

H. B. No. 286
As Introduced

_____ moved to amend as follows:

- In line 1 of the title, after "956.15" insert ", 2901.12, 3517.155" 1
- In line 3 of the title, after "5164.38" insert "and to enact section 2901.121" 2
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- In line 5 of the title, after "pleas" insert "and to move prosecution of certain offenses against public administration to the offender's county of residence" 4
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- In line 6, after "956.15" insert ", 2901.12, 3517.155" 7
- In line 7, after "5164.38" insert "be amended and section 2901.121" 8
- In line 8, delete "amended" and insert "enacted" 9
- After line 468, insert: 10
- "Sec. 2901.12. (A) (1) The trial of a criminal case in this state shall be held in a court having jurisdiction of the subject matter, and, except in cases of emergency under section 1901.028, 1907.04, 2301.04, or 2501.20 of the Revised Code or in cases covered by section 2901.121 of the Revised Code, in the territory of which the offense or any element of the offense was committed. 11
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(2) Divisions (B) to (I) of this section do not apply to 18
the prosecution of an offense if division (C) (1) (a) of section 19
2901.121 of the Revised Code requires that the offender be tried 20
in the offender's county of residence and venue of the trial in 21
the case is not transferred under division (K) (2) of this 22
section to the county in which the conduct constituting the 23
offense allegedly occurred. If division (C) (1) (b) of section 24
2901.121 of the Revised Code requires that an offender accused 25
of an offense be tried in the county in which the conduct 26
constituting the offense allegedly occurred, or if division (C) 27
(1) (a) of that section initially applies regarding an offense 28
and venue of the trial in the case is to be transferred under 29
division (K) (2) of this section to the county in which the 30
conduct constituting the offense allegedly occurred, divisions 31
(B) to (I) of this section apply to the prosecution of the 32
offense, but only for the purpose of determining the 33
jurisdiction in which the conduct constituting the offense 34
allegedly occurred. 35

(B) When the offense or any element of the offense was 36
committed in an aircraft, motor vehicle, train, watercraft, or 37
other vehicle, in transit, and it cannot reasonably be 38
determined in which jurisdiction the offense was committed, the 39
offender may be tried in any jurisdiction through which the 40
aircraft, motor vehicle, train, watercraft, or other vehicle 41
passed. 42

(C) When the offense involved the unlawful taking or 43
receiving of property or the unlawful taking or enticing of 44
another, the offender may be tried in any jurisdiction from 45
which or into which the property or victim was taken, received, 46
or enticed. 47

(D) When the offense is conspiracy, attempt, or complicity 48
cognizable under division (A) (2) of section 2901.11 of the 49
Revised Code, the offender may be tried in any jurisdiction in 50
which the conspiracy, attempt, complicity, or any of its 51
elements occurred. If an offense resulted outside this state 52
from the conspiracy, attempt, or complicity, that resulting 53
offense also may be tried in any jurisdiction in which the 54
conspiracy, attempt, complicity, or any of the elements of the 55
conspiracy, attempt, or complicity occurred. 56

(E) When the offense is conspiracy or attempt cognizable 57
under division (A) (3) of section 2901.11 of the Revised Code, 58
the offender may be tried in any jurisdiction in which the 59
offense that was the object of the conspiracy or attempt, or any 60
element of that offense, was intended to or could have taken 61
place. When the offense is complicity cognizable under division 62
(A) (3) of section 2901.11 of the Revised Code, the offender may 63
be tried in any jurisdiction in which the principal offender may 64
be tried. 65

(F) When an offense is considered to have been committed 66
in this state while the offender was out of this state, and the 67
jurisdiction in this state in which the offense or any material 68
element of the offense was committed is not reasonably 69
ascertainable, the offender may be tried in any jurisdiction in 70
which the offense or element reasonably could have been 71
committed. 72

(G) When it appears beyond a reasonable doubt that an 73
offense or any element of an offense was committed in any of two 74
or more jurisdictions, but it cannot reasonably be determined in 75
which jurisdiction the offense or element was committed, the 76
offender may be tried in any of those jurisdictions. 77

(H) When an offender, as part of a course of criminal 78
conduct, commits offenses in different jurisdictions, the 79
offender may be tried for all of those offenses in any 80
jurisdiction in which one of those offenses or any element of 81
one of those offenses occurred. Without limitation on the 82
evidence that may be used to establish the course of criminal 83
conduct, any of the following is prima-facie evidence of a 84
course of criminal conduct: 85

(1) The offenses involved the same victim, or victims of 86
the same type or from the same group. 87

