



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Andrew Little

H.B. 390

132nd General Assembly
(As Introduced)

Rep. Merrin

BILL SUMMARY

- Specifies how days are counted for the Eviction Law's requirement of prior notice before the filing of an eviction action and the deadline for law enforcement to execute an order of eviction (a writ of execution) in the action.
-

CONTENT AND OPERATION

The bill specifies how time periods are calculated regarding the Eviction Law's requirement of prior notice before the filing of an eviction action and the deadline for law enforcement to execute an order of eviction (a writ of execution) in the action. Under the bill, the period begins the day after the notice or writ is delivered, and all intervening days, including Saturdays, Sundays, and legal holidays, are counted. Under existing law, Sundays and legal holidays are excluded if they fall on the last day.

Generally, continuing law requires a property owner to give the person to be evicted at least three-days' notice to leave the property before filing an eviction action.¹ If that person voluntarily leaves the property within three days, no action for eviction is needed.

If the court orders an eviction in an eviction action, the property owner can request a writ of execution directing law enforcement to carry out the eviction.²

¹ R.C. 1923.04(A).

² R.C. 1923.13, not in the bill.

Continuing law requires law enforcement to do so within ten days after receiving the writ.³

The bill changes the way days are counted with respect to the three-day period and ten-day period described above. Under the general rule of construction in existing law, R.C. 1.14, days are counted by excluding the first day (the day the notice is given or the writ of execution is received) and including the last day, unless the last day falls on a Sunday or legal holiday. In that case, the next day that is not a Sunday or legal holiday is considered the final day.⁴

The bill requires that Saturdays, Sundays, and legal holidays be counted when calculating the relevant three- and ten-day periods. By way of example, under R.C. 1.14, if a three-day notice is given on Thursday, the soonest an eviction action can be filed is the following Tuesday. Friday is counted as the first day, Saturday is counted as the second, Sunday is excluded, and Monday is counted as the third day. Under the bill, however, Sunday would be counted as the third day and the action could be filed on Monday.

COMMENT

1. Rule 6(A) of the Ohio Rules of Civil Procedure appears on its face to be relevant, as it provides a similar rule, but it counts the days differently. It excludes the day of the act from which the period of time begins to run, and excludes the last day if it falls on a Saturday, as well as a Sunday or legal holiday. That Rule also provides that, when the relevant period of time is less than seven days, intermediate Saturdays, Sundays, and legal holidays are excluded in all instances.⁵ Several Ohio courts have found that rule is inapplicable to actions for forcible entry and detainer, however.⁶

To put this rule, R.C. 1.14, and the bill in context, the following table describes the different timelines if the notice is filed, or the writ is delivered, on a Thursday (and no legal holidays are involved):

³ R.C. 1923.14(A).

⁴ R.C. 1.14, not in the bill.

⁵ Civ.R. 6(A), not in the bill.

⁶ See *State ex rel. GMS Mgmt. Co. v. Lazzaro*, 8th Dist. No. 97875, 2012-Ohio-3961, ¶¶ 7–9.



| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|------------------------------------|---|----------------------------------|---------------------------------------|---|--------|----------|
| 1 | 2 | | 4 | 5 Notice filed/ writ delivered | 6 | 7 |
| 8 | 9 Bill – file action | 10 R.C. 1.14 – file action | 11 Civ.R. 6(A) – file action | 12 | 13 | 14 |
| 15 Bill – execute writ by | 16 R.C. 1.14 and Civ.R. 6(A) – execute writ by | 17 | 18 | 19 | 20 | 21 |

2. The Eviction Law also states that two types of notice required outside the Eviction Law are sufficient to meet the usual pre-filing notice requirement. The first relates to forfeiture of land contracts, where a ten-day notice is required. The second relates to evictions required under the Landlord-Tenant Act after violations of certain drug laws, and a three-day notice is required. The bill does not appear to apply to these time periods.⁷

HISTORY

ACTION

DATE

Introduced

10-24-17

H0390-I-132.docx/ks

⁷ R.C. 1923.04(B); R.C. 5313.05, 5313.06, 5321.04(A)(9), and 5321.17(C), not in the bill.

