

**OHIO CHIEF PROBATION OFFICER'S ASSOCIATION
LEGISLATIVE COMMITTEE
LEGISLATIVE AND JUDICIAL AFFAIRS UPDATE
(As of 05/09/2008)**

-THE LEGISLATIVE COMMITTEE WELCOMES QUESTIONS, BUT PLEASE REMEMBER THAT YOUR LEGAL COUNSEL OR COURT'S INTERPRETATION IS CONTROLLING, PARTICULARLY REGARDING CASE LAW ANALYSIS.

BILLS SIGNED BY GOVERNOR – From the 127 General Assembly beginning 01/01/2007

SB 209 To amend sections 1548.10, 4505.09, 4511.19, and 4519.59 and to enact section 120.08 of the Revised Code to direct that a specified amount of OVI fines be credited to the State Public Defender for indigent criminal defense, to permit clerks of courts who serve as deputy registrars to impose an additional cost for the processing of motor vehicle titles, and to make an appropriation. ***Sent to Governor on 03/18/2008 - 10 Day period ended 03/29/2008. This Bill should become law on or about June 29, 2008.***

\$75.00 of the fine imposed under division 4511.19(G)(1)(a)(iii);
\$125.00 of the fine imposed under division (G)(1)(b)(iii);
\$250.00 of the fine imposed under division (G)(1)(c)(iii); and
\$500.00 of the fine imposed under division (G)(1)(d)(iii) or (e)(iii)

Amended HB 181

This bill creates a new \$10.00 add-on court costs. The money has to be collected as part of the offender's bond. Individuals not convicted would be entitled to their money back. The money is earmarked as follows:

Indigent Defense Support Fund 50% Used to defray cost of public defender programs – Funds controlled by State Public Defender

Drug Law Enforcement Fund 30% Priority to existing drug task forces, then to new programs – Funds dispersed by Criminal Justice Services

Indigent Driver's Alcohol Treatment Fund 20% \$ controlled by General Assembly and earmarked to the various IDATF. A Court will have to establish an IDATF.

Passed House on 09/11/07 and Senate on 12/11/07. Conference Committee as of 03/11/2008

PENDING LEGISLATION – From the 127 General Assembly beginning 01/02/2007

As of May 05, 2008, 541 bills had been introduced in the Ohio House and 324 bills in the Ohio Senate. Introduced bills can be found in their entirety on the Ohio General Assembly website, located at <http://www.legislature.state.oh.us/index.cfm>

The following relevant bills have been introduced since the 127 General Assembly began on 01/01/2007.

OHIO HOUSE OF REPRESENTATIVES

HB 482 To amend section 149.43 of the Revised Code to authorize public offices to limit the number of bulk data requests, impose charges to cover the actual costs associated with bulk data requests, and charge for the cost of redacting certain information.

HB 496 To make capital reappropriations for the biennium ending June 30, 2010, and certain capital appropriations

HB 504 To amend sections 4510.31 and 4510.311 of the Revised Code to require probationary driver's license holders to complete a juvenile driver improvement program prior to exercising limited driving privileges granted during a license suspension.

HB 512 To amend section 2903.06 of the Revised Code to provide that the penalty enhancement for aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter for driving under a license suspension and the requirement for a mandatory prison term in certain cases of aggravated vehicular homicide and vehicular homicide for driving under suspension also apply to driving under cancellation and driving without a license.

HB 521 To create the Ohio Commission on Local Government Reform and Collaboration to develop recommendations on reforming and restructuring local government in Ohio.

Summary: House Bill 521 would create a commission to study ways to consolidate local governments. The belief is that fewer local governments will reduce taxpayer burdens and help stimulate the economy. The ideal is modeled after a similar Indiana commission that made several recommendations including transferring township government to county executives, abolishing elected county sheriffs, auditors, and treasurers and requiring school districts to have a minimum of 2000 students. The bill is assigned to Representative Larry Wolpert's local government committee.

This bill should be watched to see if courts are included within its umbrella or separate bills are inspired to include court reorganization.

The Dispatch article is at:

http://www.dispatch.com/live/content/local_news/stories/2008/04/07/GovtCombine.ART_ART_04-07-08_B1_QI9RQ2E.html?sid=101

HB 538 To amend sections 2743.191, 2929.13, 2929.15, 2929.23, 2929.25, 2967.28, 2971.03, and 2971.05 and to enact section 2967.29 of the Revised Code to require the imposition at sentencing or upon release from prison of lifetime active global positioning system device monitoring for Tier III sex offenders/child-victim offenders.

HB 542 To amend sections 4510.037 and 4510.038 of the Revised Code to eliminate the requirement that at least 50% of adult remedial driving courses be taken in person.

