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Primary Sponsors: Reps. Odioso and A. Mathews

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SUMMARY

- Requires the following rules adopted by municipal court judges to be in accordance with the Rules of Superintendence for the Courts of Ohio: (a) rules of practice and procedure, (b) rules relating to the administration of the court, and (c) generally those types of rules of judges of a municipal court's housing or environmental division.
- Removes the provision in existing law authorizing a party defendant to withhold setting up a statement of counterclaim and make the counterclaim the subject of a separate action.
- Eliminates the current law requirement that a county court clerk keep a separate account of all receipts and disbursements in criminal cases and, on the expiration of the clerk's term, deliver those records to the clerk's successor.
- Modifies current law by requiring a guardian to keep a signed guardianship guide in accordance with the Rules of Superintendence for the Courts of Ohio instead of keeping it in the court's guardianship file.
- Allows a party to a tort action from whom the plaintiff seeks recovery to raise an affirmative defense that a percentage of the tortious conduct is attributable to persons from whom recovery is not sought, in accordance with the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions, instead of at any time before trial under existing law.
- Eliminates the requirement under existing law that the court of common pleas must appoint one of the members of the grand jury as foreperson.
- Removes the provision in current law generally requiring an accused person to be arraigned by the clerk of the court of common pleas reading the indictment or information to the accused.

Outright repeals

- Outright repeals the sections of the Revised Code described as follows:
  - Prescribing the powers of judges of a municipal court that consists of more than one judge.
  - Permitting a municipal court to order the disposition of files of cases finally disposed of for at least five years; generally requiring the files' reproduction prior to their disposition and the retention of specified records for at least 25 years; and requiring the clerk to retain documentation of each criminal conviction and plea of guilty.
  - Requiring a county court clerk to keep an alphabetical index of the docket to which names of the parties to each judgment are entered.
  - Requiring a county court or common pleas court clerk to retain documentation of each criminal conviction and plea of guilty generally for 50 years after entry of judgment.
  - Requiring the probate court to keep a guardian's docket, a record of wills, a marriage record, a naturalization record, a permanent record of all births and deaths in the county, and a record of adoptions among other records and dockets.
  - Permitting a probate court to maintain records by record-keeping methods other than bound volumes of paper pages; and requiring the court to make available to the public equipment necessary for the examination of records other than bound volumes of paper pages and to maintain indices that permit such records to be retrieved readily.
  - Requiring all pleadings and other papers in any proceeding in the probate court to be preserved in a specified manner for future reference and examination, and all marriage certificates and similar papers to be preserved separately in the order of their dates or in which they were filed.
  - Requiring vouchers in support of expenditures or distribution in a filed account be disposed of five years after the account's approval or after such vouchers are microfilmed and recorded; and permitting other papers filed by fiduciaries and entries for the determination of estate tax be disposed of after 21 years or after being microfilmed.
  - Preventing a party from testifying when the adverse party is the guardian or trustee of an incompetent, or of a child of a deceased person, or is an executor or administrator, or claims or defends as heir, grantee, assignee, devisee, or legatee of a deceased person, subject to specified exceptions.
  - Permitting evidence taken orally by an official stenographer of a party or witness who subsequently dies, cannot be found, or is unable to testify due to physical or mental infirmity, to be read in evidence; and generally requiring testimony of an imprisoned person to be taken by deposition.
  - Providing that official reports of officers of Ohio on a matter within their duty are admitted as evidence of the matters stated in the reports.

