

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 210**

**Representative Green  
Cosponsor: Representative Thompson**

---

**A BILL**

To amend sections 325.071, 325.12, and 2981.13 and  
to enact sections 319.70, 319.71, 319.72, and  
319.73 of the Revised Code regarding certain  
accounts of county agencies and county elected  
officials.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 325.071, 325.12, and 2981.13 be  
amended and sections 319.70, 319.71, 319.72, and 319.73 of the  
Revised Code be enacted to read as follows:

**Sec. 319.70.** As used in sections 319.70 to 319.73 of the  
Revised Code:

"County agency" means a department, division, board,  
commission, office, or other governmental entity of the county.

"Custodial account" means an account established by a  
county agency or county elected official in the performance of  
the agency's or official's duties that consists of moneys,  
claims, bonds, notes, other obligations, stocks, or other  
securities, receipts or other evidences of ownership, and other  
intangible assets that is neither required to be kept in the

custody of the county treasurer nor required to be part of the 19  
county treasury, including a furtherance of justice fund created 20  
under section 325.071 or 325.12 of the Revised Code and a law 21  
enforcement trust fund created under section 2981.13 of the 22  
Revised Code. 23

Sec. 319.71. Not less than thirty days before establishing 24  
a custodial account, a county agency or county elected official 25  
shall notify the county auditor of the agency's or official's 26  
intent to establish a custodial account. 27

A board of county commissioners may, by resolution, 28  
establish circumstances under which a county agency or county 29  
elected official is required to obtain approval of the board 30  
before establishing a custodial account. If the board requires 31  
approval, the county agency or county elected official, not less 32  
than thirty days before establishing a custodial account, shall 33  
obtain the approval of the board of county commissioners before 34  
establishing the custodial account. 35

Sec. 319.72. (A) (1) A county agency or county elected 36  
official shall file with the county auditor all monthly 37  
statements issued for a custodial account within thirty days 38  
after receiving the statement. 39

(2) Annually not later than the thirty-first day of 40  
January, the county agency or county elected official shall file 41  
with the county auditor an annual report regarding the custodial 42  
account on a form prescribed by the county auditor. 43

(3) The county auditor may request from a county agency or 44  
county elected official a copy of any statement, document, or 45  
other record regarding a custodial account established by the 46  
agency or official. Not later than thirty days after receiving a 47

request, the agency or official shall provide all requested 48  
information to the auditor or shall provide in writing a reason 49  
why the requested information cannot be provided. 50

(B) A county agency or county elected official shall mark 51  
as confidential any copy of a statement, document, or other 52  
record the agency or official provides to the auditor unless the 53  
statement, document, or other record previously has been made 54  
available in response to a public records request. When in 55  
possession of the auditor, a copy of a statement, document, or 56  
other record provided by the agency or official to the auditor 57  
under this division is not a public record under section 149.43 58  
of the Revised Code. 59

**Sec. 319.73.** A county auditor shall verify that a 60  
custodial fund is expended in accordance with the allowable uses 61  
of that fund by requesting documents as necessary and reviewing 62  
all the documents the auditor receives under section 319.72 of 63  
the Revised Code. 64

**Sec. 325.071.** There shall be allowed annually to the 65  
sheriff, in addition to all salary and allowances otherwise 66  
provided by law, an amount equal to one-half of the official 67  
salary allowed under division (A) of section 325.06 and section 68  
325.18 of the Revised Code, to provide for expenses that the 69  
sheriff incurs in the performance of the sheriff's official 70  
duties and in the furtherance of justice. Upon the order of the 71  
sheriff, the county auditor shall draw the auditor's warrant on 72  
the county treasurer, payable to the sheriff or any other person 73  
as the order designates, for the amount the order requires. The 74  
amounts the order requires, not exceeding the amount provided by 75  
this section, shall be paid out of the general fund of the 76  
county. 77

Nothing shall be paid under this section until ~~the~~; 78

(A) The sheriff files with the county auditor the annual 79  
report for the previous year required under division (A) (2) of 80  
section 319.71 of the Revised Code; and 81

(B) The sheriff gives bond to the state in an amount not 82  
less than the sheriff's official salary, to be fixed by the 83  
court of common pleas or the probate court, with sureties to be 84  
approved by either of those courts. 85

