



Sub. S.B. 155*

127th General Assembly
(As Reported by H. Judiciary)

Sens. Faber, Schuler, Grendell, Spada, Kearney, Austria, Bocchieri, Buehrer, Cates, Harris

Reps. Blessing, Wagoner, Coley, Latta, Gerberry, Bacon, Batchelder, Seitz

BILL SUMMARY

- Specifies the rate of compensation of a member of the current or previous General Assembly who is appointed to judicial office.
- Makes the Drug Court Judge of the Hamilton County Court of Common Pleas permanent.
- Adds one judge to the Court of Common Pleas of Champaign County to be elected in 2008 as a judge of the Domestic Relations-Juvenile-Probate Division for a term to begin February 10, 2009.
- Creates a Domestic Relations-Juvenile-Probate Division for the Champaign County Court of Common Pleas and gives the division jurisdiction over all juvenile and domestic relations matters and, on and after February 9, 2009, jurisdiction over all probate matters.
- Extends the deadline by which the report of the Joint Committee to Study Court Costs and Filing Fees is due.
- Declares an emergency.

* 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.

CONTENT AND OPERATION

Compensation of a member of the current or previous General Assembly who is appointed to judicial office

Under Article II, § 4 of the Ohio Constitution, a member of the General Assembly, during the term for which the member was elected or for one year thereafter, may not be appointed to any Ohio public office that was created or the compensation of which was increased during the term for which the member was elected. The bill provides that a member of the current General Assembly, or a person who was a member of the current or previous General Assembly, who is appointed to fill the unexpired term of office of the Chief Justice or a justice of the Supreme Court or of any judge must receive compensation for the balance of that unexpired term at the rate that was in effect for that office on the last day of the General Assembly prior to the one during which the person was appointed. (R.C. 141.06.)

Hamilton County Drug Court

Under existing law (R.C. 2301.03(B)(3)), one judge of the Hamilton County Court of Common Pleas is designated as the Drug Court Judge of that court. The Drug Court Judge hears cases that are referred from a judge of the General Division of the court or from a judge of the Hamilton County Municipal Court, and any companion cases, that the referring judge determines meet the criteria described below. A judge may refer a case meeting those criteria that involves a violation of a condition of a community control sanction, and, if the Drug Court Judge accepts the referral, the referring judge and the Drug Court Judge have concurrent jurisdiction over the case.

A case may be referred to the Drug Court Judge if the referring judge determines that both (1) and (2) apply:

(1) One of the following applies:

(a) The case involves a drug abuse offense that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor.

(b) The case involves a theft offense that is a felony of the third or fourth degree if the offense is committed prior to July 1, 1996, a felony of the third, fourth, or fifth degree if the offense is committed on or after July 1, 1996, or a misdemeanor, and the defendant is drug or alcohol dependent or in danger of becoming drug or alcohol dependent and would benefit from treatment.

(2) All of the following apply:

(a) The case involves an offense for which a community control sanction may be imposed or is a case in which a mandatory prison term or a mandatory jail term is not required to be imposed.

(b) The defendant has no history of violent behavior.

(c) The defendant has no history of mental illness.

(d) The defendant's current or past behavior, or both, is drug or alcohol driven.

(e) The defendant demonstrates a sincere willingness to participate in a 15-month treatment process.

(f) The defendant has no acute health condition.

(g) If the defendant is incarcerated, the county prosecutor approves of the referral.

The special designation of the Drug Court Judge is due to expire on January 2, 2009. The bill makes the designation of the Drug Court Judge permanent. (R.C. 2301.03(B)(3).)

Additional judge for the Champaign County Court of Common Pleas

Under current law, the Champaign County Court of Common Pleas has two judges: one in the general division, and one in the probate division (R.C. 2101.01, not in the bill, and R.C. 2301.02(A)). The bill creates one additional judgeship for the Champaign County Court of Common Pleas. The new judge will be elected in 2008, for a term to begin February 10, 2009. The judge whose term begins February 9, 2003 (the current probate judge), and the new judge, and successors to those judges, will have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the Champaign County Court of Common Pleas. These judges will be elected and designated as judges of the Court of Common Pleas, domestic relations-juvenile-probate division that the bill creates, as described below. (R.C. 2301.02(A) and 2301.03(DD)(1).)

The bill specifies that, except as otherwise specified in this paragraph, those judges, and the successors to those judges, have all the powers relating to the 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 those judges and the successors to those judges. Notwithstanding any other provision of any statute, on and after February 9, 2009, the judges designated as judges of the Court of Common Pleas, domestic relations-juvenile-probate division, and the successors to those judges, have all the powers relating to the probate courts in addition to the powers previously specified in this paragraph, and will exercise jurisdiction 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. (R.C. 2301.03(DD)(1).)

The bill specifies that, on or after February 9, 2009, 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 Champaign County as being references to the "domestic relations-juvenile-probate division" and as being references to the "judge of the domestic relations-juvenile-probate division." On and after February 9, 2009, all references in law to "the clerk of the probate court" must be construed with respect to Champaign County as being references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence as the administrative judge of the Court of Common Pleas, domestic relations-juvenile-probate division. (R.C. 2301.03(DD)(2).)

The bill provides that, effective February 9, 2009, the probate judge of the Court of Common Pleas of Champaign County will have all the powers relating to the domestic relations-juvenile-probate division of the Court of Common Pleas of Champaign County and will exercise concurrent jurisdiction with the judges of the domestic relations-juvenile-probate division of the Court of Common Pleas of Champaign County over matters that are within the jurisdiction of the domestic relations-juvenile-probate division (R.C. 2101.025).

Deadline for the report of the Joint Committee to Study Court Costs and Filing Fees

Section 6 of Sub. H.B. 336 of the 126th General Assembly created the Joint Committee to Study Court Costs and Filing Fees to study the determination, assessment, collection, and allocation of court costs and filing fees in criminal and civil actions and proceedings in Ohio, to study where the money collected is deposited, and to make recommendations for any changes that the Committee believes need to be made to the current system for court costs and filing fees. The Committee's report to the Ohio Supreme Court, the General Assembly, and the

Governor is due January 18, 2008. The bill extends the deadline for submission of the report by six months. (Section 3.)

HISTORY

| ACTION | DATE |
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| Introduced | 04-25-07 |
| Reported, S. Judiciary - Civil Justice | 06-12-07 |
| Passed Senate (33-0) | 06-20-07 |
| Reported, H. Judiciary | --- |

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