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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 32\*  
135<sup>th</sup> General Assembly

## Bill Analysis

[Click here for S.B. 32's Fiscal Note](#)

**Version:** As Reported by House Civil Justice

**Primary Sponsor:** Sen. Schaffer

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### SUMMARY

#### Immunity for self or other defense extended to for-profit corporation

- Specifies that the immunities currently provided for nonprofit corporations for any of the following also apply to a for-profit corporation that leases its property to the nonprofit corporation or permits its property to be used by the nonprofit corporation for any purpose:
  - Injury, death, or loss to person or property allegedly caused by or related to a concealed handgun licensee bringing a handgun onto the premises or to an event of the nonprofit corporation;
  - Injury, death, or loss to person or property allegedly caused by or related to a decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or to an event of the nonprofit corporation.
- Generally grants civil immunity to a person for certain injuries allegedly caused by the person acting in self-defense or defense of another during the commission, or imminent commission, of an offense of violence to protect the members or guests of a nonprofit corporation under certain circumstances.
- Specifies that a person who approaches or enters a nonprofit corporation's premises or event with intent to commit an offense of violence is presumed liable for any injury, death, or loss to person or property resulting from an act of self-defense or defense of another against that person.

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\* This analysis was prepared before the report of the House Civil Justice Committee appeared in the House Journal. Note that the legislative history may be incomplete.

## **Community action agencies**

- Exempts a nonprofit agency or organization, which has been designated as a community action agency by the Community Services Division of the Department of Development, from the requirements of Ohio Open Meetings Law and specifies that the agency is not a state agency or public office.
- Requires a nonprofit agency or organization designated as a community action agency to be incorporated under Ohio's nonprofit incorporation laws.
- Requires that the written operating procedures of a community action agency specify: (1) the methods by which the board may conduct meetings using virtual electronic technology, and (2) that the board may provide notice.

## **Clerks of the courts of common pleas and municipal courts**

- Requires elected clerks of the common pleas court or municipal court to determine the best means and methods for storing, maintaining, and retrieving all papers delivered to the clerk in writing or in electronic form, in compliance with Superintendence Rule 26.
- Provides that such clerks are responsible for implementing the means and methods for the storage, maintenance, and retrieval of those delivered papers.
- Clarifies that a clerk of a common pleas court appointed in a charter county performs duties pursuant to the county charter.
- Provides that in the performance of official duties, an appointed clerk of a municipal court is under the direction of the court.
- Removes provisions granting municipal court clerks other powers and duties as prescribed by the court.

## **Creating a Respectful and Open World for Natural Hair (CROWN) Act**

- Prohibits public K-12 schools and public preschools from discriminating against a student with respect to any program or activity because of traits associated with a student's race, including hair texture and protective hair styles, such as braids, locks, and twists.
- Allows a student alleging a public school or public preschool has discriminated against the student based on traits associated with the student's race to sue in any court having jurisdiction.

## **Property foreclosure sales**

- Requires that for all property foreclosure sales, including tax sales, the officer that makes the sale must deliver the excess funds to the clerk of court not later than 45 days after the confirmation of sale.
- Authorizes the clerk in certain circumstances to send notification of excess funds by posting the notice to the judgement debtor on the clerk's website, sending a text message

to the judgement debtor, or posting the notice in a conspicuous place in the court where the foreclosure action commenced.

- Increases the timeline in tax foreclosure sales of when the clerk must give the excess funds to the county treasurer to hold for the owner from 60 days to 90 days from the day the final notice is provided.
- Requires the clerk of court in tax foreclosure sales to follow the same notice requirements relating to excess funds as required under other foreclosure sales.

### **Auctioneer continuing education exemption**

- States that the continuing education requirements for licensed auctioneers and auction firm managers established under current law do not apply to a licensed auctioneer who:
  - Was licensed as an apprentice auctioneer under law repealed by H.B. 321 of the 134<sup>th</sup> General Assembly on September 13, 2022; and
  - Completed the apprenticeship prior to that date.

