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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 518  
134<sup>th</sup> General Assembly

## Final Analysis

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**Primary Sponsor:** Rep. Hoops

**Effective date:** September 23, 2022

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### SUMMARY

#### **Fulton County County Court and Fulton County Municipal Court**

- Abolishes the Fulton County County Court, with two part-time judges, effective January 1, 2024.
- Effective January 1, 2023, abolishes the part-time judgeship in the Fulton County County Court originally elected in 1980; effective January 1, 2024, abolishes the part-time judgeship in the Fulton County County Court originally elected in 1982.
- Establishes in the municipal corporation of Wauseon the Fulton County Municipal Court beginning January 1, 2024, with jurisdiction within Fulton County, and provides that one full-time judge of the Fulton County Municipal Court is to be elected in 2023.
- Requires the Fulton County Municipal Court to establish a branch office in the municipal corporation of Swanton and to appoint a special deputy clerk to administer the branch office on a full-time basis with compensation according to applicable law payable out of the treasury of Fulton County.
- Requires the judge of the Fulton County Municipal Court to sit within each of the municipal corporations of Wauseon and Swanton on a weekly basis.
- Specifies that cases arising within Wauseon and within specified townships in Fulton County must be filed in the office of the clerk of the court located in Wauseon, and specifies that cases arising in Swanton and within specified townships in Fulton County must be filed in the office of the special deputy clerk located in Swanton.
- Requires the Fulton County prosecuting attorney, beginning January 1, 2024, to prosecute all violations of state law arising within the unincorporated areas of Fulton County, with other criminal prosecutions in the Court being handled in accordance with relevant provisions of ongoing law.
- Specifies transition provisions, effective January 1, 2024, from the Fulton County County Court to the Fulton County Municipal Court.

## **Hamilton County Municipal Court**

- Makes it permissive, instead of mandatory as under former law, for the presiding judge of the Hamilton County Municipal Court to assign two or more of the judges of the Court to sit outside Cincinnati.

## **Toledo Municipal Court Housing Division**

- Expands the jurisdiction of the Toledo Municipal Court Housing Division to include any review or appeal of a final administrative order relating to a building, housing, air pollution, sanitation, health, fire, zoning, or safety code or regulation.
- Generally, grants the Toledo Municipal Court Housing Division concurrent jurisdiction with the court of common pleas in criminal actions related to air, ground, or water pollution.

## **Fairborn Municipal Court**

- Adds one full-time judge to the Fairborn Municipal Court to be elected in 2023.

## **East Liverpool Municipal Court and Columbiana County Municipal Court**

- Abolishes the East Liverpool Municipal Court, which had jurisdiction in East Liverpool and Liverpool and St. Clair townships in Columbiana County and in certain portions of the Ohio River, and abolishes its sole judgeship, to take effect on September 23, 2022.
- Removes the exception of East Liverpool and Liverpool and St. Clair townships from the territorial jurisdiction of the Columbiana County Municipal Court, and specifies that the Columbiana County Municipal Court has jurisdiction within Columbiana County.
- Specifies transition provisions, including the transfer of all causes, judgments, executions, and proceedings pending in the East Liverpool Municipal Court on September 23, 2022, to the Columbiana County Municipal Court.
- Relocates provisions related to the clerk of the Columbiana County Municipal Court that generally apply to territories with populations of less than 100,000 to territories with populations of 100,000 or more.

## **Portage County Court of Common Pleas – Domestic Relations Division and Juvenile Division**

- Generally, expands the jurisdiction of the Division of Domestic Relations of the Portage County Court of Common Pleas to include, among others, proceedings involving parentage, child support, allocation of parental rights and responsibilities, and relief from paternity determinations.
- Excludes from the jurisdiction of the Juvenile Division of the Portage County Court of Common Pleas, certain proceedings that are included in the act's expanded jurisdiction of the Court's Division of Domestic Relations.

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## DETAILED ANALYSIS

### Fulton County County Court

The act abolishes the Fulton County County Court effective January 1, 2024.<sup>1</sup> Effective January 1, 2023, the act abolishes the part-time judgeship in the Fulton County County Court, originally elected in 1980 and last elected in 2016, whose term ends December 31, 2022. Effective January 1, 2024, the act abolishes the part-time judgeship in the Fulton County County

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<sup>1</sup> R.C. 1907.11(A) and Section 3(A).