The bond required under this section shall be conditioned 86  
that the sheriff will faithfully discharge all the duties 87  
enjoined upon the sheriff, and pay over all moneys the sheriff 88  
receives in an official capacity. The bond, with the approval of 89  
the court of common pleas or the probate court of the amount of 90  
the bond and the sureties on the bond, shall be deposited with 91  
the county treasurer. 92

The sheriff ~~annually, before the first Monday of January,~~ 93  
~~shall file with the county auditor an itemized statement,~~ 94  
~~verified by the sheriff, as to the manner in which the fund~~ 95  
~~provided by this section has been expended during the current~~ 96  
~~year, and, if pay into the county treasury any part of ~~that the~~~~ 97  
~~fund that remains in the sheriff's hands unexpended at the end~~ 98  
~~of a year, forthwith shall pay the remainder into the county~~ 99  
~~treasury.~~ 100

**Sec. 325.12.** (A) Except for the prosecuting attorney of a 101  
county with a population of less than seventy thousand one, 102  
there shall be allowed annually to the prosecuting attorney, in 103  
addition to the prosecuting attorney's salary provided by 104  
sections 325.11 and 325.18 of the Revised Code and to the 105  
allowance provided for by section 309.06 of the Revised Code, an 106

amount equal to one-half of the official salary the prosecuting attorney receives, to provide for expenses the prosecuting attorney may incur in the performance of the prosecuting attorney's official duties and in the furtherance of justice.

(B) There shall be allowed annually to the prosecuting attorney of a county with a population of less than seventy thousand one, in addition to the prosecuting attorney's salary provided by sections 325.11 and 325.18 of the Revised Code and to the allowance provided for by section 309.06 of the Revised Code, an amount equal to one-half of the salary specified for a prosecuting attorney with a private practice under sections 325.11 and 325.18 of the Revised Code, to provide for expenses the prosecuting attorney may incur in the performance of the prosecuting attorney's official duties and in the furtherance of justice.

(C) Upon the order of the prosecuting attorney, the county auditor shall draw the county auditor's warrant on the county treasurer, payable to the prosecuting attorney or any other person as the order designates, for the amount the order requires, not exceeding the amount provided by division (A) or (B) of this section to be paid out of the general fund of the county.

(D) Nothing shall be paid under this section until ~~the~~ :

(1) The prosecuting attorney files with the county auditor the annual report for the previous year required under division (A) (2) of section 319.71 of the Revised Code; and

(2) The prosecuting attorney has given bond to the state in a sum, not less than the prosecuting attorney's official salary, to be fixed by the court of common pleas or the probate

court, with sureties to be approved by either of those courts. 136

The bond required under this division shall be conditioned 137  
that the prosecuting attorney will faithfully discharge all the 138  
duties enjoined upon the prosecuting attorney, and pay over all 139  
moneys received by the prosecuting attorney in the prosecuting 140  
attorney's official capacity. The bond, with the approval of the 141  
court of common pleas or the probate court of the amount of the 142  
bond and the sureties on the bond, and the prosecuting 143  
attorney's oath of office enclosed with the bond, shall be 144  
deposited with the county treasurer. 145

(E) The prosecuting attorney shall, ~~annually, before the~~ 146  
~~first Monday of January, file with the auditor an itemized~~ 147  
~~statement, verified by the prosecuting attorney, as to the~~ 148  
~~manner in which the fund provided by this section has been~~ 149  
~~expended during the current year, and, if pay into the county~~ 150  
~~treasury any part of ~~that the fund that~~ remains in the~~ 151  
prosecuting attorney's hands unexpended, ~~forthwith shall pay the~~ 152  
~~remainder into the county treasury at the end of the year.~~ 153

**Sec. 2981.13.** (A) Except as otherwise provided in this 154  
section, property ordered forfeited as contraband, proceeds, or 155  
an instrumentality pursuant to this chapter shall be disposed 156  
of, used, or sold pursuant to section 2981.12 of the Revised 157  
Code. If the property is to be sold under that section, the 158  
prosecutor shall cause notice of the proposed sale to be given 159  
in accordance with law. 160

(B) If the contraband or instrumentality forfeited under 161  
this chapter is sold, any moneys acquired from a sale and any 162  
proceeds forfeited under this chapter shall be applied in the 163  
following order: 164