- Providing the composition and the method of selecting grand jurors.
- Requiring the concurrence of at least 12 grand jurors in the finding of an indictment, and requiring the foreman to indorse "A true bill" on the indictment.
- Permitting an offense not punishable by death or life imprisonment to be prosecuted by information if the defendant, after being advised by the court of the charge and defendant's rights, waives in writing and in open court prosecution by indictment.
- Permitting pleas of guilty or not guilty to be oral and requiring pleas in all other cases to be in writing, subscribed by the defendant or counsel.
- Requiring the judgment and sentence for a misdemeanor be pronounced as if defendant were personally present; and requiring the case be continued until the accused appears if the offense is a felony.
- Allowing the court to order a sick juror to receive medical attendance and requiring the payment of a reasonable charge for the medical attendance out of the judiciary fund.
- Permitting the court to order the jurors to be kept in charge of officers or to separate during the trial and allowing the court to permit the temporary separation of jurors in case of necessity.
- Requiring the jurors to be kept together upon final submission of a case until they agree on a verdict or are discharged by the court and generally prohibiting the officer in charge to permit communication made to them.
- If the offense charged is punishable by death, requiring the jurors to be kept in charge of an officer with arrangements for their care and maintenance.
- Requiring that jurors who are permitted to separate during trial be admonished not to engage in conversation on the subject of the trial nor form or express any opinion on the subject until the case is submitted to them.
- Permitting the prosecution or defendant to apply to the court for a commission to take the deposition of any witness after an issue of fact is joined upon an indictment, information, or affidavit.
- Providing that rules of evidence in civil cases, where applicable, govern in criminal cases.

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DETAILED ANALYSIS

Courts and court procedures

Powers of municipal judges

Current law prescribes the following powers and duties of municipal judges:[1]

- The adoption, publication, and revision of rules for the regulation of the practice and procedure of their respective courts, and for the selection and manner of summoning persons to serve as jurors in the court;
- The adoption, publication, and revision of rules relating to the administration of the court.

The judges of the housing or environmental division of a municipal court, other than the judge of the Environmental Division of the Franklin County Municipal Court, have the same powers and duties as described in the above dot points.[2]

The bill specifies that the above powers and duties be in accordance with the Rules of Superintendence for the Courts of Ohio.[3]

Civil actions in municipal court

Continuing law provides that when the amount due either party exceeds the sum for which a municipal court is authorized to enter judgment, such party may in writing remit the excess and judgment must be entered for the residue. Currently, any party defendant may, at the defendant's option, withhold setting up any statement of counterclaim and make the counterclaim the subject of a separate action. The bill eliminates that provision under current law.[4]

Powers and duties of county court clerk

A county court clerk is currently required to keep a separate account of all receipts and disbursements in civil and criminal cases, which separate account must be a permanent public record of the office. On the expiration of a clerk's term, those records must be delivered to the clerk's successor. The bill eliminates those duties of a county court clerk.[5]

Guardianship guide

Continuing law requires the clerk of the probate court to furnish a guardianship guide to a guardian at a specified time.[6] Upon receiving a guardianship guide, the guardian must sign a

[1] R.C. 1901.14(A)(2) and (3).

[2] R.C. 1901.14(C).

[3] R.C. 1901.14(A)(2) and (3) and (C).

[4] R.C. 1901.22(F).

[5] R.C. 1907.20(C).

[6] R.C. 2111.011(A).

form acknowledging receipt of the guardianship guide.[7] The bill requires the signed form be kept in accordance with the Rules of Superintendence for the Courts of Ohio, instead of keeping it permanently in the guardianship file of the probate court under current law.[8]

Percentage of a party's tortious conduct in a tort action

Under continuing law, for purposes of determining the percentage of tortious conduct that proximately caused the injury or loss or the wrongful death that is attributable to each person from whom the plaintiff does not seek recovery in the action, it is an affirmative defense for each party from whom the plaintiff seeks recovery in the action that a specific percentage of the tortious conduct is attributable to one or more persons from whom the plaintiff does not seek recovery in the action. Current law permits any party to the action from whom the plaintiff seeks recovery to raise such affirmative defense at any time before the trial of the action. The bill instead provides that such party may raise the affirmative defense in accordance with the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions.[9]

Grand jury

Current law provides that when a grand jury is impaneled, the court of common pleas must appoint one of the members of the grand jury as foreperson, and must administer, or cause to be administered, to the jurors an oath in the words specified in the law. The bill eliminates the requirement for the court of common pleas to appoint one of the members of the grand jury as foreperson.[10]

Arraignment

The bill eliminates the provision in current law that provides that an accused person must be arraigned by the clerk of the court of common pleas, or the clerk's deputy, reading the indictment or information to the accused, unless the accused or the accused's attorney waives the reading. The accused must then be asked to plead thereto.[11]

The bill retains current law providing that arraignment must be made immediately after the disposition of exceptions to the indictment, if any are filed, or, if no exceptions are filed, after reasonable opportunity has been given the accused to file such exceptions.[12]

Outright repealed R.C. sections

The bill outright repeals the Revised Code sections described as follows.