(2) The offenses were committed by the offender in the 88
offender's same employment, or capacity, or relationship to 89
another. 90

(3) The offenses were committed as part of the same 91
transaction or chain of events, or in furtherance of the same 92
purpose or objective. 93

(4) The offenses were committed in furtherance of the same 94
conspiracy. 95

(5) The offenses involved the same or a similar modus 96
operandi. 97

(6) The offenses were committed along the offender's line 98
of travel in this state, regardless of the offender's point of 99
origin or destination. 100

(I) (1) When the offense involves a computer, computer 101
system, computer network, telecommunication, telecommunications 102
device, telecommunications service, or information service, the 103
offender may be tried in any jurisdiction containing any 104
location of the computer, computer system, or computer network 105

of the victim of the offense, in any jurisdiction from which or 106
into which, as part of the offense, any writing, data, or image 107
is disseminated or transmitted by means of a computer, computer 108
system, computer network, telecommunication, telecommunications 109
device, telecommunications service, or information service, or 110
in any jurisdiction in which the alleged offender commits any 111
activity that is an essential part of the offense. 112

(2) As used in this section, "computer," "computer 113
system," "computer network," "information service," 114
"telecommunication," "telecommunications device," 115
"telecommunications service," "data," and "writing" have the 116
same meanings as in section 2913.01 of the Revised Code. 117

(J) When the offense involves the death of a person, and 118
it cannot reasonably be determined in which jurisdiction the 119
offense was committed, the offender may be tried in the 120
jurisdiction in which the dead person's body or any part of the 121
dead person's body was found. 122

(K) (1) Notwithstanding any other requirement for the place 123
of trial, venue may be changed, upon motion of the prosecution, 124
the defense, or the court, to any court having jurisdiction of 125
the subject matter outside the county in which trial otherwise 126
would be held, when it appears that a fair and impartial trial 127
cannot be held in the jurisdiction in which trial otherwise 128
would be held, or when it appears that trial should be held in 129
another jurisdiction for the convenience of the parties and in 130
the interests of justice. 131

(2) If a law enforcement agency or the Ohio elections 132
commission, pursuant to division (C) (1) (a) of section 2901.121 133
or divisions (A) (1) and (2) of section 3517.155 of the Revised 134
Code, refers a matter regarding an offense against public 135

administration to the prosecuting attorney of the county in 136
which the alleged offender resided at the time the offense 137
allegedly was committed, notwithstanding the provision of 138
division (C) (1) or (2) of section 2901.121 of the Revised Code 139
that specifies that the trial of the criminal case involving the 140
matter is to be held in a court in the county served by that 141
prosecuting attorney, venue of the trial may be changed as 142
follows: 143

(a) The alleged offender may move to have venue changed to 144
a court having jurisdiction of the subject matter in the county 145
in which the conduct constituting the offense allegedly 146
occurred, and, upon the filing of such a motion, venue of the 147
trial shall be changed to a court having jurisdiction of the 148
subject matter in that county. 149

(b) Independent of division (K) (2) (a) of this section, 150
venue may be changed in accordance with division (K) (1) of this 151
section and Criminal Rule 18. 152

(3) A change of venue shall be made under division (K) (2) 153
(a) of this section in the circumstances described in that 154
division, regardless of whether the criteria set forth in 155
division (K) (1) of this section and Criminal Rule 18 are 156
satisfied. If venue is changed under division (K) (2) (a) of this 157
section, venue may be further changed in accordance with 158
division (K) (1) of this section and Criminal Rule 18. 159

Sec. 2901.121. (A) As used in this section: 160

(1) "Law enforcement agency" has the same meaning as in 161
section 955.012 of the Revised Code. 162

(2) "Offense" means a prohibited act for which state law 163
imposes a criminal or civil penalty. 164

(3) "Offense against public administration" means any of 165
the following: 166

(a) An offense committed by a state officer or a state 167
employee in connection with the powers and duties of the 168
officer's or employee's state office or state employment, in 169
violation of any of the following: 170

(i) Any prohibition set forth in Chapter 2921. of the 171
Revised Code; 172

(ii) Section 2919.27 of the Revised Code. 173

(b) An offense committed by a state officer or a state 174
employee in connection with the powers and duties of the 175
officer's or employee's state office or state employment or by a 176
candidate for state office, in violation of any of the 177
following: 178

(i) Any prohibition set forth in Chapter 102. of the 179
Revised Code; 180

(ii) Section 2927.03 of the Revised Code. 181

(c) An offense committed in connection with a campaign for 182
or the holding of any state office or in connection with an 183
election on a proposed constitutional amendment, or any other 184
proposition or issue submitted to voters, in violation of any 185
section listed in division (A) of section 3517.153 of the 186
Revised Code. 187

