

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 210

**Representative Green
Cosponsor: Representative Thompson**

A BILL

To amend sections 325.071, 325.12, and 2981.13 and
to enact sections 319.70, 319.71, 319.72, and
319.73 of the Revised Code regarding certain
accounts of county agencies and county elected
officials.

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

Section 1. That sections 325.071, 325.12, and 2981.13 be
amended and sections 319.70, 319.71, 319.72, and 319.73 of the
Revised Code be enacted to read as follows:

Sec. 319.70. As used in sections 319.70 to 319.73 of the
Revised Code:

"County agency" means a department, division, board,
commission, office, or other governmental entity of the county.

"Custodial account" means an account established by a
county agency or county elected official in the performance of
the agency's or official's duties that consists of moneys,
claims, bonds, notes, other obligations, stocks, or other
securities, receipts or other evidences of ownership, and other
intangible assets that is neither required to be kept in the

custody of the county treasurer nor required to be part of the 19
county treasury, including a furtherance of justice fund created 20
under section 325.071 or 325.12 of the Revised Code and a law 21
enforcement trust fund created under section 2981.13 of the 22
Revised Code. 23

Sec. 319.71. Not less than thirty days before establishing 24
a custodial account, a county agency or county elected official 25
shall notify the county auditor of the agency's or official's 26
intent to establish a custodial account. 27

A board of county commissioners may, by resolution, 28
establish circumstances under which a county agency or county 29
elected official is required to obtain approval of the board 30
before establishing a custodial account. If the board requires 31
approval, the county agency or county elected official, not less 32
than thirty days before establishing a custodial account, shall 33
obtain the approval of the board of county commissioners before 34
establishing the custodial account. 35

Sec. 319.72. (A) (1) A county agency or county elected 36
official shall file with the county auditor all monthly 37
statements issued for a custodial account within thirty days 38
after receiving the statement. 39

(2) Annually not later than the thirty-first day of 40
January, the county agency or county elected official shall file 41
with the county auditor an annual report regarding the custodial 42
account on a form prescribed by the county auditor. 43

(3) The county auditor may request from a county agency or 44
county elected official a copy of any statement, document, or 45
other record regarding a custodial account established by the 46
agency or official. Not later than thirty days after receiving a 47

request, the agency or official shall provide all requested 48
information to the auditor or shall provide in writing a reason 49
why the requested information cannot be provided. 50

(B) A county agency or county elected official shall mark 51
as confidential any copy of a statement, document, or other 52
record the agency or official provides to the auditor unless the 53
statement, document, or other record previously has been made 54
available in response to a public records request. When in 55
possession of the auditor, a copy of a statement, document, or 56
other record provided by the agency or official to the auditor 57
under this division is not a public record under section 149.43 58
of the Revised Code. 59

Sec. 319.73. A county auditor shall verify that a 60
custodial fund is expended in accordance with the allowable uses 61
of that fund by requesting documents as necessary and reviewing 62
all the documents the auditor receives under section 319.72 of 63
the Revised Code. 64

Sec. 325.071. There shall be allowed annually to the 65
sheriff, in addition to all salary and allowances otherwise 66
provided by law, an amount equal to one-half of the official 67
salary allowed under division (A) of section 325.06 and section 68
325.18 of the Revised Code, to provide for expenses that the 69
sheriff incurs in the performance of the sheriff's official 70
duties and in the furtherance of justice. Upon the order of the 71
sheriff, the county auditor shall draw the auditor's warrant on 72
the county treasurer, payable to the sheriff or any other person 73
as the order designates, for the amount the order requires. The 74
amounts the order requires, not exceeding the amount provided by 75
this section, shall be paid out of the general fund of the 76
county. 77

Nothing shall be paid under this section until ~~the~~; 78

(A) The sheriff files with the county auditor the annual 79
report for the previous year required under division (A) (2) of 80
section 319.71 of the Revised Code; and 81

(B) The sheriff gives bond to the state in an amount not 82
less than the sheriff's official salary, to be fixed by the 83
court of common pleas or the probate court, with sureties to be 84
approved by either of those courts. 85