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## **DETAILED ANALYSIS**

### **Immunity for self or other defense extended to for-profit corporation**

#### **Background**

Existing law, unchanged by the bill, provides that, subject to specified exceptions, a concealed handgun licensee may carry a concealed handgun anywhere in Ohio if the licensee also carries a valid license when in actual possession of a concealed handgun. The exceptions are: (1) in any of nine specified categories of places (e.g., in specified circumstances, in a law enforcement station, school safety zone, courthouse, D liquor permit premises, institution of higher education, place of worship, government facility, or place prohibited under federal law), (2) in a manner prohibited under the offense of “carrying concealed weapons” or “improperly handling firearms in a motor vehicle,” (3) in violation of a private employer’s rule, policy, or practice concerning or prohibiting the presence of firearms on the employer’s premises or property, in specified circumstances, or (4) in violation of a sign properly posted by the owner or person in control of private land or premises, or by the private person or entity lessee on government land or premises, that prohibits persons from carrying firearms or concealed firearms on the land or premises.<sup>1</sup> An armed forces active duty member carrying specified types of documentation has the same right to carry a concealed handgun in Ohio as a concealed handgun licensee and is subject to the same restrictions.<sup>2</sup>

Existing law provides immunity from civil liability for certain entities for injury, death, or loss to person or property allegedly caused by or related to a concealed handgun licensee

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<sup>1</sup> R.C. 2923.126(A) to (C).

<sup>2</sup> R.C. 2923.126(D)(2).

bringing a handgun onto the entity's premises or property. The entities for which this immunity is provided are private employers, political subdivisions, institutions of higher education, and nonprofit corporations – the immunity also applies with respect to events organized by such corporations but it does not apply for those employers, institutions, and corporations that acted with malicious purpose. Private employers, institutions of higher education, and nonprofit corporations also are provided immunity for injury, death, or loss to person or property allegedly caused by or related to the employer's, institution's, or corporation's decision to permit a licensee to bring a handgun onto the premises or property of the private employer – the immunity for private employers also expressly extends to a decision to prohibit a licensee from bringing a handgun onto the premises or property.<sup>3</sup>

## **Operation of the bill**

### **Immunity extended to for-profit corporation**

The bill specifies that the immunities currently provided for nonprofit corporations, as described above in "**Background**," also apply to any for-profit corporation that leases its property to the nonprofit corporation or permits its property to be used by the nonprofit corporation for any purpose. The immunities are from civil liability for injury, death, or loss to person or property allegedly caused by or related to: (1) a concealed handgun licensee bringing a handgun onto the premises or to an event of the nonprofit corporation, unless the nonprofit corporation acted with malicious purpose, or (2) a decision to permit a licensee to bring a handgun onto the premises or to an event of the nonprofit corporation.<sup>4</sup>

The bill does not expressly state whether the immunity described in (1) would, or would not, apply to the involved for-profit corporation if the nonprofit corporation acts with malicious purpose, or whether the immunity described in (2) would, or would not, apply to either involved corporation if the involved for-profit corporation permits that conduct by a licensee, without knowledge of or agreement by the involved nonprofit corporation, while the property is being used by the nonprofit corporation.

### **Immunity provided for persons**

The bill enacts a new immunity provision that specifies that no person is liable in a "tort action" (see below) for injury, death, or loss to person or property allegedly caused by the person's act of self-defense or defense of another when performed during the commission, or imminent commission, of an "offense of violence" (a defined term<sup>5</sup>) to protect the members or guests, including the person's self, of a nonprofit corporation under the existing immunity provisions for a nonprofit corporation as described above in "**Background**," against the commission, or imminent commission, of that offense of violence, unless the person's act constitutes willful or wanton misconduct.<sup>6</sup> As used in this provision, "tort action" means a civil

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<sup>3</sup> R.C. 2923.126(C)(2).

<sup>4</sup> R.C. 2923.126(C)(2)(d).

<sup>5</sup> R.C. 2901.01, not in the bill.

