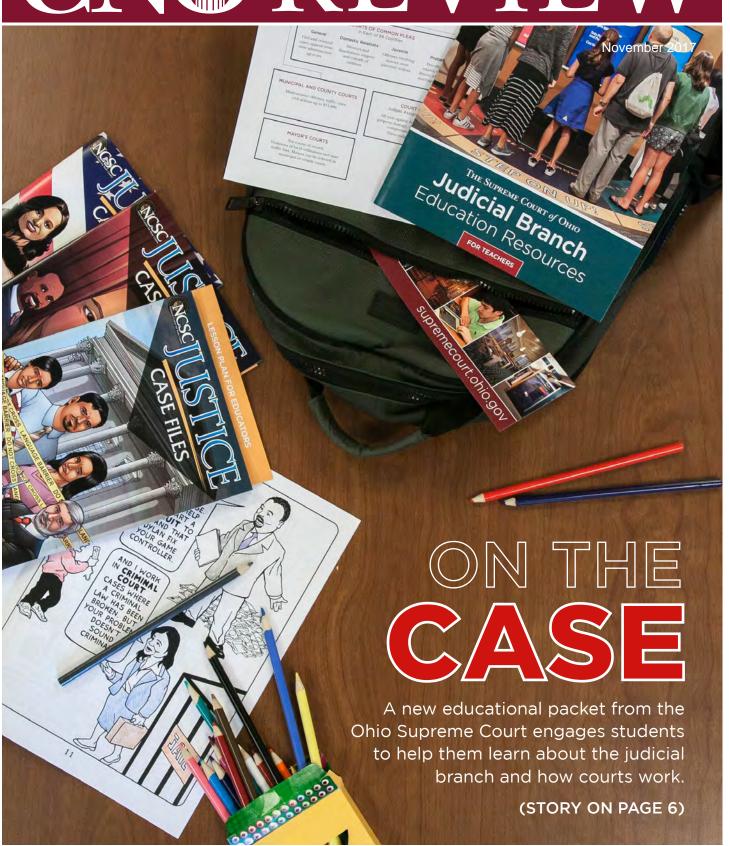
CNOREVIEW



About Court News Ohio

Court News Ohio is a service of the Office of Public Information of the Supreme Court of Ohio and Ohio Government Telecommunications. Court News Ohio includes a website (courtnewsohio.gov), a monthly publication (CNO Review), a television program (CNOTV), a Facebook page (facebook.com/courtnewsohio), a Twitter feed (@courtnewsohio), and a YouTube channel (youtube.com/CourtNewsOhioTV).

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Cases

Visit <u>courtnewsohio.gov</u> for the most current decisions from the Ohio Supreme Court, Courts of Appeals, and Court of Claims.

Supreme Court of Ohio

HIV-Disclosure Statute Constitutional

The Supreme Court upheld the constitutionality of R.C. 2903.11(B)(1), Ohio's HIV-disclosure statute, which makes it a crime for a person who has tested positive for HIV to knowingly engage in sexual conduct with another without disclosing that information. The Court concluded that it does not violate either the free speech provision of the First Amendment or the Equal Protection Clauses of the United States or Ohio constitutions.

In an Oct. 26 majority opinion authored by Justice **Terrence O'Donnell**, the Court ruled that because R.C. 2903.11(B)(1) regulates conduct, not speech, it does not violate the First Amendment, and because it is rationally related to the state's legitimate interest in preventing the transmission of HIV to sexual partners who may not be aware of the risk, it does not violate equal protection.

In 2001, Orlando Batista learned from the Ohio Department of Rehabilitation and Correction that he was HIV positive. In 2013, he engaged in intercourse with a woman without disclosing his HIV-positive status. She later learned of Batista's HIV positive status, and he acknowledged he had tested positive for the virus. Batista was convicted of violating the statute, but appealed the charges, arguing the law violated the First Amendment right to free speech and the Equal Protection Clauses of both the United States and Ohio constitutions.

State v. Batista Slip Opinion No. 2017-Ohio-8304

Court Overturns Lake County Death Sentence

The Court reversed the death sentence of a Lake County man accused of the 2010 rape and murder of a Mentor-on-the-Lake bartender. The Court voted 4-3 on Oct. 4 to order a new trial for Joseph L. Thomas.