The bond required under this section shall be conditioned 86
that the sheriff will faithfully discharge all the duties 87
enjoined upon the sheriff, and pay over all moneys the sheriff 88
receives in an official capacity. The bond, with the approval of 89
the court of common pleas or the probate court of the amount of 90
the bond and the sureties on the bond, shall be deposited with 91
the county treasurer. 92

The sheriff ~~annually, before the first Monday of January,~~ 93
~~shall file with the county auditor an itemized statement,~~ 94
~~verified by the sheriff, as to the manner in which the fund~~ 95
~~provided by this section has been expended during the current~~ 96
~~year, and, if pay into the county treasury any part of ~~that the~~~~ 97
~~fund that remains in the sheriff's hands unexpended at the end~~ 98
~~of a year, forthwith shall pay the remainder into the county~~ 99
~~treasury.~~ 100

Sec. 325.12. (A) Except for the prosecuting attorney of a 101
county with a population of less than seventy thousand one, 102
there shall be allowed annually to the prosecuting attorney, in 103
addition to the prosecuting attorney's salary provided by 104
sections 325.11 and 325.18 of the Revised Code and to the 105
allowance provided for by section 309.06 of the Revised Code, an 106

amount equal to one-half of the official salary the prosecuting attorney receives, to provide for expenses the prosecuting attorney may incur in the performance of the prosecuting attorney's official duties and in the furtherance of justice.

(B) There shall be allowed annually to the prosecuting attorney of a county with a population of less than seventy thousand one, in addition to the prosecuting attorney's salary provided by sections 325.11 and 325.18 of the Revised Code and to the allowance provided for by section 309.06 of the Revised Code, an amount equal to one-half of the salary specified for a prosecuting attorney with a private practice under sections 325.11 and 325.18 of the Revised Code, to provide for expenses the prosecuting attorney may incur in the performance of the prosecuting attorney's official duties and in the furtherance of justice.

(C) Upon the order of the prosecuting attorney, the county auditor shall draw the county auditor's warrant on the county treasurer, payable to the prosecuting attorney or any other person as the order designates, for the amount the order requires, not exceeding the amount provided by division (A) or (B) of this section to be paid out of the general fund of the county.

(D) Nothing shall be paid under this section until ~~the~~ :

(1) The prosecuting attorney files with the county auditor the annual report for the previous year required under division (A) (2) of section 319.71 of the Revised Code; and

(2) The prosecuting attorney has given bond to the state in a sum, not less than the prosecuting attorney's official salary, to be fixed by the court of common pleas or the probate

court, with sureties to be approved by either of those courts. 136

The bond required under this division shall be conditioned 137
that the prosecuting attorney will faithfully discharge all the 138
duties enjoined upon the prosecuting attorney, and pay over all 139
moneys received by the prosecuting attorney in the prosecuting 140
attorney's official capacity. The bond, with the approval of the 141
court of common pleas or the probate court of the amount of the 142
bond and the sureties on the bond, and the prosecuting 143
attorney's oath of office enclosed with the bond, shall be 144
deposited with the county treasurer. 145

(E) The prosecuting attorney shall, ~~annually, before the~~ 146
~~first Monday of January, file with the auditor an itemized~~ 147
~~statement, verified by the prosecuting attorney, as to the~~ 148
~~manner in which the fund provided by this section has been~~ 149
~~expended during the current year, and, if pay into the county~~ 150
~~treasury any part of ~~that the fund that~~ remains in the~~ 151
prosecuting attorney's hands unexpended, ~~forthwith shall pay the~~ 152
~~remainder into the county treasury at the end of the year.~~ 153

Sec. 2981.13. (A) Except as otherwise provided in this 154
section, property ordered forfeited as contraband, proceeds, or 155
an instrumentality pursuant to this chapter shall be disposed 156
of, used, or sold pursuant to section 2981.12 of the Revised 157
Code. If the property is to be sold under that section, the 158
prosecutor shall cause notice of the proposed sale to be given 159
in accordance with law. 160

(B) If the contraband or instrumentality forfeited under 161
this chapter is sold, any moneys acquired from a sale and any 162
proceeds forfeited under this chapter shall be applied in the 163
following order: 164

