



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Aida S. Montano

H.B. 672

132nd General Assembly
(As Introduced)

Rep. Barnes

BILL SUMMARY

- Creates a judicial procedure for persons to correct any error, omission, or legal defect in a public record that personally affects them.
- Specifies that a court may find a public record legally defective if the public office improperly executed it, failed to comply with the procedural requirements of state law, or violated the petitioner's due process rights when it issued the record.
- Requires a petitioner to specify the error, omission, or legal defect, the basis for the petitioner's belief that the record is inaccurate or defective, and the manner in which the petitioner believes the record should be amended, if possible, to cure any inaccuracy.
- Requires the public office responsible for the record to respond by either acknowledging the error, omission, or defect, or denying the allegation, stating the basis for its belief that the record is accurate, complete, and properly executed.
- Directs the court to make an order to correct or invalidate the public record after a hearing if the court finds by a preponderance of the evidence that the error described in the petition was made and that the petitioner has been personally affected by the inaccurate or legally defective record.
- Provides that, on or after the date of filing, the record and order correcting or invalidating it must be received as evidence in all subsequent judicial and administrative proceedings that the record was inaccurate or legally defective.
- Requires every public office in the state to publish an explanation of the procedure by which an error, omission, or legal defect in a public record may be addressed.
- Entitles the bill the "Final Order Correction Act."

CONTENT AND OPERATION

Correcting errors in public records

The bill creates a procedure for persons to correct errors and omissions in public records or invalidate legally defective records that personally affect them through filing a petition with the court. "Public record" has the same meaning in the bill as in the Public Records Law.¹ The bill provides that a record may be found legally defective if the public office improperly executed the document, failed to comply with the procedural requirements of state law, or violated a petitioner's constitutional right to due process of law when it issued the record.²

Court procedure and remedy

Under the bill, when an error, omission, or legal defect exists in a public record, a person claiming an interest in its correction may file a petition in the court of common pleas requesting an order for correction or invalidation of the record. The petition must be filed either in the county where the public office responsible for the record is located or in the county where the record is kept.³

The petition must specify the error, omission, or legal defect, the basis for the petitioner's belief that the record is inaccurate or legally defective, and the manner in which the petitioner believes the record should be amended, if possible, to cure any inaccuracy or defect.⁴ The public office responsible for the record at issue must be served the petition in the same manner as prescribed for making service in civil actions. In response to the petition, the public office must file an answer either acknowledging the error, omission, or legal defect, or denying the allegation, stating the basis for its belief that the record is accurate, complete, and properly executed, and citing the law or rule relied upon in creating the record.⁵

When a court receives the petition, the court must schedule and conduct a hearing to consider the evidence presented regarding the public record at issue. After a hearing, if the court finds by a preponderance of the evidence that the error, omission, or legal defect described in the petition was made and that the petitioner has been

¹ R.C. 149.46(G).

² R.C. 149.46(E).

³ R.C. 149.46(A).

⁴ R.C. 149.46(B).

⁵ R.C. 149.46(C).



personally affected, the court must issue its findings together with its reasons and make an order to correct the record or declare it invalid. The order must be filed in the office where the record is required to be kept. On or after the date of filing, the record and order must be received as evidence in all subsequent judicial and administrative proceedings that the record was inaccurate or legally defective.⁶

Publication of procedure

The bill requires every public office in the state to publish, either in print or on the public office's website, an explanation of the procedure by which an error, omission, or legal defect in a public record may be addressed through the judicial procedure established by the bill.⁷

Title

The bill is entitled the "Final Order Correction Act."⁸

HISTORY

ACTION	DATE
Introduced	05-22-18

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⁶ R.C. 149.46(D).

⁷ R.C. 149.46(F).

⁸ Section 2.