Justice Terrence O'Donnell authored the lead opinion, which concluded that the trial court committed plain error in admitting as evidence five knives that prosecutors knew were not used in the crime and that there was a reasonable probability that this error affected the outcome of the trial

In a dissenting opinion, Justice **Patrick F. Fischer** wrote that although it was "a close question" of whether the trial committed an error by admitting the five knives, he concluded the knives did not have an "appreciable impact on the jury's verdict," and would affirm the trial court's decision.

State v. Thomas Slip Opinion No. 2017-Ohio-8011

Court Rejects Additional Workers' Compensation Awards

The Court decided two cases on Sept. 14 that clarified when injured workers can receive additional benefit awards.

The Court voted 6-1 to reaffirm its decision that state law does not permit an award of permanent-partial-disability compensation to an injured worker who has previously been awarded permanent-total-disability compensation in the same claim.

In a separate case, the Court rescinded an enhanced award for a violation of a specific safety requirement and sent the case back to the Ohio Industrial Commission to determine whether a car-part manufacturer should have known of a specific defect of a machine that hit a

worker in the head.

In December 2016, the Court sided with the employer in *State ex rel. Ohio Presbyterian Retirement Services, Inc. v. Indus. Comm.* based on written briefs filed in the case. Sherry Redwine, who was injured while working for Ohio Presbyterian Retirement Services, asked the Court to reconsider its decision, and the Court agreed. It conducted oral arguments in June.

In the Court's majority opinion, Justice **Sharon L. Kennedy** wrote that the Industrial Commission does not have the legal authority to award permanent-partial-disability compensation if the employee has been previously been awarded permanent-total-disability compensation in the same claim. She noted that the workers' compensation law specifies instances where injured workers can receive two disability awards at the same, but Redwine's claim is not one of them.

In the other case, auto-part maker Camaco, LLC sought a writ of mandamus to overturn an Industrial Commission penalty for a violation of a specific safety requirement that added 35 percent to a workers' compensation benefit award to an injured "weld tech trainee" Robert Albu

The Court vacated the award to Albu and remanded the case to the commission to determine whether Camaco knew or should have known about the defect at the time of the injury and provided protective headgear.

State ex rel. Ohio Presbyterian Retirement Servs., Inc. v. Indus Comm. Slip Opinion No. 2017-Ohio-7577 State ex rel. Camaco LLC v. Albu Slip Opinion No. 2017-Ohio-7569

HappeningNow

News and Notes from Courthouses Across the Buckeye State

Professionals Statewide Discuss Ways to Operate Ohio's Specialized Dockets



Supreme Court of Ohio Administrative Director **Michael Buenger** welcomes more than 500 court personnel to the Ohio Specialized Dockets Conference.

Judges, court staff, probation officers, counselors, and other treatment providers gathered at the Ohio State University student union to exchange ideas at the Ohio Specialized Dockets Conference.

Ohio Supreme Court Administrative Director **Michael Buenger** welcomed the crowd of 525 court personnel from all over the state.

"I want to thank the Specialized Dockets Section of the Supreme Court of Ohio," Buenger said. "I also benefit every day from their knowledge and their passion."

Ohio has established itself as a national leader in the implementation of specialized dockets. There are 230 specialized docket programs in operation throughout Ohio, and the Ohio Supreme Court recently certified new dockets to begin operations next year.

Montgomery County Judge **Tony Capizzi** was recently named the president of the National Council of Juvenile Court Judges. Judge Capizzi's court is part of a pilot project with IBM that would put the lightning-fast artificial intelligence system of Watson into the hands of judges across the state to manage cases.

"One cool thing about it really is that my staff can put information in real time," said Judge Capizzi. "So when I'm getting ready for court, and I have all these files to review, 30 or 40 for the day, if something happens 10 minutes ago, my staff can put it in the computer system online, in the cloud. When I get on the bench, it's there."

Vietnam War veteran and Judge **Michael Jackson** was recognized at the conference for his work with the Veterans Treatment Court in Cuyahoga County.

"I'm the only veteran on the court," said Judge Jackson. "One of the things that I wanted to do was to set a veterans treatment court so I feel supported by my other judges and very blessed to have the opportunity to do that."



Off-Site Court Marks 30th Anniversary in Marietta

The Ohio Supreme Court traveled to Marietta on Oct. 19 to hold an off-site session before students from nine area schools. This was the first place the Court traveled 30 years ago to bring the experience to communities that otherwise may never see the justices hear oral arguments. Watch video of the visit at courtnewsohio.gov.