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; the casino control commission enforcement fund

created by section 3772.36 of the Revised Code; or the treasurer 194
of state for deposit into the peace officer training commission 195
fund if any other state law enforcement agency substantially 196
conducted the investigation. In the case of property forfeited 197
for medicaid fraud, any remaining amount shall be used by the 198
attorney general to investigate and prosecute medicaid fraud 199
offenses. 200

If the prosecutor declines to accept any of the remaining 201
amounts, the amounts shall be applied to the fund of the agency 202
that substantially conducted the investigation. 203

(c) If more than one law enforcement agency is 204
substantially involved in the seizure of property forfeited 205
under this chapter, the court ordering the forfeiture shall 206
equitably divide the amounts, after calculating any distribution 207
to the law enforcement trust fund of the prosecutor pursuant to 208
division (B) (4) of this section, among the entities that the 209
court determines were substantially involved in the seizure. 210

(C) (1) A law enforcement trust fund shall be established 211
by the prosecutor of each county who intends to receive any 212
remaining amounts pursuant to this section, by the sheriff of 213
each county, by the legislative authority of each municipal 214
corporation, by the board of township trustees of each township 215
that has a township police department, township or joint police 216
district police force, or office of the constable, and by the 217
board of park commissioners of each park district created 218
pursuant to section 511.18 or 1545.01 of the Revised Code that 219
has a park district police force or law enforcement department, 220
for the purposes of this section. 221

There is hereby created in the state treasury the state 222
highway patrol contraband, forfeiture, and other fund, the 223

department of public safety investigative unit contraband, 224
forfeiture, and other fund, the medicaid fraud investigation and 225
prosecution fund, the department of taxation enforcement fund, 226
and the peace officer training commission fund, for the purposes 227
of this section. 228

Amounts distributed to any municipal corporation, 229
township, or park district law enforcement trust fund shall be 230
allocated from the fund by the legislative authority only to the 231
police department of the municipal corporation, by the board of 232
township trustees only to the township police department, 233
township police district police force, or office of the 234
constable, by the joint police district board only to the joint 235
police district, and by the board of park commissioners only to 236
the park district police force or law enforcement department. 237

(2) (a) No amounts shall be allocated to a fund created 238
under this section or used by an agency unless the agency has 239
adopted a written internal control policy that addresses the use 240
of moneys received from the appropriate fund. The appropriate 241
fund shall be expended only in accordance with that policy and, 242
subject to the requirements specified in this section, only for 243
the following purposes: 244

(i) To pay the costs of protracted or complex 245
investigations or prosecutions; 246

(ii) To provide reasonable technical training or 247
expertise; 248

(iii) To provide matching funds to obtain federal grants 249
to aid law enforcement, in the support of DARE programs or other 250
programs designed to educate adults or children with respect to 251
the dangers associated with the use of drugs of abuse; 252

(iv) To pay the costs of emergency action taken under 253
section 3745.13 of the Revised Code relative to the operation of 254
an illegal methamphetamine laboratory if the forfeited property 255
or money involved was that of a person responsible for the 256
operation of the laboratory; 257

(v) For other law enforcement purposes that the 258
superintendent of the state highway patrol, department of public 259
safety, prosecutor, county sheriff, legislative authority, 260
department of taxation, Ohio casino control commission, board of 261
township trustees, or board of park commissioners determines to 262
be appropriate. 263

(b) The board of pharmacy drug law enforcement fund shall 264
be expended only in accordance with the written internal control 265
policy so adopted by the board and only in accordance with 266
section 4729.65 of the Revised Code, except that it also may be 267
expended to pay the costs of emergency action taken under 268
section 3745.13 of the Revised Code relative to the operation of 269
an illegal methamphetamine laboratory if the forfeited property 270
or money involved was that of a person responsible for the 271
operation of the laboratory. 272

(c) The state highway patrol contraband, forfeiture, and 273
other fund, the department of public safety investigative unit 274
contraband, forfeiture, and other fund, the department of 275
taxation enforcement fund, the board of pharmacy drug law 276
enforcement fund, the casino control commission enforcement 277
fund, and a law enforcement trust fund shall not be used to meet 278
the operating costs of the state highway patrol, of the 279
investigative unit of the department of public safety, of the 280
state board of pharmacy, of any political subdivision, of the 281
Ohio casino control commission, or of any office of a prosecutor 282

or county sheriff that are unrelated to law enforcement. 283

(d) Forfeited moneys that are paid into the state treasury 284
to be deposited into the peace officer training commission fund 285
shall be used by the commission only to pay the costs of peace 286
officer training. 287

