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S. B. No. 63

Senator O'Brien

Cosponsors: Senators Fedor, Antonio, Blessing, Cirino, Craig, Gavarone, Hackett, Hoagland, Huffman, S., Kunze, Maharath, Manning, Peterson, Roegner, Schaffer, Schuring, Sykes, Thomas, Wilson, Yuko

A BILL

To amend section 301.28 of the Revised Code to 1
allow a board of county commissioners to 2
authorize a county department of probation to 3
accept payments by credit card. 4

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

Section 1. That section 301.28 of the Revised Code be 5
amended to read as follows: 6

Sec. 301.28. (A) As used in this section: 7

(1) "Financial transaction device" includes a credit card, 8
debit card, charge card, or prepaid or stored value card, or 9
automated clearinghouse network credit, debit, or e-check entry 10
that includes, but is not limited to, accounts receivable and 11
internet-initiated, point of purchase, and telephone-initiated 12
applications or any other device or method for making an 13
electronic payment or transfer of funds. 14

(2) "County expenses" includes fees, costs, taxes, 15
assessments, fines, penalties, payments, or any other expense a 16

person owes or otherwise pays to a county office under the 17
authority of a county official, other than dog registration and 18
kennel fees required to be paid under Chapter 955. of the 19
Revised Code. "County expenses" includes payment to a county 20
office of money confiscated during the commitment of an 21
individual to a county jail, of bail, of money for a prisoner's 22
inmate account, and of money for goods and services obtained by 23
or for the use of an individual incarcerated by a county 24
sheriff. "County expenses" includes online financial transaction 25
device payments made through the official public sheriff sale 26
web site pursuant to section 2329.153 of the Revised Code. 27

(3) "County official" includes the county auditor, county 28
treasurer, county engineer, county recorder, county prosecuting 29
attorney, county sheriff, county coroner, county park district 30
and board of county commissioners, the clerk of the probate 31
court, the clerk of the juvenile court, the clerks of court for 32
all divisions of the courts of common pleas, and the clerk of 33
the court of common pleas, the clerk of a county-operated 34
municipal court, and the clerk of a county court. 35

The term "county expenses" includes county expenses owed 36
to the board of health of the general health district or a 37
combined health district in the county. If the board of county 38
commissioners authorizes county expenses to be paid by financial 39
transaction devices under this section, then the board of health 40
and the general health district and the combined health district 41
may accept payments by financial transaction devices under this 42
section as if the board were a "county official" and the 43
district were a county office. However, in the case of a general 44
health district formed by unification of general health 45
districts under section 3709.10 of the Revised Code, this 46
entitlement applies only if all the boards of county 47

commissioners of all counties in the district have authorized 48
payments to be accepted by financial transaction devices. 49

The term "county expenses" also includes fees for services 50
and the receipt of gifts to the county law library resources 51
fund authorized by rules adopted by the county law library 52
resources board under division (D) of section 307.51 of the 53
Revised Code. If the board of county commissioners authorizes 54
county expenses to be paid by financial transaction devices 55
under this section, then the county law library resources board 56
may accept payments by financial transaction devices under this 57
section as if the board were a "county official." 58

The term "county expenses" also includes fees, costs, 59
assessments, fines, penalties, payments, or any other expense 60
issued by a court of common pleas that a person owes or 61
otherwise pays to a county department of probation established 62
under section 2301.27 of the Revised Code. If the board of 63
county commissioners authorizes county expenses to be paid by 64
financial transaction devices under this section, then the 65
county department of probation may accept payments by financial 66
transaction devices under this section as if the chief probation 67
officer or chief probation officer's designee was a "county 68
official" and the department was a "county office." However, in 69
the case of a multicounty department of probation, this 70
entitlement applies only if all the boards of county 71
commissioners of all counties in the multicounty department have 72
authorized payments to be accepted by financial transaction 73
devices. A clerk of the court of common pleas may continue 74
accepting payments by financial transaction devices for a county 75
department of probation as authorized under this section. 76

(B) Notwithstanding any other section of the Revised Code 77

and except as provided in division (D) of this section, a board 78
of county commissioners may adopt a resolution authorizing the 79
acceptance of payments by financial transaction devices for 80
county expenses. The resolution shall include the following: 81

