

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 63**

**Senator O'Brien  
Cosponsor: Senator Fedor**

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**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 device and the payment is returned or dishonored for any reason, the person is liable to the county for payment of a penalty over and above the amount of the expense due. The board of county commissioners shall determine the amount of the penalty, which may be either a fee not to exceed twenty dollars or payment of the amount necessary to reimburse the county for banking charges, legal fees, or other expenses incurred by the county in collecting the returned or dishonored payment. The remedies and procedures provided in this section are in addition to any other available civil or criminal remedies provided by law.	233 234 235 236 237 238 239 240 241 242 243
(H) No person making any payment by financial transaction device to a county office shall be relieved from liability for the underlying obligation except to the extent that the county realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device issuer or other guarantor of payment in the transaction, the underlying obligation shall survive and the county shall retain all remedies for enforcement that would have applied if the transaction had not occurred.	244 245 246 247 248 249 250 251 252
(I) A county official or employee who accepts a financial transaction device payment in accordance with this section and any applicable state or local policies or rules is immune from personal liability for the final collection of such payments.	253 254 255 256
<b>Section 2.</b> That existing section 301.28 of the Revised Code is hereby repealed.	257 258