OHIO SENATE

SB 304 To amend section 2151.3516 of the Revised Code to increase the time after birth that a parent may voluntarily deliver the child to a safe haven without the parent expressing an intent to return for the child. (From 72 hours to 30 Days)

SB 307 To amend sections 325.33, 1548.06, 1548.10, 2303.20, 4503.033, 4505.032, 4505.06, 4505.09, 4505.11, 4519.55, 4519.59, and 4519.61 of the Revised Code to increase the fees charged by the Clerk of the Court of Common Pleas for services related to certificates of title and taking affidavits, and to make other changes pertaining to the Clerk's titling responsibilities.

SB 310 To amend sections 2961.01 and 2961.02 of the Revised Code to make existing laws prohibiting a person who has been convicted of a felony from holding public office and denying such person other specified privileges applicable upon the determination of the person's guilt.

Summary: Under current law, a person who is convicted of a felony is incompetent to: be an elector, juror or to hold an office of honor, trust, or profit; circulate or serve as a witness for the signing of any declaration of candidacy and petition, voter registration application, or nominating, initiative, referendum, or recall petition; a public office or position of public employment or to serve as a volunteer, if holding the public office or position of public employment or serving as the volunteer involves substantial management or control over the property of a state agency, political subdivision, or private entity.

Passage of this bill would also preclude those who plead guilty to a qualifying offense the same as if the person was convicted of a qualifying felony offense.

SB 315 To amend sections 2151.354 and 2152.19 of the Revised Code to provide that if a juvenile court suspends a child's probationary driver's license or temporary instruction permit, the suspension remains in effect for the period of time prescribed by the court but cannot last beyond the child's twenty-first birthday.

SB 317 To amend section 4507.071 of the Revised Code to allow a court, under certain circumstances, to grant unaccompanied driving privileges one time to a probationary driver's license holder who, because of a moving violation, otherwise would be subject to a restriction that the person be accompanied by the holder's parent or guardian.

CLOSER LOOKS & UPDATES

SB 21 Amendment Domestic Violence bill requiring court to consider certain factors for bond; mandatory jail sentences and mandatory anger management counseling

NO ACTION IN SENATE SINCE INTRODUCTION ON 02/20/2007

SB 244 Require that certain persons who engage in menacing by stalking and against whom a civil order of protection is granted be electronically monitored and to authorize courts to require that certain persons convicted of violating a protection order that requires electronic monitoring be electronically monitored. ***Introduced 10/24/2007 – No Action***

SB 252 Establishment of Community Courts
Introduced 11/08/2007 – No Action

HB 130 OMNIBUS DRC REENTRY BILL

This bill has passed the House Criminal Justice Committee on April 15, 2008. The Bill was assigned to the Senate Judiciary and Criminal Justice Committee on April 16, 2008.

HB 173 COURTS SECURITY FUND

Amends various sections of law to:

1. Increase the compensation of justices and judges of the courts;
2. Change the qualifications for all judges;
3. Require the Supreme Court to establish a qualification program for judicial candidates;
4. Create the Judicial Allotment Review Commission to study and review the allotment of judgeships to recommending legislation;
5. Create the Judicial Appointment Review Commission to make recommendations of persons to fill judicial vacancies;
6. Specify that a portion of certain court costs currently deposited to VOC fund be deposited in the court security fund, and to make appropriations for court-related purposes. (Supreme Court Security Fund – Estimated 4 million dollars)

Introduced in the *House Judicial Committee in April 2007* - Little Action The Daily Reporter noted on Monday January 28, 2008 that the bill was stalled due to Ohio's bleak economic forecast that shows a possible two billion dollar debt. Governor Strickland was also reported to have stated that judicial pay raises, which are part of the bill, are not appropriate at this time.

HB 279 To amend sections 4510.13, 4510.43, 4511.19, and 4511.191 and to enact sections 4510.45 and 4510.46 of the Revised Code to ***require certain OVI offenders who are granted limited driving privileges to operate only motor vehicles that are equipped with ignition interlock devices*** and to make other changes relative to such devices. ***Introduced 06/26/2007 - No Action***

HB 296 To amend sections 2929.14, 2929.19, and 2953.08 and to enact section 2941.1421 of the Revised Code to establish a presumption that a court should impose on a repeat offender the longest prison term authorized for an offense and to specify longer prison terms that a court may impose on felony offenders with two or more previous felony violations. ***Introduced 08/14/2007 – No Action***

HB 351 Permit the transfer of county jail inmates to contiguous counties in adjoining states. ***Introduced 10/16/2007 – No Action***

HB 365 To amend section 103.14 and to enact section 101.16 of the Revised Code to specify that if a bill provides for a new or increased jail term, prison term, or delinquent child commitment the General Assembly may not pass it unless the bill designates one or more funding sources from which the cost of the term or commitment will be paid, to require fiscal analyses prepared by the Legislative Service Commission to include an estimate for each such bill of the cost of the term or commitment. Also requires a task force to establish a state policy to limit future increases in the number of criminal offenders and delinquent children in correctional facilities and Department of Youth Services facilities and provide planning for modifying, expanding, and constructing those facilities necessary to satisfy the projected increased need for them. ***Introduced 10/25/2007 – No Action***

SB 17 OVI bill concerning certifying of SCRAM units, ignition interlock devices, license suspensions, and penalties.

