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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

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Office

H.B. 180  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. LaRe and Swearingen

S. Ben Fogle, Attorney

### SUMMARY

- Prohibits a municipal corporation or charter county from imposing a curfew except in certain cases.

### DETAILED ANALYSIS

#### Municipal corporation and charter county curfews

The bill prohibits a municipal corporation, as well as a county that has adopted a charter, from imposing a curfew, unless the curfew is for people under 18 years old, or a curfew in response to a clear and present emergency, as determined by the legislative authority of the county or municipal corporation.<sup>1</sup>

### COMMENT

The bill may be vulnerable to a challenge under the Home Rule Amendment to the Ohio Constitution, which allows municipal corporations and charter counties the authority to adopt and enforce local police regulations as are not in conflict with general laws.<sup>2</sup> A law is a general law only if it:

- Is part of a statewide and comprehensive legislative enactment;
- Applies to all parts of the state alike and operates uniformly throughout the state;

<sup>1</sup> R.C. 9.09.

<sup>2</sup> Ohio Constitution, Article XVIII, Section 3 and Article X, Section 3.

- Sets forth police, sanitary, or similar regulations, rather than purports only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations;
- Prescribes a rule of conduct upon citizens generally.<sup>3</sup>

Additionally, regarding curfews, the First Amendment (and sometimes the due process clause, depending on the court) restricts a government’s ability to impose a curfew. The Sixth Circuit (applicable to Ohio) has held that curfews are unconstitutional unless “justified by clear public interest, threatened not doubtfully or remotely, but by clear and present danger.”<sup>4</sup>

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## HISTORY

Action	Date
Introduced	05-22-23

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<sup>3</sup> *Canton v. State*, 95 Ohio St.3d. 149 (2002). For more information about what constitutes a “general state law,” please see LSC’s [Municipal Home Rule Members Brief \(PDF\)](#), available at [lsc.ohio.gov](http://lsc.ohio.gov).

<sup>4</sup> *Bright v. Nunn*, 448 F.2d 245, 248 (6<sup>th</sup> Cir. 1971) citing *Thomas v. Collins*, 323 U.S. 516, 530 (1945).