<sup>6</sup> R.C. 2307.221(B).

action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons; “tort action” includes, but is not limited to, a product liability claim, an asbestos claim, an action for wrongful death, and an action based on derivative claims for relief.<sup>7</sup>

Additionally, the bill creates a presumption that a person who approaches or enters a nonprofit corporation’s premises or event with intent to commit an offense of violence is liable for any injury, death, or loss to person or property resulting from an act of self-defense or defense of another against that person, unless the person’s defensive action constitutes willful or wanton misconduct.<sup>8</sup>

The bill specifies that nothing in this provision may be construed to affect any rights to bring a civil action under the provision of existing law that pertains to the bringing of a civil action by a person injured by a criminal act (see below) or any other R.C. section and that the provision does not affect, and may not be construed as affecting, any immunities from civil liability or defenses established by another R.C. section or available at common law, to which the person may be entitled under circumstances not covered by that provision.<sup>9</sup>

The provision of existing law referred to in the bill that pertains to the bringing of a civil action by a person injured by a criminal act, unchanged by the bill, specifies that, subject to a few specified exceptions, anyone injured in person or property by a criminal act has, and may recover full damages in, a civil action unless specifically excepted by law, may recover the costs of maintaining the civil action and attorney’s fees if authorized by any provision of the Rules of Civil Procedure or another R.C. section or under Ohio common law, and may recover punitive or exemplary damages if authorized by any R.C. section.<sup>10</sup>

## **Community action agencies**

The Open Meetings Law requires public officials, with certain exceptions, to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.<sup>11</sup> The bill exempts any nonprofit agency or organization that has been designated as a community action agency by the Community Services Division of the Department of Development from the requirements of the Open Meetings Law.<sup>12</sup>

The bill specifies that a community action agency is not a state agency or public office.<sup>13</sup>

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<sup>7</sup> R.C. 2307.221(A), by reference to R.C. 2307.60, not in the bill.

<sup>8</sup> R.C. 2307.221(E).

<sup>9</sup> R.C. 2307.221(C) and (D).

<sup>10</sup> R.C. 2307.60, not in the bill.

<sup>11</sup> R.C. 121.22.

<sup>12</sup> R.C. 121.22(D)(22) and by reference to R.C. 122.69, not in the bill.

<sup>13</sup> R.C. 122.66(D).

## **Incorporation under Nonprofit Corporation Law**

Under current law, “community action agency” means a community-based and operated private nonprofit agency or organization that includes or is designed to include a sufficient number of projects or components to provide a range of services and activities having a measurable and potentially major impact on the causes of poverty in the community or those areas of the community where poverty is a particularly acute problem and is designated as a community action agency by the Community Services Division of the Department of Development.<sup>14</sup> The bill requires a community services agency to be incorporated under the Nonprofit Corporation Law.<sup>15</sup>

### **Written policies on operating procedures**

Continuing law requires the board of directors of a community action agency to adopt written policies describing the operating procedures to be used by the board to conduct its meetings, to vote on all official business it considers, and to provide notice of its meetings. The bill requires those written operating procedures to specify: (1) the methods by which the board may conduct meetings using virtual electronic technology, and (2) that the board may provide notice of its meetings by any means deemed appropriate to the board.<sup>16</sup>

## **Clerk of the court of common pleas**

### **Keeping records**

Current law requires the clerk of the court of common pleas to keep records as indicated by the Rules of Superintendence for the Courts of Ohio. The bill provides that this requirement is subject to the provision described in the following paragraphs.<sup>17</sup>

In furtherance of the performance of the duties enjoined upon the clerk by statute, common law, and the Rules of Superintendence for the Courts of Ohio, an elected clerk of the court of common pleas is responsible for determining the best means and methods for storing, maintaining, and retrieving all papers delivered to the clerk in writing or in electronic form, in compliance with Superintendence Rule 26. Once determined, such elected clerk is responsible for implementing the means and methods for storage, maintenance, and retrieval.<sup>18</sup>

In a court in which the clerk of the court of common pleas is appointed in a charter county, the clerk must perform the duties pursuant to the county charter.<sup>19</sup>

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<sup>14</sup> R.C. 122.66(D).