Court, originally elected in 1982 and last elected in 2018, whose term ends December 31, 2023.<sup>2</sup>

## **Fulton County Municipal Court**

Beginning January 1, 2024, the act establishes a municipal court in the municipal corporation of Wauseon, to be styled and known as the “Fulton County Municipal Court” and included in the definition of “county operated municipal court.”<sup>3</sup> One full-time judge of the Fulton County Municipal Court is to be elected in 2023, term commencing January 1, 2024.<sup>4</sup> Municipal court judges are elected for six-year terms – in courts with only one judge, the judge’s term commences January 1 in the year following the year of the judge’s election.<sup>5</sup>

Law unchanged by the act and relevant to the Fulton County Municipal Court provides that the board of county commissioners of a county in which a county-operated municipal court is located pays all costs of operation of the court. With exceptions for certain courts not relevant to the act, the county in which a county-operated municipal court is located receives all costs, fees, and other moneys received by the court, except fines collected for municipal ordinance violations, for certain township resolution violations, and for special disbursements specified in the statutes that require a specific manner of disbursement.<sup>6</sup> Other ongoing provisions that are relevant to the Fulton County Municipal Court specify the manner in which a municipal court clerk is to disburse costs, fees, fines, bail, and other moneys payable to the clerk.<sup>7</sup>

### **Territorial jurisdiction**

The act provides that beginning January 1, 2024, the Fulton County Municipal Court has jurisdiction within Fulton County.<sup>8</sup>

### **Branch office**

Under the act, the Fulton County Municipal Court must establish a branch office in the municipal corporation of Swanton and appoint a special deputy clerk to administer the branch office on a full-time basis. The special deputy clerk must take the oath of office and perform the duties appertaining to the office of the clerk of court as the court prescribes. The special deputy clerk must receive such compensation payable in biweekly or semimonthly installments, as

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<sup>2</sup> Section 3(D).

<sup>3</sup> R.C. 1901.01(A), 1901.02(A)(34), and 1901.03(F).

<sup>4</sup> R.C. 1901.08.

<sup>5</sup> R.C. 1901.07(A), not in the act.

<sup>6</sup> R.C. 1901.024, not in the act.

<sup>7</sup> R.C. 1901.31(F), not in the act.

<sup>8</sup> R.C. 1901.02(B).

determined by the payroll administrator, and payable out of the treasury of the county in which the court is located, which is Fulton County.<sup>9</sup>

### **Court sitting outside municipal corporation**

The act requires the judge of the Fulton County Municipal Court to sit within each of the municipal corporations of Wauseon and Swanton on a weekly basis. Cases that arise within Wauseon and within Chesterfield, Clinton, Dover, Franklin, German, and Gorham townships in Fulton County must be filed in the office of the clerk of the court located in Wauseon. Cases that arise in Swanton and within Amboy, Fulton, Pike, Swan Creek, Royalton, and York townships must be filed in the office of the special deputy clerk located in Swanton.<sup>10</sup>

### **Criminal prosecutions**

With certain exceptions, continuing law requires the village solicitor, city director of law, or similar chief legal officer for each municipal corporation within the territory of a municipal court to prosecute all criminal cases brought before the court arising in the unincorporated areas within the territory of the municipal court.<sup>11</sup> One of the exceptions requires the Carroll County, Crawford County, Hamilton County, Madison County, and Wayne County prosecuting attorneys and, beginning January 1, 2008, the Erie County prosecuting attorney, to prosecute all violations of state law arising within the unincorporated areas of their respective counties.<sup>12</sup> The act expands this exception by requiring the Fulton County prosecuting attorney, beginning January 1, 2024, to prosecute all violations of state law arising within the unincorporated areas of Fulton County.<sup>13</sup> The act applies to the Fulton County prosecuting attorney ongoing law which generally provides that a prosecuting attorney of any county given the duty of prosecuting in municipal court violations of state law receives no additional compensation for assuming the additional duties.<sup>14</sup>

Other provisions regarding criminal prosecutions, which the act applies to the Fulton County Municipal Court, specify that, with certain exceptions not relevant to the act:<sup>15</sup> (1) the village solicitor, city director of law, or similar chief legal officer for each municipal corporation within the territory of a municipal court prosecutes all cases brought before the court for criminal offenses occurring within the municipal corporation served by that person in that capacity; and (2) the prosecuting attorney of any county may enter into an agreement with any municipal corporation in the county served by the prosecuting attorney pursuant to which the prosecuting attorney prosecutes all criminal cases brought before the municipal court with

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<sup>9</sup> R.C. 1901.311(A) and (C).