Bar Exam Results Released

Of the 936 applicants who sat for the July 2017 Ohio Bar Examination, 664 — or 70.9 percent — received passing scores. A complete list of names of the successful applicants is available on the Supreme Court's bar exam results page. Applicants who were successful on the exam and who have satisfied all of the Court's other requirements for admissions to the Ohio bar will be invited to take the attorney oath of office during two special public sessions of Court on Nov. 13 at 10:30 a.m. and 2 p.m. at the Ohio Theatre in Columbus.

Board of Professional Conduct Issues Self-Help Legal Clinic Advisory

The Board of Professional Conduct on Oct. 17 issued an advisory opinion concerning court-established, selfhelp legal clinics.

In <u>Advisory Opinion 2017-7</u>, the board concludes that a court-operated self-help legal clinic is both permissible and envisioned under the Ohio Rules of Professional Conduct and the Code of Judicial Conduct.

A self-help clinic provides short-term assistance to people of limited means who otherwise would be unrepresented. These clinics, staffed by lawyers appointed and compensated by a court, assist litigants to ensure they file the correct court forms, while explaining process issues and court procedures. The lawyers do not represent litigants before the court or sign any court filings on their behalf.

Given the short-term and limited nature of the assistance, the board determined that a clinic lawyer is providing limited representation that creates a limited client-lawyer relationship. A limited-scope representation requires the lawyer to adhere to ethical obligations, including providing competent and diligent legal services, maintaining client confidences, considering known conflicts, and giving notice to the client of a lack of malpractice insurance. The board recommends that a clinic lawyer obtain the client's written consent and acknowledgment to the limits of the representation.

The opinion also addresses the ethical issues under the Code of Judicial Conduct that may implicate the impartiality and independence of a court when establishing a self-help clinic. A court should take steps to ensure the clinic is viewed, to the extent possible, as an independent function of the court, including the physical location of the clinic in the courthouse. In addition, the court's involvement should be limited to the funding and the appointment of lawyers, but not the day-to-day operation of the clinic. Lastly, the same ethical boundaries observed by the court with lawyers appointed for indigent clients also should be maintained for self-help clinic lawyers.

Advisory Opinions of the Board of Professional Conduct are nonbinding opinions in response to prospective or hypothetical questions regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary, the Ohio Rules of Professional Conduct, the Ohio Code of Judicial Conduct, and the Attorney's Oath of Office.



American Bar Association Offers Free CLE Webinars to Attorneys Helping Disaster Victims

Disaster victims ravaged by recent storms are desperate for legal services, and the American Bar Association (ABA) is offering attorneys training to help in the recovery efforts.

The ABA is offering free continuing legal education (CLE) webinars for attorneys to better enable them to help survivors of Hurricane Harvey, Hurricane Irma, or Hurricane Maria (see box below).

"Ohio lawyers stepped up when Hurricane Harvey hit," said Chief Justice **Maureen O'Connor**. "Victims of the next two giant storms need legal help, too. All will be navigating difficult legal situations, from unemployment benefits and insurance payouts to lost records and applications for federal assistance."

"Attorneys who join in this ABA effort are helping to ensure that access to fair and effective justice is available to all Americans, not just those who can afford the services of an attorney," Chief Justice O'Connor said.

Volunteer lawyers are needed for cases and claims in <u>Puerto Rico</u>, <u>U.S. Virgin Islands</u>, <u>Florida</u>, <u>Georgia</u>, and <u>Texas</u>.



Free ABA CLE Disaster Relief Resources

The ABA is offering the following on-demand CLE programs free for any attorney who wants information to help survivors:

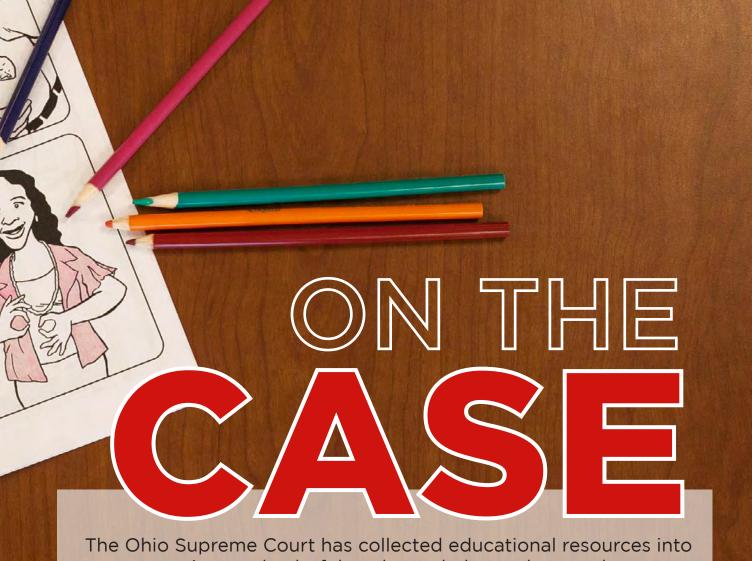
Representing Disaster Survivors: Challenges to Survivors AND Lawyers (On-Demand CLE)

This program provides background from experienced experts on the most recurring legal issues disaster survivors face including: insurance disputes; FEMA benefits; landlord-tenant disputes; consumer fraud; and more.

Representing Disaster Survivors II: Practical Litigation Tips on How to Succeed in Court and Administrative Hearings (On-Demand CLE)

This program provides information on handling the long-term and complex legal issues that linger after the initial disaster.





The Ohio Supreme Court has collected educational resources into one convenient and colorful packet to help teachers and courts instruct students about the judicial branch of government.

rom "comic books" to coloring books, the Civic Education Section's new teaching guides give children of all ages a fun way of learning. The new packet includes tools to teach students about the justice system and includes lesson plans designed specifically to meet state educational standards.

"It's a handy package that includes information for both teachers and students – graphic novels for students to read and lesson plans with preparation materials and discussion questions for educators," said **Sara Stiffler**, civic education coordinator for the Ohio Supreme Court. "The materials create an opportunity for students to learn in an interactive, entertaining, and substantive way."

Books Shed Light on Court System

The comic books, also described as "graphic novels," are vividly illustrated and tell each story with word balloons and art. The series, called the *Justice Case Files*, was created by the National Center for State Courts to provide insight about how judges make decisions, how the courts protect the public, and why courts are essential to a democratic society.

The Supreme Court's packet currently offers three novels. One describes what it's like to serve on a jury, using a criminal case about a young woman not old enough to legally drink who is charged with driving drunk. Another focuses on civil law, discussing a family that faces eviction

because they have a pet. It also addresses how language barriers are dealt with in the justice system. The third tackles a cyberbullying incident that ends up in juvenile court.

The coloring book tells a tale of a boy who wants justice because he says his friend broke his video game controller.

Stories Resonate with Youth

Dianne Ruwe, program coordinator for Warren County Juvenile Detention Center, is always looking for novel, useful, and engaging activities for youth at the center. Lieutenant Rick Brewster, the center's assistant superintendent, gave Ruwe information about the Court's materials, and she was intrigued. She decided to give them a try.

A few weeks ago, staff presented the jury duty book to a class. To make it an active learning experience, the kids read the story aloud, playing the roles of the various characters in the book. Ruwe said the class was made up of 17- and 18-year-olds, mostly boys.

"Once we gave them the book, they never took their eyes off it," she said.

Because the case scenario involves a teenager who allegedly had been drinking, the youths could relate to the story and were "completely interested," Ruwe noted.

It also was instructional, she added, because some kids in the center are caught up in the juvenile court system for the first time and others never had a clear understanding of the court process they went through. The book created an opportunity for them to learn about the typical steps in a court case.

Ruwe recalled that a girl commented after the class, "I actually *like* this class."

Ruwe plans to work through each of the books, one a week. She'll be able to use them continuously as juveniles leave and new youths enter the center.

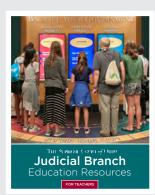
Guidance Provided for Teachers and Courts

Each graphic novel and the coloring book includes a detailed lesson plan for educators. The plans identify key concepts in the books, different approaches to the material based on grade level, applicable state curriculum standards, suggested questions and class exercises, additional resources, and other enriching learning activities.

"Teachers like the lesson plans," Stiffler said. "They can see ways to use the books for different reading levels, different classes, or as a homework activity. Or, maybe on a day when a teacher is out, they can leave the books and lesson plans for a substitute teacher to use."