<sup>15</sup> R.C. 122.66(D) and by reference to R.C. Chapter 1702.

<sup>16</sup> R.C. 122.70(H)(3).

<sup>17</sup> R.C. 2303.12(B)(1).

<sup>18</sup> R.C. 2303.12(B)(2)(a).

<sup>19</sup> R.C. 2303.12(B)(2)(b).

## **Powers and duties**

Under current law, the clerk of the court of common pleas must exercise the powers conferred and perform the duties enjoined upon the clerk by statute and the common law; and in the performance of official duties the clerk must be under the direction of the court. The bill removes the provision that requires the clerk to be under the direction of the court in the performance of official duties.<sup>20</sup>

## **Clerk of the municipal court**

Current law requires the clerk of the municipal court to do all of the following: file and safely keep all journals, records, books, and papers belonging or appertaining to the court; record the proceedings of the court; perform all other duties that the judges of the court may prescribe; and keep a book showing all receipts and disbursements, which book must be open for public inspection at all times. The bill removes the provision that the clerk must perform all other duties that the judges of the court may prescribe.<sup>21</sup> It further removes the provision in current law requiring the clerk to have other powers and duties as are prescribed by rule or order of the court.<sup>22</sup>

The bill provides that In furtherance of the performance of the duties enjoined upon the clerk by statute, common law, and the Rules of Superintendence for the Courts of Ohio, an elected clerk of a municipal court is responsible for determining the best means and methods for storing, maintaining, and retrieving all papers delivered to the clerk in writing or in electronic form, in compliance with Superintendence Rule 26. Once determined, such elected clerk is responsible for implementing the means and methods for storage, maintenance, and retrieval.<sup>23</sup>

The bill provides that in the performance of official duties, an appointed clerk of a municipal court is under the direction of the court.<sup>24</sup>

## **Creating a Respectful and Open World for Natural Hair (CROWN) Act**

The bill enacts the “Creating a Respectful and Open World for Natural Hair (CROWN) Act.”<sup>25</sup> It prohibits public K-12 schools and all public preschools from discriminating against any student with respect to any program or activity because of traits associated with the student’s race. Under the bill, “race” includes traits associated with an individual’s race, including hair texture and protective hair styles, such as braids, locks, and twists.

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<sup>20</sup> R.C. 2303.26.

<sup>21</sup> R.C. 1901.31(E)(1).

<sup>22</sup> R.C. 1901.31(F).

<sup>23</sup> R.C. 1901.31(E)(3).

<sup>24</sup> R.C. 1901.31(E)(4).

<sup>25</sup> Section 3.

A student alleging a public school or public preschool discriminated against the student in violation of the bill may sue in any court of competent jurisdiction.<sup>26</sup>

## **Property foreclosure sales**

### **Excess funds overview**

The bill changes the procedures to be followed by the clerk of court and the officer that conducts the sale when the court receives excess funds in a foreclosure sale. Excess funds are moneys received from the foreclosure sale in addition to the amount necessary to satisfy the writ of execution, plus interest and costs. Under continuing law, the judgement debtor (i.e., the former owner) is entitled to receive the excess funds. The bill requires excess funds to be delivered to the clerk of court within 45 days after the confirmation of sale and changes how the clerk must notify the judgement debtor about the excess funds. The bill also specifies that the judgement debtor includes any individual, corporation, business trust, estate, trust, partnership, or association.<sup>27</sup>

### **Delivery of excess funds**

Under current law, unchanged by the bill, when the officer that conducts the sale receives excess funds, the officer must deliver any excess funds to the clerk of the court that issued the writ of execution. Current law does not specify a timeline for this requirement. The bill specifies that the delivery of the excess funds occur not later than 45 days after the confirmation of sale.<sup>28</sup>

### **Notice requirement for excess funds \$500 or more**

Under current law, the clerk must notify the judgement debtor by mail if the balance of the excess funds is \$100 or more. The bill increases this threshold to \$500 or more.