<sup>10</sup> R.C. 1901.021(O).

<sup>11</sup> R.C. 1901.34(A).

<sup>12</sup> R.C. 1901.34(B).

<sup>13</sup> R.C. 1901.34(B).

<sup>14</sup> R.C. 1901.34(B).

<sup>15</sup> R.C. 1901.34(A) and (D).

territorial jurisdiction over that municipal corporation for criminal offenses occurring within the municipal corporation.

## **Transition provisions**

The act requires all causes, judgments, executions, and other proceedings pending in the Fulton County County Court at the close of business on December 31, 2023, to be transferred to and proceed in the Fulton County Municipal Court on January 1, 2024, as if originally instituted in the Fulton County Municipal Court. The Clerk of the Fulton County County Court or other custodian must transfer to the Fulton 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 Fulton County County Court, or any officer of that court, that pertain to those causes, judgments, executions, and proceedings at the close of business on December 31, 2023. All employees of the Fulton County County Court must be transferred to and must become employees of the Fulton County Municipal Court on January 1, 2024.<sup>16</sup>

## **Hamilton County Municipal Court**

Under continuing law, generally, the judge or judges of any municipal court having territorial jurisdiction outside the corporate limits of the municipal corporation in which it is located may sit outside the corporate limits of the municipal corporation within the area of its territorial jurisdiction.<sup>17</sup>

Formerly, the presiding judge of the Hamilton County Municipal Court required that two or more judges of the Court be assigned to sit outside the municipal corporation of Cincinnati.<sup>18</sup> The act makes it permissive, instead of mandatory, for the presiding judge of the Hamilton County Municipal Court to assign two or more of the judges of that Court to sit outside Cincinnati.<sup>19</sup>

## **Toledo Municipal Court Housing Division**

In addition to its general jurisdiction under continuing law as described below, the act expands the jurisdiction of the Housing Division of the Toledo Municipal Court.

### **Review of administrative orders**

The act expands the jurisdiction of the Toledo Municipal Court Housing Division within its territory to include any review or appeal of a final order of any administrative officer, agency, board, department, tribunal, commission, or other instrumentality that relates to a local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance,

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<sup>16</sup> Section 3(B) and (C).

<sup>17</sup> R.C. 1901.021(A).

<sup>18</sup> R.C. 1901.021(B).

<sup>19</sup> R.C. 1901.021(B).

or regulation, in the same manner and to the same extent as in similar appeals in the court of common pleas.<sup>20</sup>

### **Criminal cases related to environmental pollution**

The act grants the Toledo Municipal Court Housing Division concurrent jurisdiction with the court of common pleas in all criminal actions or proceedings related to the pollution of the air, ground, or water within the territory of the municipal court, for which a sentence of death cannot be imposed under the homicide and assault laws.<sup>21</sup>

### **General jurisdiction of a housing division**

Law unchanged by the act specifies that if a municipal court has a housing division, the division has exclusive jurisdiction within the court's territory: (1) in any civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to premises used or intended for use as a place of human habitation, buildings, structures, or any other real property subject to any such code, ordinance, or regulation, (2) subject to a limited exception regarding felony offenses, in any criminal action for a violation of any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to premises used or intended for use as a place of human habitation, buildings, structures, or any other real property subject to any such code, ordinance, or regulation, and (3) in any civil action relating to a building alleged to be a public nuisance.<sup>22</sup>

### **Additional judge for Fairborn Municipal Court**

The act adds a second full-time judge of the Fairborn Municipal Court, to be elected in 2023, for a term beginning January 1, 2024, in addition to the judge of that Court who was elected in 2019 and whose term expires on December 31, 2025. That preexisting judgeship will be elected in 2025 for a term beginning January 1, 2026.<sup>23</sup>

### **East Liverpool Municipal Court**

#### **Former law**

Under the prior Municipal Court Law, a municipal court was established in the municipal corporation of East Liverpool, which is in Columbiana County. The East Liverpool Municipal Court had jurisdiction within East Liverpool and Liverpool and St. Clair townships, located in Columbiana County.<sup>24</sup>

The East Liverpool Municipal Court also had: (1) jurisdiction beyond the north or northwest shore of the Ohio River extending to the opposite shore line, between the extended

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<sup>20</sup> R.C. 1901.181(C)(1).

