



Ohio Legislative Service Commission

Bill Analysis

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S.B. 227

131st General Assembly
(As Introduced)

Sen. Bacon

BILL SUMMARY

Cost of obtaining records from a financial institution

- Exempts the state from the obligation to pay a financial institution the cost of providing a customer's financial records in connection with a criminal investigation or prosecution when the records are required under a subpoena, demand for production, request for records, or demand for inspection issued by or on motion of the Attorney General (AG) or the Organized Crime Investigations Commission (R.C. 9.02(D)(2)).

Public records

Competitive solicitation materials

- Provides generally that materials submitted to a public office in response to a "competitive solicitation" are not public records until the date the public office announces the award of a contract based on the solicitation or the cancellation of the solicitation (R.C. 9.28(B)).
- Provides that if a public office rejects all bids or proposals received in response to a competitive solicitation and gives notice of its intent to reissue the solicitation, the materials submitted in response to the original and reissued solicitation are not public records until the date the public office announces the award of a contract based on the reissued solicitation or the cancellation of the reissued solicitation (R.C. 9.28(C)).

Exemption from Public Records Law of personal information

- Expands the exemptions under the Public Records Law to also include "personal information," which is defined under continuing law as an individual's Social

Security number; federal tax identification number; driver's license number or state identification number; or checking account number, savings account number, or credit card number (R.C. 149.43(A)(1)(dd), and 149.45, not in the bill).

Collections enforcement

- Allows the AG to appoint *and authorize* special counsel to represent the state *and any political subdivision* in connection with claims certified to the AG for collection or that the AG is authorized to collect (R.C. 109.08).
- Specifies that the amounts paid to special counsel may be assessed as collection costs and are fully recoverable from the indebted party and that the amounts so assessed are in addition to other collection costs (R.C. 109.08).
- Permits the AG to provide to special counsel the AG's letterhead stationery (currently, the AG must provide it to special counsel appointed to represent the state in matters involving the collection of certain taxes) and to authorize special counsel's use of the stationery in connection with the collection of claims arising out of amounts certified by the state and political subdivisions (R.C. 109.08).
- Removes language allowing use of the stationery only in connection with the collection of certain taxes (R.C. 109.08).
- Specifies that the intent in making these changes is to clarify that it has always been the General Assembly's intent to give the AG discretion to authorize special counsel to use the AG's official letterhead stationery in connection with the collection of any certified claims, even outside of the Tax Code (Section 4).

Recovery of collection costs

- Specifies that the existing provision requiring the payment into the Attorney General Claims Fund of up to 11% of the amounts collected by the AG on claims applies only with respect to claims certified in accordance with R.C. 131.02 (R.C. 109.081).
- Specifies that the amount payable to the fund must be assessed as an additional collection cost and is fully recoverable from the debtor (R.C. 109.081).

Attorney General training of officials and designees

- Expands the Public Records Law training that the AG currently must develop, provide, and certify for elected officials to also cover the Open Meetings Law (R.C. 109.43(B)).



- Repeals the requirement that the AG ensure that the Public Records Law training provided to satisfy the education requirements imposed on elected officials or their appropriate designees are accredited by the Supreme Court's Commission on Continuing Legal Education (R.C. 109.43(B)).

Forfeiture funds, forfeiture expenditure, and BCII

- Adds the existing Bureau of Criminal Identification and Investigation (BCII) Asset Forfeiture and Cost Reimbursement Fund to the funds receiving a portion of the proceeds of sales of forfeited property; requires the Fund to be used only in accordance with a written internal control policy of the AG, for specified law enforcement purposes or other law enforcement purposes the AG determines to be appropriate; and prohibits use of the Fund for the AG's operating costs (R.C. 2981.13(B)(4)(b), (C)(2)(a)(v), and (C)(2)(c)).
- Requires that amounts awarded to BCII as a result of shared state asset forfeiture (continuing law applies this requirement only with respect to shared federal asset forfeiture) and all amounts received by BCII under the forfeiture statute be deposited in the BCII Asset Forfeiture and Cost Reimbursement Fund (R.C. 109.521).

BCII assistance to county coroners

- Requires the Superintendent of BCII, upon a county coroner's request, to assist the coroner in the identification of a deceased person through the use of fingerprint impressions (R.C. 109.57(A)(6)).

Criminal records information

- Clarifies the application of an existing provision that authorizes the BCII to release information relating to an arrest, a delinquent child adjudication, or a conviction of a minor when a criminal records check is requested pursuant to statutory authorization and either a criminal action resulting from the arrest is pending or the BCII cannot reasonably determine whether there has been a final disposition of a criminal action resulting from the arrest (R.C. 109.572(F) and 109.578(E)).