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; the casino control commission enforcement fund

created by section 3772.36 of the Revised Code; or the treasurer 194  
of state for deposit into the peace officer training commission 195  
fund if any other state law enforcement agency substantially 196  
conducted the investigation. In the case of property forfeited 197  
for medicaid fraud, any remaining amount shall be used by the 198  
attorney general to investigate and prosecute medicaid fraud 199  
offenses. 200

If the prosecutor declines to accept any of the remaining 201  
amounts, the amounts shall be applied to the fund of the agency 202  
that substantially conducted the investigation. 203

(c) If more than one law enforcement agency is 204  
substantially involved in the seizure of property forfeited 205  
under this chapter, the court ordering the forfeiture shall 206  
equitably divide the amounts, after calculating any distribution 207  
to the law enforcement trust fund of the prosecutor pursuant to 208  
division (B) (4) of this section, among the entities that the 209  
court determines were substantially involved in the seizure. 210

(C) (1) A law enforcement trust fund shall be established 211  
by the prosecutor of each county who intends to receive any 212  
remaining amounts pursuant to this section, by the sheriff of 213  
each county, by the legislative authority of each municipal 214  
corporation, by the board of township trustees of each township 215  
that has a township police department, township or joint police 216  
district police force, or office of the constable, and by the 217  
board of park commissioners of each park district created 218  
pursuant to section 511.18 or 1545.01 of the Revised Code that 219  
has a park district police force or law enforcement department, 220  
for the purposes of this section. 221

There is hereby created in the state treasury the state 222  
highway patrol contraband, forfeiture, and other fund, the 223



department of public safety investigative unit contraband, 224  
forfeiture, and other fund, the medicaid fraud investigation and 225  
prosecution fund, the department of taxation enforcement fund, 226  
and the peace officer training commission fund, for the purposes 227  
of this section. 228

Amounts distributed to any municipal corporation, 229  
township, or park district law enforcement trust fund shall be 230  
allocated from the fund by the legislative authority only to the 231  
police department of the municipal corporation, by the board of 232  
township trustees only to the township police department, 233  
township police district police force, or office of the 234  
constable, by the joint police district board only to the joint 235  
police district, and by the board of park commissioners only to 236  
the park district police force or law enforcement department. 237

(2) (a) No amounts shall be allocated to a fund created 238  
under this section or used by an agency unless the agency has 239  
adopted a written internal control policy that addresses the use 240  
of moneys received from the appropriate fund. The appropriate 241  
fund shall be expended only in accordance with that policy and, 242  
subject to the requirements specified in this section, only for 243  
the following purposes: 244

(i) To pay the costs of protracted or complex 245  
investigations or prosecutions; 246

(ii) To provide reasonable technical training or 247  
expertise; 248

(iii) To provide matching funds to obtain federal grants 249  
to aid law enforcement, in the support of DARE programs or other 250  
programs designed to educate adults or children with respect to 251  
the dangers associated with the use of drugs of abuse; 252

(iv) To pay the costs of emergency action taken under 253  
section 3745.13 of the Revised Code relative to the operation of 254  
an illegal methamphetamine laboratory if the forfeited property 255  
or money involved was that of a person responsible for the 256  
operation of the laboratory; 257

(v) For other law enforcement purposes that the 258  
superintendent of the state highway patrol, department of public 259  
safety, prosecutor, county sheriff, legislative authority, 260  
department of taxation, Ohio casino control commission, board of 261  
township trustees, or board of park commissioners determines to 262  
be appropriate. 263

(b) The board of pharmacy drug law enforcement fund shall 264  
be expended only in accordance with the written internal control 265  
policy so adopted by the board and only in accordance with 266  
section 4729.65 of the Revised Code, except that it also may be 267  
expended to pay the costs of emergency action taken under 268  
section 3745.13 of the Revised Code relative to the operation of 269  
an illegal methamphetamine laboratory if the forfeited property 270  
or money involved was that of a person responsible for the 271  
operation of the laboratory. 272

(c) The state highway patrol contraband, forfeiture, and 273  
other fund, the department of public safety investigative unit 274  
contraband, forfeiture, and other fund, the department of 275  
taxation enforcement fund, the board of pharmacy drug law 276  
enforcement fund, the casino control commission enforcement 277  
fund, and a law enforcement trust fund shall not be used to meet 278  
the operating costs of the state highway patrol, of the 279  
investigative unit of the department of public safety, of the 280  
state board of pharmacy, of any political subdivision, of the 281  
Ohio casino control commission, or of any office of a prosecutor 282

or county sheriff that are unrelated to law enforcement. 283

(d) Forfeited moneys that are paid into the state treasury 284  
to be deposited into the peace officer training commission fund 285  
shall be used by the commission only to pay the costs of peace 286  
officer training. 287

