

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 85

Representatives Wilkin, Rogers

**Cosponsors: Representatives Edwards, Jones, Baldrige, Patterson, O'Brien,
Sheehy, Holmes, G., Riedel, Smith, R., Carfagna**

A BILL

To amend section 127.19 and to enact sections 1
109.47, 120.56, 127.20, 307.451, 307.452, and 2
307.453 of the Revised Code to allow the 3
Controlling Board to transfer money to the 4
Attorney General and State Public Defender to 5
defray county costs associated with certain 6
capital cases and to declare an emergency. 7

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

Section 1. That section 127.19 be amended and sections 8
109.47, 120.56, 127.20, 307.451, 307.452, and 307.453 of the 9
Revised Code be enacted to read as follows: 10

Sec. 109.47. (A) There is hereby created in the state 11
treasury the capital case extraordinary prosecution cost fund. 12
The fund shall consist of transfers under divisions (B) (2) and 13
(3) of section 127.19 of the Revised Code and any other funds 14
appropriated by the general assembly. The fund shall be 15
administered by the attorney general. 16

(B) Following controlling board approval and transfer of 17

funds pursuant to a joint request under division (B) (2) of 18
section 127.19 of the Revised Code or a request under division 19
(B) (3) of section 127.19 of the Revised Code, the attorney 20
general shall distribute money in the fund to the county upon 21
request for the prosecution costs. 22

(C) (1) If the prosecution costs incurred exceed the funds 23
appropriated, the prosecuting attorney for the county that 24
received the funds may submit a request for additional funds to 25
the attorney general. If a request is submitted, the prosecuting 26
attorney shall inform the board of county commissioners of the 27
request. After receiving a request, the attorney general shall 28
request additional funds under division (B) (2) or (3) of section 29
127.19 of the Revised Code by submitting a request that includes 30
all of the following: 31

(a) Facts demonstrating the need for the additional funds; 32

(b) A statement explaining why the original funds were not 33
sufficient for the prosecution; 34

(c) The amount of additional funds being requested. 35

(2) After receiving a request for additional funds, the 36
controlling board shall add the request to the agenda of the 37
board's next scheduled meeting. 38

(3) If no additional funds are appropriated, the county 39
shall be responsible for all remaining prosecution costs as 40
otherwise provided in the Revised Code. 41

Sec. 120.56. (A) There is hereby created in the state 42
treasury the capital case extraordinary defense cost fund. The 43
fund shall consist of transfers under division (B) (2) of section 44
127.19 of the Revised Code and any other funds appropriated by 45
the general assembly. The fund shall be administered by the 46

state public defender. 47

(B) Following controlling board approval and transfer of 48
funds pursuant to a joint request under division (B)(2) of 49
section 127.19 of the Revised Code, the state public defender 50
shall be responsible for all defense costs related to defendants 51
determined to be indigent under the standards of indigency 52
established by the Ohio public defender commission, and the 53
county shall not be responsible for any defense costs related to 54
such indigent defendants. The state public defender shall 55
distribute money in the fund to pay bills as submitted for the 56
defense costs after approval by the court. 57

(C) (1) If the defense costs exceed the funds appropriated, 58
the state public defender may request additional funds under 59
division (B)(2) of section 127.19 of the Revised Code by 60
submitting a request that includes all of the following: 61

(a) Facts demonstrating the need for the additional funds; 62

(b) A statement explaining why the original funds were not 63
sufficient for the defense; 64

(c) The amount of additional funds being requested. 65

(2) If the state public defender requests additional 66
funds, the state public defender shall inform the board of 67
county commissioners of the county in which the indigent 68
defendants are being tried of the request. 69

(3) After receiving a request for additional funds, the 70
controlling board shall add the request to the agenda of the 71
board's next scheduled meeting. 72

(4) If no additional funds are appropriated, the state 73
public defender shall notify the board of county commissioners 74

of the county in which the indigent defendants are being tried 75
of the controlling board's determination. The county then shall 76
be reimbursed in accordance with section 120.35 or 2941.51 of 77
the Revised Code. 78

(D) The fund shall be used to provide funding for defense 79
costs related to defendants determined to be indigent under the 80
standards of indigency established by the Ohio public defender 81
commission only. 82

(E) The state public defender shall return to the director 83
of budget and management any unused money remaining upon the 84
conclusion of the capital case for which funds have been 85
requested. The director shall deposit the returned money into 86
the state treasury to the credit of the controlling board 87
emergency purposes/contingencies fund created under section 88
127.19 of the Revised Code. 89