Current law requires the clerk to send the notice by certified mail within 90 days after a sheriff's sale. If the first notice is returned, then a second notice must be sent by ordinary mail. If the second notice is returned, a third notice must be published in a newspaper. The bill, instead, allows the third notice to be published in a newspaper, posted on the clerk's website, sent via text message to the judgement debtor, or posted in a conspicuous place in the court where the foreclosure action commenced.<sup>29</sup>

The bill makes an exception to the notice requirements described above, if the clerk does not have the address or the name of the judgement debtor. If the address of the judgment debtor is not known, the clerk is not required to send a notice by certified mail, but must notify the judgement debtor in accordance with the third notice procedure described above. If the name of the judgment debtor is not known, the clerk may send notice in accordance with any of the

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<sup>26</sup> R.C. 3319.48, by reference to R.C. Chapters 3314, 3326, and 3328, and R.C. 2950.034, not in the bill, with conforming changes in R.C. 3314.03, 3326.11, and 3328.24.

<sup>27</sup> R.C. 2329.01(B)(4).

<sup>28</sup> R.C. 2329.44(A).

<sup>29</sup> R.C. 2329.44(A)(1)(a).

three procedures described above, but is not required to complete more than one of those procedures.<sup>30</sup>

### **Notice requirement for excess funds less than \$500**

Under current law, changed in part by the bill, if the balance of the excess funds is less than \$100, the clerk must send the notice of the excess funds to the judgment debtor by certified mail. If the mailed notice is returned, the clerk is not required to continue attempts to notify the judgment debtor. The bill changes this threshold to less than \$500. The bill also specifies that if the address of the judgment debtor is not known, the clerk must notify the judgment debtor in accordance with the third notice procedure described above (newspaper, website, text, or courthouse posting). If the name of the judgment debtor is not known, the clerk must notify the judgment debtor in accordance with either the first (certified mail) or third procedure described above.<sup>31</sup>

### **Unclaimed excess funds**

Under current law, if the excess funds remain unclaimed for 90 days following the “first date of publication,” the clerk is required to dispose the balance in the same manner as other unclaimed funds the court holds. The bill clarifies the timing, by specifying that the 90 days begins after the last mailing, posting, or text message required under the bill.<sup>32</sup>

### **Tax foreclosure excess funds**

Generally, under current law, in a tax foreclosure sale, any excess money from the sale of the property remaining and unclaimed by the owner after 60 days must be held by the county treasurer in the name of the owner. The bill changes this to 90 days from the day the final notice is provided.

The bill also requires the clerk of court in tax foreclosure sales to follow the same procedures as required for other foreclosure sales, as described above. Under the bill, the officer who conducts the sale must send any excess funds to the clerk of court that issued the writ of execution not later than 45 days after the confirmation of sale. The clerk must notify the owner following the same requirements as described above (see “**Notice requirement for excess funds \$500 or more**” and “**Notice requirement for excess funds less than \$500**”).<sup>33</sup>

### **Auctioneer continuing education exemption**

Current law generally requires a licensed auctioneer to complete eight hours of continuing education prior to renewing their biennial license. It further requires a licensed

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<sup>30</sup> R.C. 2329.44(A)(1)(b) and (c).

<sup>31</sup> R.C. 2329.44(A)(2)

<sup>32</sup> R.C. 2329.44(A)(1)(d) and (A)(2)(b).

<sup>33</sup> R.C. 5721.20.

auctioneer to complete those eight hours in specific areas of instruction, including an overview of the Auctioneer Law.

The bill states that the continuing education requirements for licensed auctioneers do not apply to a licensed auctioneer who:

1. Was licensed as an apprentice auctioneer under law repealed by H.B. 321 of the 134<sup>th</sup> General Assembly on September 13, 2022; and
2. Completed the apprenticeship prior to that date.<sup>34</sup>

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## HISTORY

Action	Date
Introduced	01-26-23
Reported, S. Judiciary	11-13-24
Passed Senate, 30-0	11-13-24
Reported, H. Civil Justice	---

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<sup>34</sup> R.C. 4707.101