



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Jeff Hobday

### **Sub. S.B. 25**

132nd General Assembly  
(As Reported by H. Criminal Justice)

**Sens.** Hottinger, Coley, Bacon, Balderson, Dolan, Eklund, Gardner, Hoagland, Skindell, Thomas, Yuko

**Reps.** Manning, Rezabek, Conditt, Rogers

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## **BILL SUMMARY**

### **Perry County Municipal Court**

- Effective January 1, 2018, abolishes the Perry County County Court and its part-time judgeship and creates in New Lexington the Perry County Municipal Court with one full-time judge and with jurisdiction within Perry County.
- Specifies that the judge of the Perry County Municipal Court initially will be elected in 2017 and nominated only by petition.
- Provides that the Clerk of Courts of Perry County is the Clerk of the Perry County Municipal Court.
- Requires the Perry County Prosecuting Attorney to prosecute in the Perry County Municipal Court all violations of state law arising in Perry County.
- Authorizes the Perry County Prosecuting Attorney to enter into an agreement with any municipal corporation in Perry County by which the Prosecuting Attorney prosecutes all cases brought in the Perry County Municipal Court for violations of the municipal corporation's ordinances or for offenses other than violations of state law occurring within the municipal corporation.
- Includes transition provisions upon the abolition of the Perry County County Court and the establishment of the Perry County Municipal Court.

## **Criminal Justice Recodification Committee**

- Allows the member of the Criminal Justice Recodification Committee who must be a Justice of the Supreme Court and the member who must be a sheriff to be a current or former Justice of the Supreme Court, or current or former sheriff, respectively.
- Requires members of the Committee who are elected officials to serve until the committee is abolished.

## **Emergency clause**

- Declares an emergency.

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## **CONTENT AND OPERATION**

### **Perry County Municipal Court**

#### **Creation, judge, jurisdiction, and operation**

Under the current County Courts Law, the Perry County County Court has one part-time judge most recently elected in 2012.<sup>1</sup>

The bill abolishes the Perry County County Court and creates the Perry County Municipal Court to be established in New Lexington beginning January 1, 2018. In the Perry County Municipal Court, one full-time judge will be elected in 2017.<sup>2</sup>

Under the bill, beginning January 1, 2018, the Perry County Municipal Court has jurisdiction within Perry County and is included within the definition of "county-operated municipal court." In the Perry County Municipal Court, the judge will be nominated only by petition that must be signed by at least 50 electors of the territory of the Court and conform to the provisions of law pertaining to the nomination of municipal court judges.<sup>3</sup>

#### **Clerk of courts and assistant clerks**

Under the bill, the Clerk of Courts of Perry County is the Clerk of the Perry County Municipal Court and may appoint a chief deputy clerk for each branch office that is established by a municipal court pursuant to continuing law, and assistant clerks as the judge of the Court determines are necessary, all of whom will receive the

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<sup>1</sup> R.C. 1907.11(A) and R.C. 1907.13, not in the bill.

<sup>2</sup> R.C. 1901.01(A), 1901.02(A)(32), 1901.08, and 1907.11(A).

<sup>3</sup> R.C. 1901.02(B), 1901.03(F), and 1901.07(C)(6).



compensation that the Court's legislative authority prescribes.<sup>4</sup> Continuing law defines "legislative authority" regarding a county-operated municipal court as the board of county commissioners of the county in which the court is located.<sup>5</sup>

The Clerk of Courts of Perry County, acting as the Clerk of the Perry County Municipal Court and assuming the duties of that office, will receive compensation payable from the Perry County Treasury in semi-monthly installments at  $\frac{1}{4}$  the rate that is prescribed for the clerk of courts of common pleas as determined in accordance with the county's population and the rates set forth in the continuing laws setting the salary schedules for clerks of courts of common pleas and the salary increases for county elected officials.<sup>6</sup> The continuing law on group health care coverage for clerks, deputy clerks, and their spouses and dependents will not apply to the Clerk of the Perry County Municipal Court if health care coverage is provided to the Clerk by virtue of the Clerk's employment as the Clerk of the Court of Common Pleas of Perry County.<sup>7</sup>