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[7] R.C. 2111.011(C) and (D).

[8] R.C. 2111.011(D).

[9] R.C. 2307.23(C).

[10] R.C. 2939.06(A). Criminal Rule 6(C) provides that the court may appoint any qualified elector or one of the grand jurors to be foreperson and one of the grand jurors to be deputy foreperson.

[11] R.C. 2943.02.

[12] R.C. 2943.02.

Municipal, county, and common pleas courts; records

Powers when more than one judge

The following apply when a municipal court consists of more than one judge:[13]

1. The municipal judges may sit separately or otherwise, as the presiding judge directs, and must meet at least once each month, and at such other times as are determined, for consideration of the business of the court.
2. Any order made by the presiding judge under the special powers conferred upon that judge may be vacated, amended, or modified by the vote of a majority of the judges of the court.
3. The administrative authority vested in judges constituting a municipal court must be exercised by a majority vote of such judges, including the presiding judge.

Retention and destruction of case files

Generally, a municipal court, by rule, may order the destruction or other disposition of the files of cases that have been finally disposed of for at least five years as follows:

1. If a case has been finally disposed of for at least five years, but less than 15 years prior to the adoption of the rule of court for destruction or other disposition of the files, the court may order the files destroyed or otherwise disposed of only if they are copied or reproduced prior to their destruction or disposition according to the procedure prescribed in the law on preserving and maintaining official records. Those copies or reproductions of the files must be retained and preserved by the court for a period of ten years after the destruction of the original files, after which the copies or reproductions themselves may be destroyed or otherwise disposed of. However, files destroyed or otherwise disposed of that are solely concerned with criminal prosecutions for minor misdemeanor offenses or minor misdemeanor traffic prosecutions do not have to be copied or reproduced under any procedure prior to their destruction or disposition.[14]
2. If a case has been finally disposed of for 15 years or more prior to the adoption of the rule of court for destruction or other disposition of the files, the court may order the files destroyed or otherwise disposed of without having copied or reproduced the files prior to their destruction. Those files do not have to be copied or reproduced in any manner or under any procedure prior to their destruction or disposition.[15]

The above provisions do not permit the destruction or other disposition of the files in the Cleveland Municipal Court of cases involving the following actions and proceedings:[16]

[13] R.C. 1901.16.

[14] R.C. 1901.41(A)(1) and (B)(1) and by reference to R.C. 9.01, not in the bill.

[15] R.C. 1901.41(A)(2) and (B)(2).

[16] R.C. 1901.41(C).

- The sale of real property in an action to foreclose and marshal all liens on the property;
- The sale of real property in an action to foreclose a mortgage on the property;
- The determination of rights in the title to real property either in the form of a creditor's bill or in any other action intended to determine the right, title, and interest of a person in the ownership of a parcel of real property or any interest therein.

All dockets, indexes, journals, and cash books of the court must be retained and preserved by the court for at least 25 years unless they are reproduced in the manner and according to the procedure prescribed in the Revised Code section on preserving and maintaining official records, in which case the reproductions must be retained and preserved at least until the expiration of such 25-year period. Court dockets, indexes, journals, and cash books, and all other court records also are subject to destruction or other disposition under the law on records retention and disposition.[17]

Notwithstanding the Revised Code sections pertaining to the review of applications for disposal of records and the records commission of a municipal corporation, each clerk of a municipal court must retain documentation regarding each criminal conviction and plea of guilty involving a case that is or was before the court. The documentation must be in a form, or readily convertible to or producible in a form, that is admissible as evidence in a criminal proceeding as evidence of a prior conviction and may be retained in an authorized form. The clerk must retain this documentation for 50 years after the entry of judgment in the case, except that documentation regarding cases solely concerned with minor misdemeanor offenses or minor misdemeanor traffic offenses must be retained as provided in paragraphs (1) and (2) above, and documentation regarding other misdemeanor traffic offenses must be retained for 25 years after the entry of judgment in the case. This paragraph applies to records currently retained and to records created on or after September 23, 2004.[18]

Alphabetical index to docket

A clerk of a county court is required to do the following:[19]

1. Keep an alphabetical index to the docket, in which is entered the names of the parties to each judgment, direct and reverse, with a reference to the page of the entry. The parties' names must be entered in the index in the alphabetical order of the first letter of the family name.
2. Number the cases progressively on the docket, and correspondingly number the papers in each case.
3. Keep the entire papers in each action together, in packages of proper and convenient size, and in the order in which the cases are numbered on the docket.