<sup>21</sup> R.C. 1901.181(C)(2).

<sup>22</sup> R.C. 1901.181(A) and by reference to R.C. 3767.41(B)(1), not in the act.

<sup>23</sup> R.C. 1901.08 and R.C. 1901.07(A), not in the act.

<sup>24</sup> R.C. 1901.01(A) and 1901.02(B).

boundary lines of any adjacent municipal or county courts, and (2) concurrent jurisdiction on the Ohio River with any adjacent municipal or county courts that bordered on that river and with any court of Kentucky or of West Virginia that bordered on the Ohio River and had jurisdiction on the Ohio River under the law of Kentucky or of West Virginia, whichever was applicable, or under federal law.<sup>25</sup>

The East Liverpool Municipal Court had one full-time judgeship originally elected in 1953,<sup>26</sup> and last elected in 2019.

### **The act**

The act abolishes the East Liverpool Municipal Court, its territorial jurisdiction as described above, and its full-time judgeship.<sup>27</sup> It provides that the East Liverpool Municipal Court continues in operation until September 23, 2022, at which time that court ceases operations and its existence terminates.<sup>28</sup>

### **Columbiana County Municipal Court**

By reason of the act's abolition of the East Liverpool Municipal Court, it eliminates the exception of East Liverpool or Liverpool or St. Clair township from the following provisions:

- The establishment of the municipal court within Columbiana County in Lisbon or in any other municipal corporation or unincorporated territory within Columbiana County that is selected by the judges of the Columbiana County Municipal Court as a central location within the court's territorial jurisdiction pursuant to the provision allowing each judge of the court to sit within a specified municipal corporation until the judges jointly select a central location, at which time the judges must sit at that location.<sup>29</sup>
- The territorial jurisdiction of the Columbiana County Municipal Court.<sup>30</sup>

The act provides that the Columbiana County Municipal Court has jurisdiction within Columbiana County.<sup>31</sup> It removes the provision that the Columbiana County Municipal Court has jurisdiction within the municipal corporation or unincorporated territory in which it is established.<sup>32</sup>

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<sup>25</sup> R.C. 1901.027.

<sup>26</sup> R.C. 1901.08.

<sup>27</sup> R.C. 1901.01(A), 1901.02(B), 1901.027, and 1901.08.

<sup>28</sup> Section 4.

<sup>29</sup> R.C. 1901.01(C) and by reference to R.C. 1901.021(I), not in the act.

<sup>30</sup> R.C. 1901.02(B).

<sup>31</sup> R.C. 1901.02(B).

<sup>32</sup> R.C. 1901.02(A).



## **Clerk of Court**

The act relocates the following provisions regarding the Columbiana County Municipal Court from the portion of law pertaining to a municipal court for which the population of the territory is less than 100,000 to the portion of law for which the population of the court's territory equals or exceeds 100,000.<sup>33</sup>

In the Columbiana County Municipal Court, the clerk of courts of Columbiana County is the clerk of the Municipal Court, may appoint a chief deputy clerk for each branch office established for the Court, and may appoint any assistant clerks that the judges of the Court determine are necessary. All of the chief deputy clerks and assistant clerks receive the compensation that the legislative authority prescribes. The clerk of courts of Columbiana County, acting as the clerk of the Columbiana County Municipal Court and assuming the duties of that office, receives in biweekly or semimonthly installments, as determined by the payroll administrator, compensation payable from the county treasury at one-fourth the rate prescribed for the clerks of courts of common pleas as determined in accordance with the population of the county and the rates set forth in specified provisions of law.<sup>34</sup>