(3) Any of the following offices or agencies that receive 288  
amounts under this section during any calendar year shall file a 289  
report with the specified entity, not later than the thirty- 290  
first day of January of the next calendar year, verifying that 291  
the moneys were expended only for the purposes authorized by 292  
this section or other relevant statute and specifying the 293  
amounts expended for each authorized purpose: 294

~~(a) Any sheriff or prosecutor shall file the report with~~ 295  
~~the county auditor.~~ 296

~~(b)~~ Any municipal corporation police department shall file 297  
the report with the legislative authority of the municipal 298  
corporation. 299

~~(e)~~ (b) Any township police department, township or joint 300  
police district police force, or office of the constable shall 301  
file the report with the board of township trustees of the 302  
township. 303

~~(d)~~ (c) Any park district police force or law enforcement 304  
department shall file the report with the board of park 305  
commissioners of the park district. 306

~~(e)~~ (d) The superintendent of the state highway patrol and 307  
the tax commissioner shall file the report with the attorney 308  
general. 309

~~(f)~~ (e) The executive director of the state board of 310

pharmacy shall file the report with the attorney general, 311  
verifying that cash and forfeited proceeds paid into the board 312  
of pharmacy drug law enforcement fund were used only in 313  
accordance with section 4729.65 of the Revised Code. 314

~~(g)~~ (f) The peace officer training commission shall file a 315  
report with the attorney general, verifying that cash and 316  
forfeited proceeds paid into the peace officer training 317  
commission fund pursuant to this section during the prior 318  
calendar year were used by the commission during the prior 319  
calendar year only to pay the costs of peace officer training. 320

~~(h)~~ (g) The executive director of the Ohio casino control 321  
commission shall file the report with the attorney general, 322  
verifying that cash and forfeited proceeds paid into the casino 323  
control commission enforcement fund were used only in accordance 324  
with section 3772.36 of the Revised Code. 325

(D) The written internal control policy of a county 326  
sheriff, prosecutor, municipal corporation police department, 327  
township police department, township or joint police district 328  
police force, office of the constable, or park district police 329  
force or law enforcement department shall provide that at least 330  
ten per cent of the first one hundred thousand dollars of 331  
amounts deposited during each calendar year in the agency's law 332  
enforcement trust fund under this section, and at least twenty 333  
per cent of the amounts exceeding one hundred thousand dollars 334  
that are so deposited, shall be used in connection with 335  
community preventive education programs. The manner of use shall 336  
be determined by the sheriff, prosecutor, department, police 337  
force, or office of the constable after receiving and 338  
considering advice on appropriate community preventive education 339  
programs from the county's board of alcohol, drug addiction, and 340

mental health services, from the county's alcohol and drug 341  
addiction services board, or through appropriate community 342  
dialogue. 343

The financial records kept under the internal control 344  
policy shall specify the amount deposited during each calendar 345  
year in the portion of that amount that was used pursuant to 346  
this division, and the programs in connection with which the 347  
portion of that amount was so used. 348

As used in this division, "community preventive education 349  
programs" include, but are not limited to, DARE programs and 350  
other programs designed to educate adults or children with 351  
respect to the dangers associated with using drugs of abuse. 352

(E) Upon the sale, under this section or section 2981.12 353  
of the Revised Code, of any property that is required by law to 354  
be titled or registered, the state shall issue an appropriate 355  
certificate of title or registration to the purchaser. If the 356  
state is vested with title and elects to retain property that is 357  
required to be titled or registered under law, the state shall 358  
issue an appropriate certificate of title or registration. 359

(F) Any failure of a law enforcement officer or agency, 360  
prosecutor, court, or the attorney general to comply with this 361  
section in relation to any property seized does not affect the 362  
validity of the seizure and shall not be considered to be the 363  
basis for suppressing any evidence resulting from the seizure, 364  
provided the seizure itself was lawful. 365

**Section 2.** That existing sections 325.071, 325.12, and 366  
2981.13 of the Revised Code are hereby repealed. 367