[17] R.C. 1901.41(D) and by reference to R.C. 9.01, not in the bill.

[18] R.C. 1901.41(E) and by reference to R.C. 149.381 and 149.39, not in the bill.

[19] R.C. 1907.21.

Documentation of criminal convictions retained in admissible form

Notwithstanding the sections of the Revised Code pertaining to the records commission and applications for disposal of records, each clerk of a county court or a court of common pleas must retain documentation regarding each criminal conviction and plea of guilty involving a case that is or was before the court. The documentation must be in a form, or readily convertible to or producible in a form, that is admissible as evidence in a criminal proceeding as evidence of a prior conviction and may be retained in any form authorized by the law on preserving and maintaining official records. The clerk must retain this documentation for 50 years after the entry of judgment in the case, except that documentation regarding cases solely concerned with minor misdemeanor offenses or minor misdemeanor traffic offenses must be retained as provided in paragraphs (1) and (2) above under "**Retention and destruction of case files**," and documentation regarding other misdemeanor traffic offenses must be retained for 25 years after the entry of judgment in the case. This paragraph applies to records currently retained and to records created on or after September 23, 2004.[20]

Probate court; records

Records required to be kept by the probate court

The probate court must keep the following records:[21]

1. An administration docket, showing the grant of letters of administration or letters testamentary, the decedent's name, the amount of bond and names of the bond sureties, and the date of filing and a brief note of each order or proceeding relating to the estate with reference to the journal or other record in which the order or proceeding is found.
2. A guardian's docket, showing each ward's name and, if the ward is an infant, the infant's age and the infant's parents' names, the amount of bond and names of the bond sureties, any limited powers or limited duration of powers, and the date of filing and a brief note of the orders and proceedings as described in (1) above.
3. A civil docket, in which must be noted the names of parties to actions and proceedings, the date of the commencement of the actions and proceedings and of the filing of the papers relating to them, a brief note of the orders made, and the date of entering the orders.
4. A journal, in which must be kept minutes of official business transacted in the probate court, or by the probate judge, in civil actions and proceedings.
5. A record of wills, in which the wills proved in the court must be recorded with a certificate of the probate of the will, and wills proved elsewhere with the certificate of probate, authenticated copies of which have been admitted to record by the court.

[20] R.C. 1907.231 and 2301.141.

[21] R.C. 2101.12 and by reference to R.C. 2113.031 and 3107.17, not in the bill.

6. A final record that must contain a complete record of each cause or matter and completed within 90 days after the final order or judgment has been made in the cause or matter.
7. An execution docket, in which must be entered a memorandum of executions issued by the probate judge stating the names of the parties, the name of the person to whom the execution is delivered, the person's return on the execution, the date of issuing the execution, the amount ordered to be collected, stating the costs separately from the fine or damages, the payments on the execution, and the satisfaction of the execution when it is satisfied.
8. A marriage record, in which must be entered licenses, the names of the parties to whom a license is issued, the names of the persons applying for a license, a brief statement of the facts sworn to by persons so applying, and the returns of the person solemnizing the marriage.
9. A naturalization record, in which must be entered the declaration of intention of the person seeking to be naturalized, the oath of the person naturalized, and the affidavit or oath of witnesses who testify in the person's behalf, in which affidavit must be stated their place of residence.
10. A permanent record of all births and deaths occurring within the county, reported by law, which record must be kept in the form and manner that may be designated by the Director of Health.
11. A separate record and index of adoptions, in accordance with law on the confidentiality of adoption records.
12. A summary release from administration docket, showing the date of the filing of the application for a summary release from administration pursuant to the statutory requirements for such application, the decedent's name, the applicant's name, whether the applicant is the decedent's surviving spouse or another specified person, and a brief note of the grant of the order of summary release from administration and of any other order or proceeding relating to the decedent's estate, with reference to the journal or other record in which the order or proceeding is found.