## **Transition provisions**

The act requires that all causes, executions, and other proceedings pending in the East Liverpool Municipal Court on September 23, 2022, be transferred to and proceed in the Columbiana County Municipal Court on that date, as if originally instituted in the Columbiana County Municipal Court. The Clerk of the East Liverpool Municipal Court or other custodian must transfer to the Columbiana 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 East Liverpool Municipal Court, or any officer of that court, at the close of business on September 23, 2022, and that pertain to those causes, judgments, executions, and proceedings.<sup>35</sup>

## **Portage County Court of Common Pleas, Division of Domestic Relations**

### **Expanded jurisdiction**

Ongoing law provides that the judge of the Portage County Court of Common Pleas, Division of Domestic Relations, must be assigned all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that for some special reason are assigned to

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<sup>33</sup> R.C. 1901.31(A)(1) and (2). Note that the population of Columbiana County which comprises the territorial jurisdiction of the Columbiana County Municipal Court is over 100,000.

<sup>34</sup> R.C. 1901.31(A)(1) and (2).

<sup>35</sup> Section 5.

some other judge of that court of common pleas.<sup>36</sup> The act specifies that the judge is also assigned all post-decree proceedings and matters arising from those cases.<sup>37</sup>

The act expands the above jurisdiction by requiring that the judge of the Domestic Relations Division be assigned the following:<sup>38</sup>

- All cases arising under the Paternity and Parentage Law;
- 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;
- All proceedings arising under the Uniform Interstate Family Support Act;
- All proceedings arising from a motion for relief from a paternity determination or support order;
- All proceedings arising under the Uniform Child Custody Jurisdiction and Enforcement Act; and
- All post-decree proceedings and matters arising from the above cases and proceedings.

Excluded from the above cases and proceedings assigned to the judge of the Domestic Relations Division are cases that for some special reason are assigned to some other judge of the court of common pleas.<sup>39</sup>

### **Duties of Domestic Relations Division personnel**

In addition to the statutory duties of the personnel of the Domestic Relations Division, their duties under continuing law include the handling, servicing, and investigation of divorce, dissolution of marriage, legal separation, and annulment cases, and providing counseling and conciliation services that the Division makes available to persons, whether or not they are parties to an action pending in the Division, who request the services.<sup>40</sup>

The act expands the duties of the Domestic Relations Division personnel to include the handling, servicing, and investigation of cases and proceedings described in the dot points above under “**Expanded jurisdiction**,” and providing counseling and conciliation services that the Division makes available to persons, whether or not they are parties to an action pending in the Division, who request the services.<sup>41</sup>

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<sup>36</sup> R.C. 2301.03(P).

<sup>37</sup> R.C. 2301.03(P).

<sup>38</sup> R.C. 2301.03(P) and by reference to R.C. Chapters 3111, 3115, and 3127, and R.C. 3119.96 to 3119.967, not in the act.

<sup>39</sup> R.C. 2301.03(P).

<sup>40</sup> R.C. 2301.03(P).

<sup>41</sup> R.C. 2301.03(P) and by reference to R.C. Chapters 3111, 3115, and 3127, and R.C. 3119.96 to 3119.967, not in the act.

## Exclusion from juvenile court jurisdiction

Under preexisting law unchanged by the act, juvenile courts generally have original jurisdiction over the following:<sup>42</sup>

- To determine the paternity of a child born out of wedlock under the Paternity and Parentage Law;
- Under the Uniform Interstate Family Support Act;
- To hear and determine applications for the support of a child not a ward of another court;
- To rescind an acknowledgment of paternity;
- In motions for relief from a paternity determination or support order;
- Regarding a power of attorney granted to a residential grandparent for the care and custody of a child, or a caretaker authorization affidavit;
- To enforce an order for the return of a child under the Hague Convention pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act;
- To grant any relief to enforce a child custody determination made by another state's court and registered in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act.

Formerly, under the above provision, the Juvenile Division of the Portage County Court of Common Pleas had original jurisdiction over the above proceedings. The act excludes those proceedings from the Portage County Juvenile Division's original jurisdiction, as they would come under the expanded jurisdiction of the Division of Domestic Relations.<sup>43</sup>

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## HISTORY

Action	Date
Introduced	12-16-21
Reported, H. Civil Justice	03-02-22
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<sup>42</sup> R.C. 2151.23(B)(2) to (9).

<sup>43</sup> R.C. 2151.23(B) and 2301.03(P).