of a suspected offender or delinquent child taken upon the arrest of a person for a felony, on suspicion of a felony, or for any of certain other specified types of offenses and upon the arrest or taking into custody of a child under 18 for committing an act that would be a felony or an offense of violence if committed by an adult or upon probable cause to believe that a child under 18 may have committed an act that would be a felony or an offense of violence if committed by an adult. The fingerprints must be sent to the BCII and to the clerk of the court having jurisdiction over the prosecution of the offense or over the adjudication. If the fingerprints have not been taken by the time of the arraignment or first appearance of the person or child, the court must order the person or child to appear before the sheriff or chief within 24 hours to have them taken. At the time of sentencing or adjudication, the court must inquire as to whether the fingerprints have been taken. If not, the court must order the person or child to appear before the sheriff or chief within 24 hours to have them taken. The fingerprinting requirements do not apply, except under special circumstances, to a violator of a city ordinance or to a child under 18 who was not arrested or taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult or upon probable cause to believe that a child of that age may have committed an act that would be a felony or an offense of violence if committed by an adult. (R.C. 109.60(A)(1), (2), and (3) and (B).)

The bill applies the fingerprinting requirements to persons who have not been arrested but instead have been given a summons to appear in court. It provides that, except when the fingerprinting requirements do not apply as stated in the preceding paragraph, if a person or child has not been arrested and first appears before a court or magistrate in response to a summons, the court must order the person or child to appear before the sheriff or chief within 24 hours for fingerprinting. If at the sentencing or adjudication the court learns upon inquiry that the person or child was not fingerprinted, the court must order the person or child to appear before the sheriff or chief within 24 hours to have fingerprints taken. (R.C. 109.60(A)(2) and (3).)

The bill reiterates the court's obligation to inquire about fingerprinting at arraignment or first hearing and at sentencing or adjudication and to order fingerprinting if necessary in the Revised Code chapters that deal with municipal, county, and common pleas courts (R.C. 1901.43, 1907.181, and 2301.10).

HISTORY

ACTION	DATE
Introduced	08-18-05
Reported, S. Judiciary--Civil Justice	10-26-05
Passed Senate (31-0)	10-26-05
Reported, H. Judiciary	---

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