(4) "Prosecuting attorney" means a prosecuting attorney of 188
a county. 189

(5) "State agency" means a department, commission, board, 190
office, council, authority, or other agency in the executive 191
branch of state government that is created by the Constitution 192

or a statute of this state, including a state institution of 193
higher education. 194

(6) "State employee" means an individual, other than a 195
state officer, who is employed by any of the following: 196

(a) A state agency; 197

(b) The supreme court, a court of appeals, or the Ohio 198
judicial conference; 199

(c) The house of representatives or the senate; 200

(d) Any legislative agency, council, or committee, 201
including the legislative service commission or any other 202
legislative agency included in the legislative service 203
commission budget group. 204

(7) "State institution of higher education" has the same 205
meaning as in section 3345.011 of the Revised Code. 206

(8) "State officer" means an elected officer of the state, 207
an appointed officer of the state, or the director of a state 208
agency. 209

(B) Except as otherwise provided in this division, on 210
receiving a formal or informal complaint regarding an offense 211
against public administration, other than one identified in 212
division (A) (3) (c) of this section, or on request of a 213
prosecuting attorney, a law enforcement agency may conduct an 214
initial investigation into whether a person has committed an 215
offense against public administration. This division does not 216
apply with respect to offenses against public administration 217
identified in division (A) (3) (c) of this section. 218

(C) (1) If an initial investigation conducted by a law 219
enforcement agency under division (B) of this section, or 220

otherwise conducted by a law enforcement agency, demonstrates a 221
reasonable suspicion that an offense against public 222
administration, other than one identified in division (A) (3) (c) 223
of this section, has occurred, the agency shall refer the matter 224
to a prosecuting attorney determined as specified in this 225
division. The trial of the criminal case involving the matter 226
shall be held in a court having jurisdiction of the subject 227
matter in the county served by that prosecuting attorney, 228
subject to division (C) (3) of this section. The prosecuting 229
attorney to whom the case is referred shall be one of the 230
following: 231

(a) If the alleged offender is a natural person who is a 232
resident of this state, the prosecuting attorney of the county 233
in which the alleged offender resided at the time the offense 234
allegedly was committed; 235

(b) If the alleged offender is a natural person who is not 236
a resident of this state, or if the alleged offender is not a 237
natural person, the prosecuting attorney of the county in which 238
the conduct constituting the offense allegedly occurred. 239

(2) Sections 3517.151 to 3517.156 of the Revised Code 240
apply regarding all complaints and investigations regarding 241
offenses against public administration identified in division 242
(A) (3) (c) of this section. If the Ohio elections commission 243
decides under section 3517.155 of the Revised Code to refer a 244
matter regarding an offense against public administration 245
identified in division (A) (3) (c) of this section to a 246
prosecuting attorney, the referral shall be made under divisions 247
(A) (1) and (2) of section 3517.155 of the Revised Code, with the 248
appropriate prosecuting attorney being determined under those 249
divisions and divisions (C) (1) (a) and (b) of this section. The 250

trial of the criminal case involving the matter shall be held in 251
a court having jurisdiction of the subject matter in the county 252
served by that prosecuting attorney, subject to division (C) (3) 253
of this section. 254

(3) If a law enforcement agency or the Ohio elections 255
commission, pursuant to division (C) (1) (a) of this section or 256
divisions (A) (1) and (2) of section 3517.155 of the Revised 257
Code, refers a matter regarding an offense against public 258
administration to the prosecuting attorney of the county in 259
which the alleged offender resided at the time the offense 260
allegedly was committed, venue of the trial of the case may be 261
changed in accordance with divisions (K) (2) (a) and (3) of 262
section 2901.12 of the Revised Code, or division (K) (2) (b) of 263
that section, and, if venue is changed, the prosecuting attorney 264
of the county to which the venue is changed shall prosecute the 265
case. 266

(4) On request of a prosecuting attorney to whom a law 267
enforcement agency or the Ohio elections commission refers a 268
matter under division (C) (1) of this section or divisions (A) (1) 269
and (2) of section 3517.155 of the Revised Code, or on request 270
of a prosecuting attorney who is prosecuting a case after a law 271
enforcement agency or the Ohio elections commission refers a 272
matter under any of those divisions to a different prosecuting 273
attorney and the venue of the trial in the case is changed as 274
described in division (C) (3) of this section, the referring 275
agency or commission, whichever is applicable, shall assist the 276
prosecuting attorney in the investigation of an offense against 277
public administration. 278