Sec. 127.19. (A) There is hereby created in the state 90
treasury the controlling board emergency purposes/contingencies 91
fund, consisting of transfers from the general revenue fund and 92
any other funds appropriated by the general assembly. ~~Moneys~~ 93

(B) Moneys in the fund may be used by the controlling 94
board ~~at~~ as follows: 95

(1) At the request of a state agency or the director of 96
budget and management for the purpose of providing disaster and 97
emergency aid to state agencies and political subdivisions or 98
for other purposes approved by the controlling board. 99

(2) At the joint request of the attorney general and state 100
public defender under division (A)(2) of section 127.20 of the 101
Revised Code or at the request of the attorney general or state 102
public defender for additional funds under section 109.47 or 103

120.56 of the Revised Code, for the purposes of defraying the 104
county's prosecution or defense costs in capital cases if all of 105
the following apply: 106

(a) The county's estimated prosecution and defense costs 107
exceed five per cent of the county's general fund appropriations 108
as specified under division (A)(2) of section 307.451 of the 109
Revised Code; 110

(b) The case is a capital case in which there are multiple 111
defendants or multiple victims; 112

(c) At least one of the defendants in the case is 113
determined to be indigent under the standards of indigency 114
established by the Ohio public defender commission. 115

(3) At the request of the attorney general under division 116
(A)(3) of section 127.20 of the Revised Code, for the purposes 117
of defraying the county's prosecution costs for capital cases if 118
both of the following apply: 119

(a) The county's estimated prosecution costs exceed five 120
per cent of the county's general fund appropriations as 121
specified under division (A)(2) of section 307.452 of the 122
Revised Code; 123

(b) The case is a capital case in which there are multiple 124
defendants or multiple victims. 125

Sec. 127.20. (A)(1) If the attorney general receives a 126
request from a county under section 307.451 or the state public 127
defender receives a request from a county under section 307.452 128
of the Revised Code for extraordinary capital case cost funding 129
and one or more defendants in the case is indigent, the attorney 130
general and state public defender jointly shall estimate the 131
county prosecution and defense costs. If the attorney general 132

receives a request under section 307.451 of the Revised Code and 133
no defendant in the case is indigent, the attorney general shall 134
estimate the county's prosecution costs. 135

(2) If the county's estimated prosecution and defense 136
costs exceed five per cent of the county's general fund 137
appropriations as specified under division (A)(2) of sections 138
307.451 and 307.452 of the Revised Code, the attorney general 139
and state public defender shall submit a joint request to the 140
controlling board to transfer funds from the controlling board 141
emergency purposes/contingencies fund created under section 142
127.19 of the Revised Code to the capital case extraordinary 143
prosecution cost fund created under section 109.47 of the 144
Revised Code and the capital case extraordinary defense cost 145
fund created under section 120.56 of the Revised Code. 146

(3) If the county's estimated prosecution and defense 147
costs exceed five per cent of the county's general fund 148
appropriations as specified under division (A)(2) of section 149
307.451 of the Revised Code and none of the defendants in the 150
case are determined to be indigent under the standards of 151
indigency established by the Ohio public defender commission, 152
the attorney general shall submit a request to the controlling 153
board to transfer funds from the controlling board emergency 154
purposes/contingencies fund created under section 127.19 of the 155
Revised Code to the capital case extraordinary prosecution cost 156
fund created under section 109.47 of the Revised Code. 157

(B) If a joint request is submitted under division (A)(2) 158
of this section, the attorney general and state public defender 159
shall specify the following in the joint request: 160