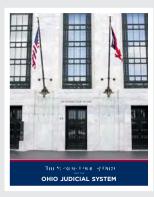
what's notice

An array of educational resources are tucked into the Supreme Court's practical, colorful packet. From graphic novels about the different roles of courts to bookmarks about the state's judicial system, the packet includes multiple tools to teach students about the justice system.



Judicial Branch Education Resources Booklet

Descriptions of the Supreme Court's civic education and outreach programs.



The Supreme Court of Ohio and the Ohio Judicial System

Learn about the structure and function of Ohio courts.



Ohio Supreme Court Bookmarks

Bookmarks list the current Supreme Court of Ohio justices and a display chart of the Ohio judicial system.



Justice Case Files Lesson Plans

Comprehensive lesson plans accompany each of the *Justice Case Files* graphic novels.

Courts can also use the packets to facilitate discussion and activities when doing outreach with schools in their communities or when students visit their courts.

In the packet, Ohio Chief Justice **Maureen O'Connor** explains that the books give students the chance to learn more about the least-understood branch of government – the judiciary.

"You are learning some of the most important things that any American can learn: how your government works, how you can protect your rights, and how important it is that you become an active and engaged citizen," she wrote.

And There's More ...

Also included in the packet is a brochure describing the history and purpose of the Ohio Supreme Court, with brief biographies of the current Court justices, and explaining the levels within the state court system. Another piece provides details about attending oral arguments at the Supreme Court, and touring the Court's spectacular, historic building and interactive Visitor Education Center. Handy bookmarks and information about the Court's social media channels through Court News Ohio round out the materials.

Online Access

The judicial branch education packet is available free of charge. Teachers, courts, and the public have immediate access to the *Justice Case Files* graphic novels and lesson plans, as well as the brochures about Ohio's judicial system and the Court's extensive civic education programs from the <u>Judicial Branch Education Resources</u> section of the Court's website. Files can be downloaded as PDFs, and some can be viewed as digital magazines.

"People can even access and read the materials directly from their digital device," Stiffler added.

Teachers and courts may also order print copies of the materials or obtain more information by emailing CivicEd@sc.ohio.gov.

Ruwe said the Warren County center has limited funds to pay for these kind of instructional resources and the staff doesn't have the training to develop lesson plans themselves. The Supreme Court's complimentary packet of books, lesson plans, and educational brochures make it possible to address civics with the youth and to incorporate the materials as a regular part of the center's programs, Ruwe noted.

"Having these graphic novels and resources accessible for free was essential for us," Ruwe said.



The Case of Jury Duty is about Matthew Foley, an 18-year-old who is summoned for jury duty on a case that involves underage drinking and driving. Readers learn how meaningful jury service is, how the jury system is a source of accountability for courts, and how our society benefits from the right to a jury of one's peers.



The Case of the Cyberbully recounts the experience of Amber, who is bullied at school and online by classmate Madison. The bullying escalates to the point where the case winds up in juvenile court.



The Case of the Broken Controller is a narrative coloring book that tells the story of Tyler, who wants justice because he says his friend broke his video game controller.



The Case of No Pets Allowed involves the Ruiz family, who received an eviction notice from their landlord because they own a dog. The parents speak minimal English and rely on their teenage son, who is bilingual, for English translation. The book follows the family through the court process of fighting the eviction but not understanding the process because of language barriers.



CNO Legislative

Digest

Each month, Court News Ohio Review tracks bills and resolutions pending in the Ohio General Assembly that are of interest to the judicial community.

HB 341 - PUBLIC RECORDS

Rep. Steve Huffman (R-Tipp City) & Rep. Jack Cera (D-Bellaire)

To include judges as individuals whose residential and familial information is exempt from disclosure under the public records law, and whose addresses public offices, upon request, must redact from records available to the general public on the Internet.

STATUS: Introduced in the House Sept. 11, 2017. Its first hearing in the House Government Accountability & Oversight Committee was Oct. 11, 2017.

HB 373 - CONCEALED WEAPONS

Rep. Nino Vitale (R-Urbana)

To permit any person who holds a valid concealed handgun license to carry a concealed handgun in a courthouse, a courtroom, or a government facility of this state or in a government facility of a political subdivision of this state if the political subdivision has not enacted an ordinance or policy that prohibits a licensee from carrying a concealed handgun into the building, or the court has not enacted a rule that prohibits a licensee from carrying a deadly weapon or dangerous ordnance into the courthouse or courtroom.