Passed the Senate on May 10, 2007 and was introduced in the House on May 15, 2007. ***NO ACTION SINCE INTRODUCED ON 05/15/2007***

There has been some rumor that this bill, which appears to be stalled, would get re-energized in the late Spring or Fall. The bill is an unfunded mandate that, if enacted, would create a burden to Courts and supervision agencies regarding implementation in both pre-trial and post-trial supervision.

The Ohio Judicial Conference prepared a detailed Judicial Impact Statement on October 08, 2007. I encourage you to review the statement at this link.

http://www.ohiojudges.org/_cms/tools/act_Download.cfm?FileID=1783&/JIS%20GA127%20SB17-2.pdf

The senate version of the bill can be viewed in its entirety at:
http://www.legislature.state.oh.us/bills.cfm?ID=127_SB_17

The concern for this bill at the May 1008 OCPOA meeting was evident. Please forward your questions or concerns to an association officer or board member so the Executive Board can respond to this issue if necessary.

DETERMINING LEGISLATIVE COMMITTEES AND MEMBERS

Ohio House of Representatives <http://www.legislature.state.oh.us/house.cfm>

Ohio Senate <http://www.legislature.state.oh.us/senate.cfm>

TERMINATION OR REDUCTION OF VETERANS BENEFITS

A Court needs to advise the Department of Veteran's Affairs when veterans receiving VA benefits or pensions ***are convicted of any felony or misdemeanor resulting in excess of 60 days incarceration.***

AUTHORITY 38 CFR 3.665
 38 CFR 3.666
 M21-MR-III. V.8.A

The easiest way to do this is to send a copy of the sentencing entry to your local county Veteran's Affairs Board. Remember, the prohibition includes conviction for any felony or misdemeanor resulting ***in excess of 60 days incarceration.***

Breakdown – Responsibility of V.A.

Incarcerated Veterans:

-The V.A. will discontinue a pension award or reduce a compensation award effective the 61st day following the veteran's

1. conviction of a felony or misdemeanor, ***and***
2. imprisonment in a penal institution (*federal, state or local*)

Formula for Reduction of Benefits

1. Reduce compensation payments to the 10 % rate for any veteran with an evaluation of 20 % or greater. Reduce payment to one-half of the 10% rate for:
 - A. a veteran with a disability evaluation of less than 20 %, or
 - B. zero percent combined evaluation with special monthly compensation

Veterans in Receipt of Pension

-Discontinue pension payments upon receipt of official notice showing:

1. conviction of a felony or misdemeanor, and
2. imprisonment in a federal, state or local penal institution exceeding 60 days

Notes:

1. Pension payments are to be discontinued for any period of incarceration representing initial confinement after conviction or reincarnation for parole violation. (confinement in excess of 60 days)
2. The veteran may be entitled to reduced compensation while incarcerated.

Apportionment for Dependents of Veterans in Receipt of Pension

1. If an incarcerated veteran is married or has children, the VA may apportion benefits to dependents on receipt of a claim for apportionment from the veteran or the eligible dependents.
2. A period of apportionment is granted only for the period of the beneficiary's incarceration.
3. Apportionment is subject to immediate discontinuance upon the incarcerated person's release or participation in a work-release or halfway house program

ADAM WALSH UPDATE

State vs. Clabo 2000-CR-00174 Clermont County Decided 02/15/2008

This is the first court to find the Provisions of SB-10 (The Adam Walsh Act), constitutional. Clabo was convicted of Corruption of a Minor in 2000 and classified as a sexually oriented offender. SB-10 provisions reclassified the Defendant as a Tier 2 offender increasing his reporting requirements from ten years to twenty-five years.

Clabo appealed his re-classification on several grounds: The Court overruled all of Clabo's arguments, holding:

1. Clabo failed to prove by clear and convincing evidence that the new registration requirements did not apply to him as set forth in the notice provided to him by the A.G.
2. Clabo was not classified as a Tier III offender and was therefore not entitled to relief from the community notification requirements.
3. The new classification and registration requirements are not impermissibly retroactive and do not violate Section 28, Article II of the Ohio Constitution. The new classification and registration laws are remedial in nature and do not violate the ex-post facto clause of the U.S. Constitution.
4. The new classification and registration requirements do not violate the separation of powers principle in the Ohio Constitution.
5. The new classification and registration requirements do not violate the double jeopardy clauses of the U.S. and Ohio Constitutions; and
6. The new classification and registration requirement do not violate the petitioner's right to procedural or substantive due process.

Miscellaneous

Always a Cop Around When You Don't Need One

Chicago authorities said RamiroSalgado, 26, broke four laws when he drove off in his GMC Suburban: He was drunk, had an open bottle of liquor, lacked insurance, and his driver's license was suspended. Things got worse, the *Chicago Sun-Times* reported, when he lost control of his SUV and crashed head first into a police squad car.

Columbus Alive – April 03, 2008

Respectfully Submitted;

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