(1) An aggregate estimate of prosecution and defense 161
costs; 162

| | |
|---|-----|
| <u>(2) The amount of money the attorney general is requesting</u> | 163 |
| <u>be transferred to the capital case extraordinary prosecution</u> | 164 |
| <u>cost fund;</u> | 165 |
| <u>(3) The amount of money the state public defender is</u> | 166 |
| <u>requesting be transferred to the capital case extraordinary</u> | 167 |
| <u>defense cost fund;</u> | 168 |
| <u>(4) The county's general fund appropriations as specified</u> | 169 |
| <u>under division (B) of section 307.451 of the Revised Code;</u> | 170 |
| <u>(5) The necessity for extraordinary funding in the capital</u> | 171 |
| <u>case for which the joint request is submitted;</u> | 172 |
| <u>(6) Facts of the case demonstrating both of the following:</u> | 173 |
| <u>(a) The case is a capital case in which there are multiple</u> | 174 |
| <u>defendants or multiple victims.</u> | 175 |
| <u>(b) At least one of the defendants is determined to be</u> | 176 |
| <u>indigent under the standards of indigency established by the</u> | 177 |
| <u>Ohio public defender commission.</u> | 178 |
| <u>(C) If a request is submitted under division (A) (3) of</u> | 179 |
| <u>this section, the attorney general shall specify the following</u> | 180 |
| <u>in the request:</u> | 181 |
| <u>(1) An estimate of the county's prosecution costs</u> | 182 |
| <u>incurred;</u> | 183 |
| <u>(2) The amount of money the attorney general is requesting</u> | 184 |
| <u>be transferred to the capital case extraordinary prosecution</u> | 185 |
| <u>cost fund;</u> | 186 |
| <u>(3) The county's general fund appropriations as specified</u> | 187 |
| <u>under division (B) of section 307.451 of the Revised Code;</u> | 188 |
| <u>(4) The necessity for extraordinary funding in the capital</u> | 189 |

| | |
|---|-----|
| <u>case for which the request is submitted;</u> | 190 |
| <u>(5) Facts of the case demonstrating the case is a capital case in which there are multiple defendants or multiple victims.</u> | 191 |
| <u>(D) After the attorney general and state public defender under division (A) (2) of this section or the attorney general under division (A) (3) of this section submits a request, the controlling board shall add the request to the agenda of the board's next scheduled meeting.</u> | 192 |
| <u>(D) After the attorney general and state public defender under division (A) (2) of this section or the attorney general under division (A) (3) of this section submits a request, the controlling board shall add the request to the agenda of the board's next scheduled meeting.</u> | 193 |
| <u>(D) After the attorney general and state public defender under division (A) (2) of this section or the attorney general under division (A) (3) of this section submits a request, the controlling board shall add the request to the agenda of the board's next scheduled meeting.</u> | 194 |
| <u>(D) After the attorney general and state public defender under division (A) (2) of this section or the attorney general under division (A) (3) of this section submits a request, the controlling board shall add the request to the agenda of the board's next scheduled meeting.</u> | 195 |
| <u>(D) After the attorney general and state public defender under division (A) (2) of this section or the attorney general under division (A) (3) of this section submits a request, the controlling board shall add the request to the agenda of the board's next scheduled meeting.</u> | 196 |
| <u>(D) After the attorney general and state public defender under division (A) (2) of this section or the attorney general under division (A) (3) of this section submits a request, the controlling board shall add the request to the agenda of the board's next scheduled meeting.</u> | 197 |
| <u>Sec. 307.451. (A) A board of county commissioners that wishes to receive money from the attorney general under section 109.47 of the Revised Code shall submit a request in writing to the attorney general that specifies the following:</u> | 198 |
| <u>Sec. 307.451. (A) A board of county commissioners that wishes to receive money from the attorney general under section 109.47 of the Revised Code shall submit a request in writing to the attorney general that specifies the following:</u> | 199 |
| <u>Sec. 307.451. (A) A board of county commissioners that wishes to receive money from the attorney general under section 109.47 of the Revised Code shall submit a request in writing to the attorney general that specifies the following:</u> | 200 |
| <u>Sec. 307.451. (A) A board of county commissioners that wishes to receive money from the attorney general under section 109.47 of the Revised Code shall submit a request in writing to the attorney general that specifies the following:</u> | 201 |
| <u>(1) The facts of the case for which the county wishes to receive the money demonstrating the case is a capital case in which there are multiple defendants or multiple victims.</u> | 202 |
| <u>(1) The facts of the case for which the county wishes to receive the money demonstrating the case is a capital case in which there are multiple defendants or multiple victims.</u> | 203 |
| <u>(1) The facts of the case for which the county wishes to receive the money demonstrating the case is a capital case in which there are multiple defendants or multiple victims.</u> | 204 |
| <u>(2) The county's general fund appropriations for the calendar year in which the defendants are arrested;</u> | 205 |
| <u>(2) The county's general fund appropriations for the calendar year in which the defendants are arrested;</u> | 206 |
| <u>(3) A detailed explanation of the county's need for extraordinary funding including the county's financial hardship in funding prosecution for the capital case.</u> | 207 |
| <u>(3) A detailed explanation of the county's need for extraordinary funding including the county's financial hardship in funding prosecution for the capital case.</u> | 208 |
| <u>(3) A detailed explanation of the county's need for extraordinary funding including the county's financial hardship in funding prosecution for the capital case.</u> | 209 |
| <u>(B) After the attorney general receives a request, the attorney general shall proceed in accordance with section 127.20 of the Revised Code.</u> | 210 |
| <u>(B) After the attorney general receives a request, the attorney general shall proceed in accordance with section 127.20 of the Revised Code.</u> | 211 |
| <u>(B) After the attorney general receives a request, the attorney general shall proceed in accordance with section 127.20 of the Revised Code.</u> | 212 |
| <u>Sec. 307.452. (A) A board of county commissioners that wishes to receive money from the state public defender under section 120.56 of the Revised Code shall submit a request in writing to the state public defender that specifies the following:</u> | 213 |
| <u>Sec. 307.452. (A) A board of county commissioners that wishes to receive money from the state public defender under section 120.56 of the Revised Code shall submit a request in writing to the state public defender that specifies the following:</u> | 214 |
| <u>Sec. 307.452. (A) A board of county commissioners that wishes to receive money from the state public defender under section 120.56 of the Revised Code shall submit a request in writing to the state public defender that specifies the following:</u> | 215 |
| <u>Sec. 307.452. (A) A board of county commissioners that wishes to receive money from the state public defender under section 120.56 of the Revised Code shall submit a request in writing to the state public defender that specifies the following:</u> | 216 |
| <u>Sec. 307.452. (A) A board of county commissioners that wishes to receive money from the state public defender under section 120.56 of the Revised Code shall submit a request in writing to the state public defender that specifies the following:</u> | 217 |