For each record required as described above, an index must be maintained, which must be kept current with the entries in the record and refer to the entries alphabetically by the names of the persons as they were originally entered, indexing the page of the record where the entry is made. On the order of the probate judge, blankbooks, other record forms, or other record-keeping materials approved by the judge for the records and indexes must be furnished by the board of county commissioners at the expense of the county.[22]

Probate court's record-keeping methods

A probate court may keep and maintain records that are required by law to be kept by the court by record-keeping methods other than bound volumes of paper pages, including

[22] R.C. 2101.12.

photography, microphotography, photostatic process, electrostatic process, facsimile reproduction, perforated tape, magnetic tape or other electromagnetic methods, electronic data processing, machine-readable media, and graphic or video display. A probate court that uses any of the above record-keeping methods must possess, and make readily available to the public, machines or equipment necessary for an examination of the records. The machines or equipment must present the records in a format that is readable without difficulty.

The court must keep and maintain indices to those records that permit the records to be retrieved readily.[23]

Care and preservation of probate court papers

All pleadings, accounts, vouchers, and other papers in each estate, trust, assignment, guardianship, or other proceeding, ex parte or adversary, which are filed in the probate court, must be kept together, and upon the final termination or settlement of the proceeding, must be preserved for future reference and examination. The papers must be properly jacketed, and otherwise tied, fastened, or held together, numbered, lettered, or marked in such manner that they may be readily found by reference to proper memoranda, made by the probate judge, upon the docket, record, or index entries. The papers may be kept, maintained, and indexed as described above in "**Probate court's record-keeping methods**." Certificates of marriage, reports of births and deaths, and similar papers that are not part of a case or proceeding, must be arranged and preserved separately in the order of their dates or in which they were filed. "Case" or "cause" includes generally all proceedings in the settlement of any estate, guardianship, or assignment, except as provided below in "**Disposal of probate court records**."[24]

Disposal of probate court records

The vouchers, proof, or other evidence filed in support of the expenditures or distribution stated in an account, filed in the probate court, may be ordered destroyed or disposed of five years after the account has been approved or settled and recorded and after there has been a compliance with the county records commission rules on the retention and disposal of county records.

When such vouchers, proof, or evidence are microfilmed, they may be ordered destroyed immediately after such record is made and, if required by law, after the approval and settlement of the account.

The inventories, schedules of debts, accounts, pleadings, wills, trusts, bonds, and other papers, excluding vouchers or other evidence of expenditures and distributions, filed in the probate courts by fiduciaries appointed by the probate courts, and all pleadings filed and court entries for the determination of inheritance tax under former inheritance tax laws, and estate tax under current estate tax laws, and all documents filed or received and entries made by the court in conjunction with those instruments, after having been recorded, if required by law, may

[23] R.C. 2101.121.

[24] R.C. 2101.14 and by reference to R.C. 2101.121 and 2101.141, both outright repealed by the bill.

be ordered microfilmed and destroyed after being microfilmed. All such instruments that are not microfilmed may be ordered destroyed or disposed of without microfilming after 21 years have elapsed from the closing or termination of the administration of the estate, trust, or other fiduciary relationship and after there has been a compliance with the county records commission rules.

The above provisions do not apply to records pertaining to estates on which inheritance tax temporary orders are pending.

Prior to the order of the court directing the destruction or disposition of the vouchers, proof, or other evidence of expenditures or distribution, any party in interest, upon application, may have those vouchers, proof, or other evidence recorded, upon payment of the costs incident to doing so.

An estate, trust, or other fiduciary relationship is deemed to be closed or terminated when a final accounting has been filed, and if required by law at the time of filing, the account has been approved and settled.[25]

Evidence

Cases in which a party generally cannot testify

A party is prohibited from testifying when the adverse party is the guardian or trustee of an incompetent person, or of a child of a deceased person, or is an executor or administrator, or claims or defends as heir, grantee, assignee, devisee, or legatee of a deceased person except:[26]