(D) The prosecuting attorney handling a matter referred to 279
the prosecuting attorney by a law enforcement agency or the Ohio 280

elections commission under division (C) (1) of this section or 281
divisions (A) (1) and (2) of section 3517.155 of the Revised 282
Code, or handling a matter after the venue of the trial in the 283
case is changed as described in division (C) (3) of this section 284
when the matter initially was referred to a different 285
prosecuting attorney by a law enforcement agency or the Ohio 286
elections commission under division (C) (1) of this section or 287
divisions (A) (1) and (2) of section 3517.155 of the Revised 288
Code, shall notify the referring agency or commission, whichever 289
is applicable, of either of the following upon occurrence of the 290
event: 291

(1) The termination of the case involving the matter 292
referred by the agency or the commission; 293

(2) The results of the final disposition of the case 294
involving the matter referred by the agency or the commission, 295
including the final adjudication or entry of a plea. 296

(E) (1) The prosecuting attorney handling a matter in 297
either circumstance described in division (D) of this section 298
may request that the court with jurisdiction over the case 299
permit the prosecuting attorney to recuse self for good cause in 300
the case, by submitting to the court a notice of recusal. Upon 301
submission of such a notice of recusal the prosecuting attorney 302
is recused and disqualified from participating in the case 303
involving the matter. 304

(2) Following the recusal of a prosecuting attorney under 305
division (E) (1) of this section, the judges of the court of 306
appeals in which is located the county served by that 307
prosecuting attorney shall appoint, by majority vote, a 308
prosecuting attorney from another county, determined as 309
specified in this division. A prosecuting attorney appointed 310

under this division has the authority to represent the state in 311
the prosecution of the case. A prosecuting attorney appointed 312
under this division shall be one of the following: 313

(a) If the court of appeals making the appointment serves 314
more than one county, the prosecuting attorney appointed shall 315
be from another county in that court of appeals district. 316

(b) If the court of appeals making the appointment serves 317
only one county, the prosecuting attorney appointed shall be 318
from a county that is contiguous to the county served by that 319
court of appeals. 320

(3) A prosecuting attorney appointed by a court of appeals 321
under division (E) (2) of this section may pursue a waiver to 322
extend the applicable statute of limitations by not more than 323
two years. If the waiver adds less than two years to 324
limitations, the prosecuting attorney may pursue a successive 325
waiver for good cause shown to the court, provided that the 326
total time of all waivers does not exceed two years. 327

(F) To the extent allowed by law, a state agency or law 328
enforcement agency shall cooperate with a prosecuting attorney 329
handling a matter in either circumstance described in division 330
(D) of this section, or with a prosecuting attorney who a court 331
of appeals appoints under division (E) (2) of this section, by 332
providing resources and information requested by the prosecuting 333
attorney as necessary to carry out the purposes of this section. 334

(G) Notwithstanding any provision to the contrary in 335
section 309.08, 705.11, 733.51, 733.52, 1901.34, or 2938.13 of 336
the Revised Code or any other section of the Revised Code, all 337
offenses against public administration that are prosecuted on or 338
after the effective date of this amendment shall be prosecuted 339

by a county prosecuting attorney or assistant county prosecuting attorney, regardless of the court in which the prosecution occurs and regardless of whether the offense is a felony or a misdemeanor.

Sec. 3517.155. (A) (1) Except as otherwise provided in division (B) of this section, the Ohio elections commission shall hold its first hearing on a complaint filed with it, other than a complaint that receives an expedited hearing under section 3517.156 of the Revised Code, not later than ninety business days after the complaint is filed unless the commission has good cause to hold the hearing after that time, in which case it shall hold the hearing not later than one hundred eighty business days after the complaint is filed. At the hearing, the commission shall determine whether or not the failure to act or the violation alleged in the complaint has occurred and shall do only one of the following, except as otherwise provided in division (B) of this section or in division (B) of section 3517.151 of the Revised Code:

(a) Enter a finding that good cause has been shown not to impose a fine or not to refer the matter to the appropriate prosecutor;

(b) Impose a fine under section 3517.993 of the Revised Code;

(c) Refer the matter to the appropriate prosecutor.

