

provision may result in some increase in both costs and workload. Due to the serious nature of these types of cases, death penalty trial files tend to be significantly larger than the average felony level trial file, thus making a copy could prove to be more time consuming. However, since very few death sentences are imposed in any given year, and at least some clerks are already doing this, any impact is likely to be minimal, at most.

Petition for postconviction relief page limits

The bill specifies that there is no page limit on petitions for postconviction relief, or prosecuting attorney responses by answer or motion, in death penalty cases or in appeals of denials of such relief. Although current law does not impose, nor address whether there is, a limit to the number of pages or length of such petitions, Rule 35 of the Ohio Rules of Criminal Procedure states that each separately identified ground for relief that is included in the petition must not exceed three pages in length. There is no page limit for attachments of exhibits or other supporting materials. Trial courts are also permitted to extend these page limits. As such, removing the page limits on petitions for postconviction relief in death penalty cases is unlikely to result in significant additional costs.

Depositions and subpoenas during postconviction relief proceedings

The bill provides for depositions and subpoenas in certain circumstances during discovery in postconviction relief proceedings where a person has been sentenced to death. Under current law, unchanged by the bill, a petition for postconviction relief in death penalty cases must be filed no later than 365 days from the date on which the trial record is filed in the Supreme Court. As such, this provision will primarily impact an individual who is sentenced to death on or after the effective date of the bill. However, given the time frame within which a petition for postconviction relief must be filed, it is possible that this provision may apply to one of the three death sentences that were issued in 2014, depending upon the date in which the trial record was filed with the Supreme Court.

In the event that a person sentenced to death requests a deposition during discovery in postconviction relief proceedings and the court grants that request, the amount of time it takes a court to make a determination as to whether the petition should be granted or denied will likely increase, as will the workload for prosecutors and indigent defense. Given that the postconviction relief proceedings would be taking place anyway, it is difficult to determine the magnitude of any impact that may be experienced as a result of allowing depositions. It is also unclear as to how many cases might meet the bill's criteria to permit such a deposition.

Postconviction relief determinations

The bill requires a judge hearing a postconviction relief proceeding where a person has been sentenced to death to state specifically in the findings of fact and conclusions of law why each claim was either denied or granted. According to the Judicial Conference, judges typically do this already, so any impact is likely to be minimal, at most.

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