OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 689*
136th General Assembly

# Bill Analysis

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**Version**: As Reported by House Public Safety

**Primary Sponsor**: Rep. White

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## SUMMARY

### Collection of identifying information

- Clarifies when fingerprints and other identifying information must be collected upon arrest or at other stages of the criminal justice process.
- Requires electronic submission of identifying information and case summaries in the form and manner prescribed by the Superintendent of the Bureau of Criminal Identification and Investigation (BCI).

### Fingerprint and case status communication

- Clarifies procedures and timing for fingerprinting requirements, and responsibility for transmission to BCI.

### Sealing and expungement

- Clarifies that the court must hold the hearing for sealing or expungement not less than 45 days and not more than 90 days from the date of the filing of the application, unless the delay is caused by the applicant.
- Clarifies procedures for fingerprinting related to an application for sealing or expungement where the applicant was not fingerprinted at the time of arrest, or the record of the applicant's fingerprints was not provided to the court, but fingerprinting was required for the offense.

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

## Notification of adjudication of mental illness

- Requires the determining probate judge to notify the Attorney General where an individual is found by the court to be a person with a mental illness subject to court order or has become an involuntary patient other than one who is a patient only for purposes of observation.

## Ohio Courts Technology Initiative

- Modifies the eligibility for grant funding under the Ohio Courts Technology Initiative and the Attorney General requirements related to the initiative.

## Paternity actions

- Requires the Superintendent of BCI to disclose any information necessary to determine the existence of a parent child relationship pursuant to a court order in any action to determine paternity.

# DETAILED ANALYSIS

## Collection of identifying information

Under existing and continuing law, the Superintendent of the Bureau of Criminal Identification and Investigation (BCI) procures and files for record identifying information, including fingerprints, for specified types of offenses, including felonies, any crime constituting a misdemeanor on the first offense and a felony on a subsequent offense, and certain specified misdemeanors. The bill expands this to include offenses for which the person was arrested.[1] The Superintendent is responsible for preparing, maintaining, and publishing an accurate list of reportable offenses, and providing training regarding the proper methods of reporting fingerprints and dispositions to BCI.[2]

The bill requires the person in charge of any state or local jail, workhouse, halfway house, facility, or institution furnish any required identifying information to the Superintendent of BCI, including providing fingerprints for a person who was arrested, but was not previously fingerprinted for that offense.[3] Every clerk of a court of record, other than the Supreme Court or a court of appeals, is required to electronically submit a weekly report containing a summary of qualifying offenses in the manner prescribed by the Superintendent of BCI, including those involving a case where a person was fingerprinted upon arrest and charged. Under existing law, the summary must include certain specified information, including the incident tracking number contained on the standard forms furnished by the Superintendent. The bill modifies this provision

[1] R.C. 109.57(A)(1).

[2] R.C. 109.57(A)(3)(a).

[3] R.C. 109.57(A)(1).

by specifying that the summary includes the incident tracking number assigned to the person or child at the time of being fingerprinted.[4]

Continuing law, as modified by the bill, requires that sheriffs, chiefs of police, or other designated individuals immediately take, or cause to be taken, a person's or child's fingerprints upon arrest for a qualifying offense according to the fingerprint system of identification in the form and manner prescribed by the Superintendent of BCI and immediately electronically forward copies of the completed forms in the manner prescribed by the Superintendent to BCI. The forms and any other description that may be required, and the history of the offense committed must be transmitted to BCI to be classified and filed, and submitted to the clerk of the court having jurisdiction over the prosecution of the offense or over the adjudication relative to the act.[5]

Under the bill, a court with jurisdiction over a case involving a person or child where the person's or child's fingerprints must be taken is required to, at or before the time of the person's or child's sentencing or adjudication, verify or cause to be verified through a reliable electronic records system, whether or not the person or child has been fingerprinted for the original arrest or court appearance upon which the sentence or adjudication is based.[6]

## Fingerprint and case status communication

At various stages in a case, as described below, if fingerprints were not taken upon arrest or a person was not arrested and the offense requires fingerprints to be taken, the bill requires fingerprints to be taken and transmitted in the following ways:

- If a case for a person or child whose fingerprints were taken is sent directly to a grand jury for indictment and no charges are brought, the prosecuting authority to whom the case was referred must notify the sheriff or chief of police. The sheriff or chief of police must then notify BCI that no charges were brought against the person or child.[7]
- If a case for a person or child whose fingerprints were taken is sent directly to a grand jury for indictment and the case proceeds on a direct indictment, the court of common pleas must order that the person's or child's fingerprints be taken if not previously taken, and the clerk of the court of common pleas must report the case information and disposition to BCI.[8]
- If an offender is convicted of an offense that must be reported to BCI, has not been fingerprinted in connection with the instant case, and is sentenced to a term of

[4] R.C. 109.57(A)(2).

[5] R.C. 109.60(A)(1)(a) and (c) and (2).

[6] R.C. 109.60(A)(3).

[7] R.C. 109.60(A)(1)(b).