Court authority to take fingerprints

- Allows a court have a person's fingerprints taken at the time of sentencing or adjudication as an alternative to requiring a sheriff or police chief to take the fingerprints, if fingerprinting was required but not done at the time of arrest, arraignment, or first appearance (R.C. 109.60(A)(3)).

Arming of Attorney General investigators

- Authorizes investigators appointed by the AG for Medicaid, patient abuse, and related investigations to go armed in the same manner as sheriffs and regularly appointed police officers under the concealed carry law (R.C. 109.85(A) and 109.86(A)).

Organized Crime Investigations Commission – law enforcement trust fund

- Requires the Organized Crime Investigations Commission to establish a law enforcement trust fund for receiving reimbursement of expenses the Commission incurred in investigating criminal activity through a task force (R.C. 177.05).
- Creates the Organized Crime Law Enforcement Trust Fund in the state treasury, provides that the Fund consists of all moneys paid to the State Treasurer for purposes of the Fund, provides for reinvestment of interest in the Fund, and specifies the allowable uses of the Fund (R.C. 177.05).

Ohio's Anti-Trust Law (the Valentine Act)

- Adds to the trusts prohibited under the state antitrust law a combination of capital, skill, or acts by two or more bidders or potential bidders, or one or more bidders or potential bidders and any person affiliated with a public office (defined by the bill), to restrain or prevent competition in the letting or awarding of any public contract in derogation of any statute, ordinance, or rule requiring the use of competitive bidding or selection in the letting or awarding of the public contract (R.C. 1331.01(B) and (C)(2) and 1331.04).
- Adds a specified antitrust violation and violations of substantially similar laws of other states to conduct constituting corrupt activity under the Ohio Corrupt Activity Law and prohibits a court from imposing, in lieu of the usual fine, a fine not exceeding the greater of three times the gross value gained or three times the gross loss caused for an incident of corrupt activity predicated on a conspiracy against trade (R.C. 2923.31(I)(2)(a) and (3) and 2923.32(B)(2)(c)).
- Eliminates the separate offense of combining to control the price or supply of food (R.C. 1331.99(B) and repeal of R.C. 1331.05).
- Prohibits the AG from disclosing publicly the facts developed in an antitrust investigation unless the matter has become public through official proceedings or unless the person from whom the information has been obtained consents to the public disclosure (R.C. 1331.17).

- Increases the penalty for conspiracy against trade from a first degree misdemeanor to a fifth degree felony, or, under specified circumstances, to a fourth degree felony (R.C. 1331.99(A) and (C)).

Consumer Sales Practices Act (CSPA)

- Specifies that certain currently prohibited activities, such as encouraging a consumer to default on a mortgage or loan agreement, constitute an unconscionable act in connection with a consumer transaction, in addition to being an unconscionable act in connection with the origination of a residential mortgage (R.C. 1345.031(B)(6), (7), and (15)).
- Revises the CSPA provisions that apply to a consumer transaction in connection with the *origination of* a residential mortgage (R.C. 1345.03(C) and 1345.031(A)).
- Makes a supplier's failure to be licensed, registered, insured, or bonded as required by state law or local ordinance an unfair or deceptive act or practice under the CSPA and authorizes the AG to bring a class action against the supplier for violating the requirement (R.C. 1345.02(G) and 1345.07(A)(3)(a)).

Home Solicitation Sales Act: Martin Luther King Day

- Adds Martin Luther King Day to the days excluded from the definition of "business day" for purposes of the Home Solicitation Sales Act (R.C. 1345.21(I)).

Home Solicitation Sales Act and Prepaid Entertainment Contracts Act: notice of cancellation

- Additionally authorizes a consumer to give notice of cancellation of a prepaid entertainment contract by email and fax, specifies when delivery by fax or email is effective, and removes telegram as an acceptable means of cancellation (R.C. 1345.43 and 1345.44).
- Makes conforming changes to the statutory notice-of-cancellation forms for both home solicitation sales and prepaid entertainment contracts (R.C. 1345.23 and 1345.44).

Enforcement reports

- Replaces the requirement that the AG report quarterly to the Department of Commerce all enforcement actions taken against loan officers, mortgage brokers, and nonbank mortgage lenders, and related judgments, with a requirement that the AG notify the Department of all such enforcement actions and judgments (R.C. 1349.43).