### **Criminal prosecutions**

Under the bill, the Perry County Prosecuting Attorney must prosecute in the Perry County Municipal Court all violations of state law arising in Perry County, and may enter into an agreement with any municipal corporation in the county pursuant to which the Prosecuting Attorney prosecutes all cases brought before the Perry County Municipal Court for violations of the ordinances of the municipal corporation or for criminal offenses other than violations of state law occurring within the municipal corporation. For prosecuting these cases under such an agreement, the Prosecuting Attorney and the municipal corporation may agree upon a fee to be paid by the municipal corporation, which fee must be paid into the Perry County Treasury, to be used to cover the expenses of the Office of the Prosecuting Attorney.<sup>8</sup>

### **Transition provisions and effective date**

The bill provides that effective January 1, 2018, the Perry County County Court is abolished. All causes, judgments, executions, and other proceedings pending in that Court at the close of business on December 31, 2017, must be transferred to and proceed in the Perry County Municipal Court on January 1, 2018, as if originally instituted in the

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<sup>4</sup> R.C. 1901.31(A)(2)(c).

<sup>5</sup> R.C. 1901.03(B).

<sup>6</sup> R.C. 1901.31(A)(2)(c).

<sup>7</sup> R.C. 1901.312(D).

<sup>8</sup> R.C. 1901.34(B) and (D).



Perry County Municipal Court. Parties to those causes, judgments, executions, and proceedings may make any amendments to their pleadings that are required to conform them to the rules of the Perry County Municipal Court. The Clerk of the Perry County County Court or other custodian must transfer to the Perry 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 Perry 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, 2017. All employees of the Perry County County Court must be transferred to and become employees of the Perry County Municipal Court on January 1, 2018. Effective on that date, the part-time judgeship in the Perry County County Court is abolished.<sup>9</sup>

The bill provides that the Revised Code sections pertaining to the creation of the Perry County Municipal Court,<sup>10</sup> as amended by the act and as described above, take effect January 1, 2018.<sup>11</sup> The sections that pertain to elections,<sup>12</sup> as amended by the act and as described above, take effect immediately after the bill's enactment.<sup>13</sup>

### **Criminal Justice Recodification Committee**

The bill allows the member of the Criminal Justice Recodification Committee who must be a Justice of the Supreme Court and the member of the Committee who must be a sheriff to be a current or former Justice of the Supreme Court, or current or former sheriff, respectively. The bill also eliminates a current requirement that an elected official who serves on the Committee serve only until the person's term of office expires. Under the bill, an elected official on the Committee must serve until the Committee ceases to exist.

Continuing law creates and provides for the operation of the Committee, consisting of 24 members.<sup>14</sup> By June 30, 2017, the Committee must recommend to the

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<sup>9</sup> Section 5.

<sup>10</sup> R.C. 1901.01, 1901.02, 1901.03, 1901.31, 1901.312, 1901.34, and 1907.11.

<sup>11</sup> Section 6.

<sup>12</sup> R.C. 1901.07 and 1901.08.

<sup>13</sup> Section 8.

<sup>14</sup> Section 729.10 of Am. Sub. H.B. 483 of the 130th General Assembly, as amended by the bill.

General Assembly a comprehensive plan for revising Ohio's Criminal Code. Upon submitting its report to the General Assembly the Committee will cease to exist.<sup>15</sup>

### **Emergency clause**

The bill includes an emergency clause to provide continuity in the membership of the Criminal Justice Recodification Committee so that they may continue to complete the important work to which they are charged.<sup>16</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	01-31-17
Reported, S. Judiciary	02-14-17
Passed Senate (33-0)	02-15-17
Reported, H. Criminal Justice	03-22-17

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<sup>15</sup> Section 729.11 of Am. Sub. H.B. 483 of the 130th General Assembly, not in the bill.

<sup>16</sup> Section 8.