1. As to facts which occurred after the appointment of the guardian or trustee of an incompetent person, and, in the other cases, after the time the decedent, grantor, assignor, or testator died.
2. When the action or proceeding relates to a contract made through an agent by a person since deceased, and the agent is competent to testify as a witness, a party may testify on the same subject.
3. If a party, or one having a direct interest, testifies to transactions or conversations with another party, the latter may testify as to the same transactions or conversations.
4. If a party offers evidence of conversations or admissions of the opposite party, the latter may testify concerning the same conversations or admissions. If evidence of declarations against interest made by an incompetent or deceased person has been admitted, then any oral or written declaration made by such incompetent or deceased person concerning the same subject to which the admitted evidence relates, and which but for this provision would be excluded as self-serving, must be admitted in evidence if it is proved to the satisfaction of the trial judge that the declaration was made at a time when the declarant

[25] R.C. 2101.141 and by reference to R.C. 149.38 and 5731.01 to 5731.51, not in the bill.

[26] R.C. 2317.03.

was competent to testify, concerning a subject matter in issue, and when no apparent motive to misrepresent appears.

5. In an action or proceeding by or against a partner or joint contractor, the adverse party cannot testify to transactions with, or admissions by, a partner or joint contractor since deceased, unless they were made in the presence of the surviving partner or joint contractor, and this rule applies without regard to the character in which the parties sue or are sued.

6. If the claim or defense is founded on a book account, a party may testify that the book is the party's account book, that it is a book of original entries, that the entries in the book were made in the regular course of business by the party personally, a person since deceased, or a disinterested person, and the book is competent evidence in any case, without regard to the parties, upon like proof by any competent witness.

7. If after testifying orally, a party dies, the evidence may be proved by either party on a further trial of the case, in which case the opposite party may testify to the same matters. If a party dies and the party's deposition is offered in evidence, the opposite party may testify as to all competent matters in the deposition.

The above provisions do not apply to actions for causing death, or actions or proceedings involving the validity of a deed, will or codicil. When a case is plainly within the reason and spirit of those provisions and the laws on competent witnesses and privileged communications, though not within the strict letter, their principles must be applied.[27]

The bill also eliminates the provision in the Privileged Communications Law which provides that a person who, if a party, would be restricted under the above provisions, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, is restricted in the same manner in any action or proceeding concerning the property or thing.[28]

Official reports or certified copies as evidence

Official reports made by officers of Ohio, or their certified copies, on a matter within the scope of their duty as defined by statute, must be admitted, in so far as relevant, as evidence of the matters stated in the reports.[29]

Grand jury

Grand jury selection and composition

Grand juries are required to consist of 15 persons who satisfy the qualifications of a juror under the law specifying the causes for the challenge of persons called as jurors. Persons to serve as grand jurors in the court of common pleas of each county must be selected from the persons

[27] R.C. 2317.03 and by reference to R.C. 2317.01, not in the bill, and 2317.02.

[28] R.C. 2317.02(F).

[29] R.C. 2317.42.

whose names are contained in the annual jury list. At the time of selection of the persons who are to constitute the grand jury, the commissioners of jurors must randomly draw from the annual jury list the names of not fewer than 25 persons. The first 15 persons whose names are drawn constitutes the grand jury, if they can be located and served by the sheriff, and if they are not excused by the court or a judge of the court. If any of those first 15 persons are not located or are unable to serve and are thus excused by the court or judge, whose duty it is to supervise the impaneling of the grand jury, the judge must designate the person whose name next appears on the list of persons drawn, to serve in the place of the person not found or excused and so continue to substitute the names of the persons drawn in the order in which they were drawn, to fill vacancies resulting from persons not being found or having been excused, until the necessary 15 persons are selected to make up the grand jury. If all of the names appearing on the list of persons drawn are exhausted before the grand jury is complete, the judge must order the commissioners of jurors to draw additional names that the judge determines, and proceed to fill the vacancies from those names in the order in which they are drawn.