Charitable organizations – late fees

- Requires a charitable organization that does not timely pay registration fees required under existing law to pay a late fee of \$200 (R.C. 1716.02).
- Permits the AG to waive this late fee under specified circumstances and provides an exception to this late fee for those charitable organizations required to pay a late fee in connection with the filing of the trustee's annual report (R.C. 1716.02).
- Requires the fund-raising counsel and a professional solicitor to make complete and timely filings, and otherwise subjects them to liability and a \$200 late fee, in addition to any other penalties under existing law (R.C. 1716.05(F) and 1716.07(J)).

Reparations Fund

- Requires that interest on money in the Reparations Fund be credited to the Fund (R.C. 2743.191(E)).

Reparations statute of limitations for minors

- Authorizes minor victims as well as adult victims of criminally injurious conduct to file an application for an award of reparations at any time after the criminally injurious conduct occurred, and repeals the existing special filing period for minor victims (R.C. 2743.56(B) and 2743.71(B)(2)).

Offense of patient abuse

- Adds to the definition of "offense of violence" that applies throughout the Revised Code the offense of patient abuse committed by a person who owns, operates, or administers or who is an agent or employee of a "care facility" against a resident or patient of the facility, a current or former offense of any jurisdiction substantially equivalent to patient abuse, or a conspiracy or attempt to commit or complicity in committing patient abuse (R.C. 2901.01(A)(9)(a)).

Solid and hazardous waste crimes

Attempted commission of a crime

- Provides that *any* attempt to violate the Solid and Hazardous Wastes Law (other than a statute relating to fees), rather than an attempted violation of that Law *relating to hazardous wastes*, is a felony punishable in a specified manner (R.C. 2923.02(E)(1)).

Addition of certain crimes as corrupt activity

- Adds certain felony violations of the Solid and Hazardous Wastes Law and violations of substantially similar laws of other states to conduct constituting corrupt activity under the Ohio Corrupt Activity Law (R.C. 2923.31(I)(2)(h) and (3)).

Child pornography evidence

- Requires that any "child pornography" that is offered as evidence or that comes into the custody or control of the prosecutor or the court remain in the custody or control of the prosecutor or the court (R.C. 2945.63(B)).
- Requires a court in a criminal proceeding to deny a defendant's request to reproduce any child pornography if the prosecutor gives the defendant, the defendant's attorney, and any individual the defendant seeks to qualify as an expert witness at trial ample opportunity to examine the child pornography where it is being held by the prosecutor or the court (R.C. 2945.63(C)).

Sealing of conviction record

- Requires an applicant for the sealing of a criminal conviction record, unless the applicant is indigent, to pay an additional fee established by the AG, to be paid into the existing Attorney General Reimbursement Fund, and prohibits waiver of the additional fee unless the court waives all other fees imposed under the sealing statute (R.C. 2953.32(C)(4)).
- Requires a court that orders the sealing of a criminal conviction record to order the person whose record is sealed to be fingerprinted by a sheriff; requires the sheriff to forward the fingerprints to the court; and requires the court to forward the fingerprints and a copy of the sealing order to BCII (R.C. 2953.32(C)(5)).
- In the provision that includes the fee paid in a proceeding for the sealing of a criminal conviction record as one of the fees, costs, and sanctions that a court of record must tax as costs or otherwise require to be paid in a case, specifies that the provision applies with respect to all fees to be paid in the sealing proceeding (R.C. 2746.02(O)).

Criminal records sealing – exception for law enforcement applicants

- Permits a law enforcement agency or its authorized employee and the Department of Rehabilitation and Correction to inspect a sealed criminal conviction record of a person who applies for employment in any capacity with the agency or Department;



currently, this provision applies only with respect to persons who apply for a position as a law enforcement or corrections officer (R.C. 2953.32(D)(6)).

- Permits the Department of Youth Services to inspect a sealed criminal conviction record of a person who applies for employment in any capacity with the Department (R.C. 2953.32(D)(6)).

Medicaid Estate Recovery Program: property subject to transfer on death

- Modifies the Medicaid Estate Recovery Program form concerning real property subject to a transfer on death to require the beneficiary to indicate (1) whether or not the deceased owner had ever been a Medicaid recipient or the beneficiary's lack of knowledge on the subject and (2) the same regarding a predeceased spouse of the owner (R.C. 5302.221(B)).
- Requires the Medicaid Estate Recovery Program Administrator to make the above form available to county recorders and requires county recorders to make the form available to beneficiaries (R.C. 5302.221(C)).
- Requires a beneficiary to submit a copy of a completed form to the Administrator if the form indicates either (1) that the deceased owner of the property or the deceased owner's predeceased spouse had been a Medicaid recipient or (2) that the beneficiary lacks knowledge on the subject (R.C. 5302.221(C)).

HISTORY

ACTION	DATE
Introduced	10-13-15

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