[8] R.C. 109.60(A)(1)(b).

community control, the court must order the offender be fingerprinted as a condition of community control.[9]

- If a person or child has not been arrested and first appears before a court or magistrate in response to a summons, or if a sheriff or chief of police has not taken, or caused to be taken, a person's or child's fingerprints as required by the time of the arraignment or first appearance of the person or child, the court must take the person's or child's fingerprints or order the person or child to appear before the sheriff, chief of police, a designee of the sheriff or chief of police, or an individual under the authority of the court and designated by the court to take and submit fingerprints, within 24 hours to have the person's or child's fingerprints taken.[10]

In the following circumstances the case status update must be conveyed to BCI:

- If no charges are filed or a person is otherwise released or dismissed after being fingerprinted and those fingerprints have been forwarded to BCI, the sheriff or the chief of police must notify BCI that no charges were filed or the person was otherwise released.[11]
- If no indictment is returned, bill of information is filed, or charges are filed by the prosecuting authority to whom the case was referred after a person or child is arrested and fingerprinted for a criminal offense, the prosecuting authority must notify the law enforcement agency that referred the case that no charges are forthcoming at this time, the sheriff or chief of police must notify BCI of the case status.[12]
- If a person or child has not had fingerprints taken prior to sentencing or adjudication, the court must take the person's or child's fingerprints or order the person or child to appear before the sheriff, chief of police, a designee of the sheriff or chief of police, or an individual under the authority of the court and designated by the court to take and submit fingerprints to have the person's or child's fingerprints taken at any time before sentencing or adjudication. The sheriff, chief of police, a designee of the sheriff or chief of police, or other individual under the authority of the court and designated by the court to take fingerprints must take the person's or child's fingerprints, or cause the fingerprints to be taken, immediately upon being presented with the court order requiring fingerprints to be taken and provide those fingerprints to the court and BCI. If the person or child has not been fingerprinted prior to sentencing or adjudication, the court must continue the proceeding for the time required for the court to obtain the fingerprints.[13]

[9] R.C. 109.60(A)(1)(c).

[10] R.C. 109.60(A)(2).

[11] R.C. 109.60(A)(5)(b).

[12] R.C. 109.60(A)(5)(c).

[13] R.C. 109.60(A)(3).

- If a person or child is in the custody of a law enforcement agency or detention facility, and the chief law enforcement officer or chief administrative officer of the detention facility discovers that a warrant has been issued or a bill of information, indictment, or complaint, including offenses that occur while the person or child is in detention, has been filed, and the offense is one that requires fingerprints to be taken, then the law enforcement agency or detention facility must take the fingerprints of the person or child, or cause the fingerprints to be taken, transmitted as required, and immediately electronically forward copies of the completed form in the manner prescribed by the Superintendent of BCI to be classified and to the clerk of the court that issued the warrant, indictment, or complaint, or with which the bill of information was filed, and submit to the clerk of the court hearing the case, if different from the issuing court.[14]

If BCI receives a case status update as described above, BCI must note that status in connection with the relevant fingerprint record.[15]

## Sealing and expungement

The bill clarifies that the court must hold a hearing for sealing or expungement not less than 45 days and not more than 90 days from the date of the filing of the application, unless the delay is caused by the applicant.[16]

If the applicant was not fingerprinted at the time of arrest, or the record of the applicant's fingerprints was not provided to the court, but fingerprinting was required for the offense, and the court orders the official records pertaining to the case sealed or expunged, the bill requires the court to take the applicant's fingerprints or order the applicant to appear before a sheriff or a chief of police to have the applicant's fingerprints taken prior to the record sealing, in the form and manner prescribed by the Superintendent of BCI.[17]

## Notification of adjudication of mental illness

Under the bill, the probate judge who makes an adjudication that an individual is found by the court to be a person with a mental illness subject to court order or has become an involuntary patient other than one who is a patient only for purposes of observation must notify the Attorney General's Office in the manner prescribed by the Attorney General of the identity of the individual. Under current law, either the probate judge or the chief clinical officer of the hospital, community mental health service provider, or facility in which the person is an involuntary patient must provide the notice.[18]

[14] R.C. 109.60(A)(4).

[15] R.C. 109.60.

[16] R.C. 2953.32(C).

[17] R.C. 2953.32(D)(4)(b).

[18] R.C. 5122.311.

## Ohio Courts Technology Initiative

The bill amends Section 221.40 of H.B. 96 of the 136th General Assembly, subsequently amended by H.B. 434 of the 136th General Assembly, as follows:[19]

- Modifies an existing earmark of $3,350,000 in each fiscal year from GRF ALI 055321, Operating Expense, for the Ohio Courts Technology Initiative by requiring the Attorney General to facilitate the exchange of information and warehousing of data by and between Ohio courts and other justice system partners through the delivery of technology services to courts throughout the state, including the provision of hardware, and software, rather than to facilitate the delivery of technology services to courts throughout the state, including the provision of hardware, software, and the development and implementation of educational and training programs for judges and court personnel under the existing earmark.
- Broadens the eligibility of the initiative's funding to include courts of records and the clerks of courts, regardless of the counties' population instead of only applying to courts and clerks of courts of common pleas located in counties with a population of not more than 125,000 according the to the most recent federal decennial census.

## Paternity actions

Under the bill, the Superintendent of BCI must disclose any information necessary to determine the existence of a parent-child relationship pursuant to a court order in any action to determine paternity.[20]

# HISTORY

| Action | Date |
|---|---|
| Introduced | 02-10-26 |
| Reported, H. Public Safety | ------ |

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[19] Section 3.

[20] R.C. 109.573(B)(2)(b).