The judge may select any person who satisfies the qualifications of a juror and whose name is not included in the annual jury list to preside as foreperson of the grand jury, in which event the grand jury consists of the foreperson so selected and 14 additional grand jurors selected from the annual jury list.[30]

Concurrence by 12 grand jurors for indictment

At least 12 of the grand jurors must concur in the finding of an indictment. When so found, the foreman must indorse on such indictment the words "A true bill" and subscribe the foreman's name as foreman.[31]

Crimes – procedure

Offenses prosecuted by information

Any criminal offense that is not punishable by death or life imprisonment may be prosecuted by information filed in the common pleas court by the prosecuting attorney if the defendant, after having been advised by the court of the nature of the charge and of the defendant's rights under the Constitution, is represented by counsel or has affirmatively waived counsel in writing and in open court, waives in writing and in open court prosecution by indictment.[32]

[30] R.C. 2939.02 and by reference to R.C. 2313.17, not in the bill. Note: R.C. 2939.03 (not repealed) provides that the method of selecting grand jurors is the same as the selection of juries in R.C. Chapter 2313.

[31] R.C. 2939.20.

[32] R.C. 2941.021.

Form of plea

Pleas of guilty or not guilty may be oral. Pleas in all other cases must be in writing, subscribed by the defendant or counsel, and must immediately be entered upon the minutes of the court.[33]

Medical attendance of juror

The court, in case of sickness of any juror before the conclusion of the trial, may order that the juror receive medical attendance and must order the payment of a reasonable charge for such medical attendance out of the judiciary fund.[34]

Separation of jurors

After the trial has commenced, before or after the jury is sworn, the court may order the jurors be kept in charge of proper officers or be permitted to separate during the trial. If the jurors are kept in charge of officers, proper arrangements must be made for their care, maintenance, and comfort, under the court's orders and direction. In case of necessity the court may permit temporary separation of the jurors.[35]

Supervision of jury after submission of case

When a cause is finally submitted, the jurors must be kept together in a convenient place under the charge of an officer until they agree upon a verdict or are discharged by the court. Except where the offense charged may be punishable by death, the court may permit the jurors to separate during the court's adjournment overnight, under proper cautions or the supervision of an officer. Such officer must not permit a communication to be made to them, nor make any communication except to ask if they have agreed upon a verdict, unless the officer does so by order of the court. The officer must not communicate to any person, before the verdict is delivered, any matter in relation to their deliberation. Upon the trial of any prosecution for misdemeanor, the court may permit the jury to separate during their deliberation, or upon adjournment of the court overnight.

If the offense charged may be punished by death, after the case is finally submitted to the jury, the jurors must be kept in charge of the proper officer and proper arrangements for their care and maintenance must be made as described above in "**Separation of jurors**."[36]

Admonition if jurors separate during trial

If the jurors are permitted to separate during a trial, they must be admonished by the court not to converse with, nor permit themselves to be addressed by any person, nor listen to

[33] R.C. 2943.04.

[34] R.C. 2945.30.

[35] R.C. 2945.31.

[36] R.C. 2945.33 and by reference to R.C. 2945.31, repealed by the bill.

any conversation on the subject of the trial, nor form or express any opinion on such subject, until the case is finally submitted to them.[37]

Application for deposition in criminal cases

At any time after an issue of fact is joined upon an indictment, information, or an affidavit, the prosecution or the defendant may apply in writing to the court in which such indictment, information, or affidavit is pending for a commission to take the depositions of any witness. The court or a judge of the court may grant such commission and make an order stating in what manner and for what length of time notice must be given to the prosecution or to the defendant, before the witness is examined.[38]

Evidence rules applicable in criminal cases

The rules of evidence in civil cases, where applicable, govern in all criminal cases.[39]

Miscellaneous

The bill makes changes to R.C. sections that cross-reference the repealed sections.[40]

Current law provides that when depositions are taken by the state or the accused as described above in "**Application for deposition in criminal cases**," the court must provide to the accused the means and opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face, as fully and in the same manner as if in court. The bill replaces the reference to the provision described in "**Application for deposition in criminal cases**" with the reference to the *Rules of Criminal Procedure*.[41] The bill also makes a change to a section that cross-references an amended section.[42]

HISTORY

Action	Date
Introduced	05-13-25
Reported, H. Judiciary	10-08-25
Passed House (95-0)	10-08-25

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[37] R.C. 2945.34.

[38] R.C. 2945.50.

[39] R.C. 2945.41.

[40] R.C. 1901.021, 2939.03, 2945.51, 2945.52, 2945.53, and 2945.54.

[41] R.C. 2945.53.

[42] R.C. 1901.021