| | |
|--|-----|
| <u>(1) The facts of the case for which the county wishes to</u> | 218 |
| <u>receive the money demonstrating both of the following:</u> | 219 |
| <u>(a) The case is a capital case in which there are multiple</u> | 220 |
| <u>defendants or multiple victims.</u> | 221 |
| <u>(b) At least one of the defendants is determined to be</u> | 222 |
| <u>indigent under the standards of indigency established by the</u> | 223 |
| <u>Ohio public defender commission.</u> | 224 |
| <u>(2) The county's general fund appropriations for the</u> | 225 |
| <u>calendar year in which the defendants are arrested;</u> | 226 |
| <u>(3) A detailed explanation of the county's need for</u> | 227 |
| <u>extraordinary funding including the county's financial hardship</u> | 228 |
| <u>in funding defense for the capital case.</u> | 229 |
| <u>(B) After the state public defender receives a request,</u> | 230 |
| <u>the state public defender shall proceed in accordance with</u> | 231 |
| <u>section 127.20 of the Revised Code.</u> | 232 |
| <u>Sec. 307.453.</u> <u>A board of county commissioners that</u> | 233 |
| <u>receives money from the attorney general under section 109.47 of</u> | 234 |
| <u>the Revised Code shall:</u> | 235 |
| <u>(A) Establish a capital case extraordinary cost special</u> | 236 |
| <u>fund in the county treasury to consist of money received under</u> | 237 |
| <u>section 109.47 of the Revised Code;</u> | 238 |
| <u>(B) Adopt a resolution authorizing use of the money to</u> | 239 |
| <u>defray the prosecution costs specified, and for the capital case</u> | 240 |
| <u>identified, in the joint request submitted under division (A) (2)</u> | 241 |
| <u>of section 127.20 of the Revised Code or the request submitted</u> | 242 |
| <u>under division (A) (3) of that section;</u> | 243 |
| <u>(C) Return to the director of budget and management any</u> | 244 |
| <u>unused money remaining upon the conclusion of the capital case</u> | 245 |

identified in the joint request or request. The director shall 246
deposit the returned money into the state treasury to the credit 247
of the controlling board emergency purposes/contingencies fund 248
created under section 127.19 of the Revised Code. 249

Section 2. That existing section 127.19 of the Revised 250
Code is hereby repealed. 251

Section 3. On the effective date of this act, or as soon 252
as possible thereafter, the Director of Budget and Management 253
shall transfer \$4,000,000 cash from the General Revenue Fund to 254
the Controlling Board Emergency Purposes/Contingencies Fund 255
(Fund 5KM0). 256

Section 4. This act is hereby declared to be an emergency 257
measure necessary for the immediate preservation of the public 258
peace, health, and safety. The reason for such necessity is the 259
effective prosecution and defense of capital cases. Therefore, 260
this act shall go into immediate effect. 261