(1) A specification of those county officials who, and of 82
the county offices under those county officials that, are 83
authorized to accept payments by financial transaction devices; 84

(2) A list of county expenses that may be paid for through 85
the use of a financial transaction device; 86

(3) Specific identification of financial transaction 87
devices that the board authorizes as acceptable means of payment 88
for county expenses. Uniform acceptance of financial transaction 89
devices among different types of county expenses is not 90
required. 91

(4) The amount, if any, authorized as a surcharge or 92
convenience fee under division (E) of this section for persons 93
using a financial transaction device. Uniform application of 94
surcharges or convenience fees among different types of county 95
expenses is not required. 96

(5) A specific provision as provided in division (G) of 97
this section requiring the payment of a penalty if a payment 98
made by means of a financial transaction device is returned or 99
dishonored for any reason. 100

The board's resolution shall also designate the county 101
treasurer as an administrative agent to solicit proposals, 102
within guidelines established by the board in the resolution and 103
in compliance with the procedures provided in division (C) of 104
this section, from financial institutions, issuers of financial 105
transaction devices, and processors of financial transaction 106

devices, to make recommendations about those proposals to the 107
board, and to assist county offices in implementing the county's 108
financial transaction devices program. The county treasurer may 109
decline this responsibility within thirty days after receiving a 110
copy of the board's resolution by notifying the board in writing 111
within that period. If the treasurer so notifies the board, the 112
board shall perform the duties of the administrative agent. 113

If the county treasurer is the administrative agent and 114
fails to administer the county financial transaction devices 115
program in accordance with the guidelines in the board's 116
resolution, the board shall notify the treasurer in writing of 117
the board's findings, explain the failures, and give the 118
treasurer six months to correct the failures. If the treasurer 119
fails to make the appropriate corrections within that six-month 120
period, the board may pass a resolution declaring the board to 121
be the administrative agent. The board may later rescind that 122
resolution at its discretion. 123

(C) The county shall follow the procedures provided in 124
this division whenever it plans to contract with financial 125
institutions, issuers of financial transaction devices, or 126
processors of financial transaction devices for the purposes of 127
this section. The administrative agent shall request proposals 128
from at least three financial institutions, issuers of financial 129
transaction devices, or processors of financial transaction 130
devices, as appropriate in accordance with the resolution 131
adopted under division (B) of this section. Prior to sending any 132
financial institution, issuer, or processor a copy of any such 133
request, the county shall advertise its intent to request 134
proposals in a newspaper of general circulation in the county 135
once a week for two consecutive weeks or as provided in section 136
7.16 of the Revised Code. The notice shall state that the county 137

intends to request proposals; specify the purpose of the 138
request; indicate the date, which shall be at least ten days 139
after the second publication, on which the request for proposals 140
will be mailed to financial institutions, issuers, or 141
processors; and require that any financial institution, issuer, 142
or processor, whichever is appropriate, interested in receiving 143
the request for proposals submit written notice of this interest 144
to the county not later than noon of the day on which the 145
request for proposals will be mailed. 146

Upon receiving the proposals, the administrative agent 147
shall review them and make a recommendation to the board of 148
county commissioners on which proposals to accept. The board of 149
county commissioners shall consider the agent's recommendation 150
and review all proposals submitted, and then may choose to 151
contract with any or all of the entities submitting proposals, 152
as appropriate. The board shall provide any financial 153
institution, issuer, or processor that submitted a proposal, but 154
with which the board does not enter into a contract, notice that 155
its proposal is rejected. The notice shall state the reasons for 156
the rejection, indicate whose proposals were accepted, and 157
provide a copy of the terms and conditions of the successful 158
bids. 159

(D) A board of county commissioners adopting a resolution 160
under this section shall send a copy of the resolution to each 161
county official in the county who is authorized by the 162
resolution to accept payments by financial transaction devices. 163
After receiving the resolution and before accepting payments by 164
financial transaction devices, a county official shall provide 165
written notification to the board of county commissioners of the 166
official's intent to implement the resolution within the 167
official's office. Each county office subject to the board's 168

resolution adopted under division (B) of this section may use 169
only the financial institutions, issuers of financial 170
transaction devices, and processors of financial transaction 171
devices with which the board of county commissioners contracts, 172
and each such office is subject to the terms of those contracts. 173