(3) Any of the following offices or agencies that receive 288
amounts under this section during any calendar year shall file a 289
report with the specified entity, not later than the thirty- 290
first day of January of the next calendar year, verifying that 291
the moneys were expended only for the purposes authorized by 292
this section or other relevant statute and specifying the 293
amounts expended for each authorized purpose: 294

~~(a) Any sheriff or prosecutor shall file the report with~~ 295
~~the county auditor.~~ 296

~~(b)~~ Any municipal corporation police department shall file 297
the report with the legislative authority of the municipal 298
corporation. 299

~~(e)~~ (b) Any township police department, township or joint 300
police district police force, or office of the constable shall 301
file the report with the board of township trustees of the 302
township. 303

~~(d)~~ (c) Any park district police force or law enforcement 304
department shall file the report with the board of park 305
commissioners of the park district. 306

~~(e)~~ (d) The superintendent of the state highway patrol and 307
the tax commissioner shall file the report with the attorney 308
general. 309

~~(f)~~ (e) The executive director of the state board of 310

pharmacy shall file the report with the attorney general, 311
verifying that cash and forfeited proceeds paid into the board 312
of pharmacy drug law enforcement fund were used only in 313
accordance with section 4729.65 of the Revised Code. 314

~~(g)~~ (f) The peace officer training commission shall file a 315
report with the attorney general, verifying that cash and 316
forfeited proceeds paid into the peace officer training 317
commission fund pursuant to this section during the prior 318
calendar year were used by the commission during the prior 319
calendar year only to pay the costs of peace officer training. 320

~~(h)~~ (g) The executive director of the Ohio casino control 321
commission shall file the report with the attorney general, 322
verifying that cash and forfeited proceeds paid into the casino 323
control commission enforcement fund were used only in accordance 324
with section 3772.36 of the Revised Code. 325

(D) The written internal control policy of a county 326
sheriff, prosecutor, municipal corporation police department, 327
township police department, township or joint police district 328
police force, office of the constable, or park district police 329
force or law enforcement department shall provide that at least 330
ten per cent of the first one hundred thousand dollars of 331
amounts deposited during each calendar year in the agency's law 332
enforcement trust fund under this section, and at least twenty 333
per cent of the amounts exceeding one hundred thousand dollars 334
that are so deposited, shall be used in connection with 335
community preventive education programs. The manner of use shall 336
be determined by the sheriff, prosecutor, department, police 337
force, or office of the constable after receiving and 338
considering advice on appropriate community preventive education 339
programs from the county's board of alcohol, drug addiction, and 340

mental health services, from the county's alcohol and drug 341
addiction services board, or through appropriate community 342
dialogue. 343

The financial records kept under the internal control 344
policy shall specify the amount deposited during each calendar 345
year in the portion of that amount that was used pursuant to 346
this division, and the programs in connection with which the 347
portion of that amount was so used. 348

As used in this division, "community preventive education 349
programs" include, but are not limited to, DARE programs and 350
other programs designed to educate adults or children with 351
respect to the dangers associated with using drugs of abuse. 352

(E) Upon the sale, under this section or section 2981.12 353
of the Revised Code, of any property that is required by law to 354
be titled or registered, the state shall issue an appropriate 355
certificate of title or registration to the purchaser. If the 356
state is vested with title and elects to retain property that is 357
required to be titled or registered under law, the state shall 358
issue an appropriate certificate of title or registration. 359

(F) Any failure of a law enforcement officer or agency, 360
prosecutor, court, or the attorney general to comply with this 361
section in relation to any property seized does not affect the 362
validity of the seizure and shall not be considered to be the 363
basis for suppressing any evidence resulting from the seizure, 364
provided the seizure itself was lawful. 365

Section 2. That existing sections 325.071, 325.12, and 366
2981.13 of the Revised Code are hereby repealed. 367