



# Ohio Legislative Service Commission

## Bill Analysis

Andrea Holmes

### H.B. 265

129th General Assembly  
(As Introduced)

**Reps.** Slaby and O'Brien, Grossman, Huffman, Blessing, Blair, Stebelton

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## BILL SUMMARY

- Authorizes prosecuting authorities to demand a jury trial in a criminal case, notwithstanding a defendant's waiver of trial by jury and over a defendant's objection.

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## CONTENT AND OPERATION

### **Demand for jury trial by prosecuting attorney, village solicitor, city director of law, or similar chief legal officer**

The bill permits the prosecuting attorney, a village solicitor, a city director of law, or a similar chief legal officer for a municipal corporation responsible for prosecuting a criminal case before a municipal court, county court, or any other court of record to demand a jury trial in any criminal case in which a defendant may demand a jury trial. The prosecuting attorney, village solicitor, a city director of law, or a similar chief legal officer may demand a jury trial notwithstanding a defendant's failure to demand a jury trial and over the objection of the defendant.<sup>1</sup>

Existing law does not permit the prosecuting attorney, a village solicitor, a city director of law, or a similar chief legal officer for a municipal corporation responsible for prosecuting a criminal case before a municipal court, county court, or any other court of record to demand a jury trial in the circumstance described above.

### **Demand for jury trial by prosecuting attorney in juvenile court**

The bill permits the prosecuting attorney in any criminal case in which an adult has been arrested or charged with a crime in juvenile court to demand a trial by jury

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<sup>1</sup> R.C. 1901.24(C), 1907.29(C), and 2938.04(B).

notwithstanding a defendant's failure to demand a trial by jury and over the objection of the defendant.<sup>2</sup> Existing law does not permit a prosecuting attorney to demand a trial by jury in this circumstance.

### **Waiver of trial by jury**

Under existing law, a defendant in any criminal case pending in a court of record in this state may waive a trial by jury and be tried by the court without a jury. The bill permits the prosecuting attorney, city director of law, village solicitor, or similar chief legal officer responsible for prosecuting a criminal case to demand a trial by jury in any criminal case in which a defendant may demand a trial by jury, notwithstanding the defendant's waiver of a trial by jury and over the objection of the defendant.<sup>3</sup>

Under existing law, if the nature of an offense being tried in a court not of record is such that a right to jury trial exists, the matter may not be tried before the magistrate unless the accused in writing waives a jury trial and consents to be tried by the magistrate. Under the bill, the prosecutor may demand a jury trial in such a case. If the prosecutor demands a jury trial, the matter may not be tried before the magistrate, notwithstanding the defendant's waiver of a jury trial or the objection of the defendant.<sup>4</sup>

Additionally, the bill specifies that a demand for a jury trial by a prosecuting attorney, city director of law, village solicitor, or similar chief legal officer is not affected by a defendant's withdrawal of a claim for a jury trial. If a defendant withdraws a claim for a jury trial and a jury has been summoned pursuant to the defendant's claim, the court may require the defendant to pay all costs of mileage and fees of members of the venire for one day's service, notwithstanding the outcome of the case.<sup>5</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	06-14-11

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<sup>2</sup> R.C. 2152.67.

<sup>3</sup> R.C. 2945.05(B).

<sup>4</sup> R.C. 2937.08.

<sup>5</sup> R.C. 2945.05(B), 2938.05, and 2945.06.