If a county office under the authority of a county 174
official is directly responsible for collecting one or more 175
county expenses and the county official determines not to accept 176
payments by financial transaction devices for one or more of 177
those expenses, the office shall not be required to accept 178
payments by financial transaction devices, notwithstanding the 179
adoption of a resolution by the board of county commissioners 180
under this section. 181

Any office of a clerk of the court of common pleas that 182
accepts financial transaction devices on or before July 1, 1999, 183
and any other county office that accepted such devices before 184
January 1, 1998, may continue to accept such devices without 185
being subject to any resolution passed by the board of county 186
commissioners under division (B) of this section, or any other 187
oversight by the board of the office's financial transaction 188
devices program. Any such office may use surcharges or 189
convenience fees in any manner the county official in charge of 190
the office determines to be appropriate, and, if the county 191
treasurer consents, may appoint the county treasurer to be the 192
office's administrative agent for purposes of accepting 193
financial transaction devices. In order not to be subject to the 194
resolution of the board of county commissioners adopted under 195
division (B) of this section, a county office shall notify the 196
board in writing within thirty days after March 30, 1999, that 197
it accepted financial transaction devices prior to January 1, 198
1998, or, in the case of the office of a clerk of the court of 199

common pleas, the clerk has accepted or will accept such devices 200
on or before July 1, 1999. Each such notification shall explain 201
how processing costs associated with financial transaction 202
devices are being paid and shall indicate whether surcharge or 203
convenience fees are being passed on to consumers. 204

(E) A board of county commissioners may establish a 205
surcharge or convenience fee that may be imposed upon a person 206
making payment by a financial transaction device. The surcharge 207
or convenience fee shall not be imposed unless authorized or 208
otherwise permitted by the rules prescribed by an agreement 209
governing the use and acceptance of the financial transaction 210
device. 211

If a surcharge or convenience fee is imposed, every county 212
office accepting payment by a financial transaction device, 213
regardless of whether that office is subject to a resolution 214
adopted by a board of county commissioners, shall clearly post a 215
notice in that office and shall notify each person making a 216
payment by such a device about the surcharge or fee. Notice to 217
each person making a payment shall be provided regardless of the 218
medium used to make the payment and in a manner appropriate to 219
that medium. Each notice shall include all of the following: 220

(1) A statement that there is a surcharge or convenience 221
fee for using a financial transaction device; 222

(2) The total amount of the charge or fee expressed in 223
dollars and cents for each transaction, or the rate of the 224
charge or fee expressed as a percentage of the total amount of 225
the transaction, whichever is applicable; 226

(3) A clear statement that the surcharge or convenience 227
fee is nonrefundable. 228

(F) If a person elects to make a payment to the county by 229
a financial transaction device and a surcharge or convenience 230
fee is imposed, the payment of the surcharge or fee shall be 231
considered voluntary and the surcharge or fee is not refundable. 232

(G) If a person makes payment by financial transaction 233
device and the payment is returned or dishonored for any reason, 234
the person is liable to the county for payment of a penalty over 235
and above the amount of the expense due. The board of county 236
commissioners shall determine the amount of the penalty, which 237
may be either a fee not to exceed twenty dollars or payment of 238
the amount necessary to reimburse the county for banking 239
charges, legal fees, or other expenses incurred by the county in 240
collecting the returned or dishonored payment. The remedies and 241
procedures provided in this section are in addition to any other 242
available civil or criminal remedies provided by law. 243

(H) No person making any payment by financial transaction 244
device to a county office shall be relieved from liability for 245
the underlying obligation except to the extent that the county 246
realizes final payment of the underlying obligation in cash or 247
its equivalent. If final payment is not made by the financial 248
transaction device issuer or other guarantor of payment in the 249
transaction, the underlying obligation shall survive and the 250
county shall retain all remedies for enforcement that would have 251
applied if the transaction had not occurred. 252

(I) A county official or employee who accepts a financial 253
transaction device payment in accordance with this section and 254
any applicable state or local policies or rules is immune from 255
personal liability for the final collection of such payments. 256

Section 2. That existing section 301.28 of the Revised 257
Code is hereby repealed. 258