(2) As used in division (A) of this section, "appropriate prosecutor" means a prosecutor as defined in section 2935.01 of the Revised Code and either of the following:

(a) In the case of a failure to comply with or a violation of law involving a campaign committee or the committee's

candidate, a political party, a legislative campaign fund, a 369
political action committee, or a political contributing entity, 370
that is required to file a statement of contributions and 371
expenditures with the secretary of state under division (A) of 372
section 3517.11 of the Revised Code, the ~~prosecutor of Franklin-~~ 373
~~county~~prosecuting attorney determined as specified in division 374
(C) (1) (a) or (b) of section 2901.121 of the Revised Code; 375

(b) In the case of a failure to comply with or a violation 376
of law involving any other campaign committee or committee's 377
candidate, or any other political party, political action 378
committee, or political contributing entity ~~either of the-~~ 379
~~following as determined by the commission:~~ 380

~~(i) The prosecutor of Franklin county;~~ 381

~~(ii) The prosecutor of,~~ the prosecuting attorney 382
determined as specified in division (C) (1) (a) or (b) of section 383
2901.121 of the Revised Code. For purposes of determining the 384
appropriate prosecuting attorney under division (C) (1) (b) of 385
that section when that division applies, the county in which the 386
conduct constituting the offense allegedly occurred is the 387
county in which the candidacy or ballot question or issue is 388
submitted to the electors or, if it is submitted in more than 389
one county, the most populous of those counties. 390

(3) If the commission refers the matter to the appropriate 391
prosecutor under division (A) (1) (c) of this section and that 392
prosecutor is determined as specified in division (C) (1) (a) of 393
section 2901.121 of the Revised Code, venue of the trial of the 394
case may be changed as described in division (C) (3) of section 395
2901.121 of the Revised Code and, if venue is changed, 396
prosecution shall proceed as described in that division. 397

(B) If the commission decides that the evidence is 398
insufficient for it to determine whether or not the failure to 399
act or the violation alleged in the complaint has occurred, the 400
commission, by the affirmative vote of five members, may request 401
that an investigatory attorney investigate the complaint. Upon 402
that request, an investigatory attorney shall make an 403
investigation in order to produce sufficient evidence for the 404
commission to decide the matter. If the commission requests an 405
investigation under this division, for good cause shown by the 406
investigatory attorney, the commission may extend by sixty days 407
the deadline for holding its first hearing on the complaint as 408
required in division (A) of this section. 409

(C) The commission shall take one of the actions required 410
under division (A) of this section not later than thirty days 411
after the close of all the evidence presented. 412

(D) (1) The commission shall make any finding of a failure 413
to comply with or a violation of law in regard to a complaint 414
that alleges a violation of division (A) or (B) of section 415
3517.21, or division (A) or (B) of section 3517.22 of the 416
Revised Code by clear and convincing evidence. The commission 417
shall make any finding of a failure to comply with or a 418
violation of law in regard to any other complaint by a 419
preponderance of the evidence. 420

(2) If the commission finds a violation of division (B) of 421
section 3517.21 or division (B) of section 3517.22 of the 422
Revised Code, it shall refer the matter to the appropriate 423
prosecutor under division (A) (1) (c) of this section and shall 424
not impose a fine under division (A) (1) (b) of this section or 425
section 3517.993 of the Revised Code. 426

(E) In an action before the commission or a panel of the 427

commission, if the allegations of the complainant are not 428
proved, and the commission takes the action described in 429
division (A)(1)(a) of this section or a panel of the commission 430
takes the action described in division (C)(1) of section 431
3517.156 of the Revised Code, the commission or a panel of the 432
commission may find that the complaint is frivolous, and, if the 433
commission or panel so finds, the commission shall order the 434
complainant to pay reasonable attorney's fees and to pay the 435
costs of the commission or panel as determined by a majority of 436
the members of the commission. The costs paid to the commission 437
or panel under this division shall be deposited into the Ohio 438
elections commission fund." 439

In line 1188, after "956.15" insert ", 2901.12, 3517.155" 440

The motion was _____ agreed to.

SYNOPSIS 441

Prosecution for offenses against public administration 442

R.C. 2901.12, 2901.121, and 3517.155 443

The amendment makes the following changes to prosecutions 444
for offenses against public administration: 445

- Requires the offense to be tried in the county of the 446
offender's residence, if the offender is a natural person who is 447
a resident of the state, and if the offender does not move to 448
have the case prosecuted in the county in which the conduct 449
constituting the offense allegedly occurred; 450

- Requires the prosecution of every offense against 451

public administration to be by county prosecuting attorney, 452
regardless of the court in which the prosecution occurs and 453
regardless of whether the offense is a misdemeanor or felony; 454

- Permits a prosecuting attorney to recuse self for good 455
cause and to be replaced in prosecuting the case by a 456
prosecuting attorney from another county, appointed by the 457
judges of the court of appeals located in the county served by 458
the recused prosecuting attorney. 459