STATUS: Introduced in the House Oct. 10, 2017, and referred to the House Federalism & Interstate Relations Committee.

SB 125 - CHILD SUPPORT

Sen. Bill Beagle (R-Tipp City)

HB 366 - CHILD SUPPORT

Rep. Theresa Gavarone (R-Bowling Green)

To make changes to the laws governing child support.

STATUS: Introduced in the Senate April 5, 2017. Its fourth hearing in the Senate Judiciary Committee was Oct. 24, 2017. Introduced in the House Oct. 2, 2017 and referred to the House Community & Family Advancement Committee.

SB 201 - PRISON TERMS

Sen. Kevin Bacon (R-Minerva Park) & Sen. Sean O'Brien (D-Bazetta)

To provide for indefinite prison terms for first- or second-degree felonies and specified third-degree felonies, with presumptive release of offenders sentenced to such a term at the end of the minimum term; to generally allow the Department of Rehabilitation and Correction to reduce the minimum term for exceptional conduct or adjustment to incarceration; to allow the department to rebut the release presumption and keep the offender in prison up to the maximum term if it makes specified findings; and to name the act's provisions the Reagan Tokes Law.

SB 202 - OFFENDER RE-ENTRY

Sen. Kevin Bacon (R-Minerva Park) & Sen. Sean O'Brien (D-Bazetta)

To require the Department of Rehabilitation and Correction to establish a re-entry program for all offenders released from prison who it intends to have reside in a halfway house or similar facility, but who are not accepted by any such facility; to require the Adult Parole Authority to establish maximum workload and caseload standards for its parole and field officers and have enough trained officers to comply with the standards; to require that GPS monitoring used for offenders released from prison under such monitoring specify restrictions, including inclusionary zones and necessary exclusionary zones; to require the department to establish system requirements for GPS monitoring of such offenders by the department or third-party contract administrators; to require the department to operate a statewide database for law enforcement use containing specified information about such offenders; to require that third-party administrators for GPS monitoring under a new contract with the department provide and use a law enforcementaccessible crime scene correlation program; and to name the act's provisions the Reagan Tokes Law.

HB 365 - PAROLE MONITORING

Rep. Jim Hughes (R-Columbus) & Rep. Kristin Boggs (D-Columbus)

HB 365 is identical to the combined language of SB 201 and SB 202, shown above.

STATUS: SB 201 and SB 202 were introduced in the Senate Sept. 27, 2017. First hearings for both bills were Oct. 25, 2017, in the Senate Government Oversight & Reform Committee. HB 365 was introduced in the House Oct. 2, 2017. Its first hearing in the House Criminal Justice Committee was Oct. 17, 2017.

SB 207 – STRANGULATION

Sen. Stephanie Kunze (R-Hilliard)

To expand the offense of felonious assault to include knowingly causing or attempting to cause physical harm to another person by means of strangulation or suffocation.

STATUS: Introduced in the Senate Oct. 3, 2017.



Rule Amendment Summary

A summary of select significant rule amendments proposed or enacted by the Ohio Supreme Court

Practice and Procedure Rules

The Supreme Court published for comment proposed changes to the annual update to the Rules of Practice and Procedure, including those concerning grand juries. Amendments to Crim.R. 6 would outline what constitutes a grand jury's "record," who may have access to that record, establish a process to access records when a grand jury fails to indict, and the standards a petitioner must meet to obtain the "no-bill" records. Other proposed amendments to Civil Rules 3, 5, and 11 would allow for attorneys to more easily remove themselves from cases after agreeing to serve as counsel only for a specific portion of a case. Comments are due by Nov. 22.



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CNOTV ohiochannel.org



youtube.com/CourtNewsOhioTV



Agenda

Upcoming events, training opportunities, and conferences for judges and court staff. For more information, contact the event sponsor at the website provided.

Ohio Court EDU

sc.ohio.gov/Boards/judCollege

Note: Numerous <u>online courses</u> also are available.

Nov. 7 Probation Officer Training Program Probation Officers Dayton

Nov. 8 Supervisor Series Court Personnel Columbus

Nov. 9 Court Security Officers Communication Court Personnel Akron

Domestic Violence and Contempt for Acting Judges Judges, Magistrates & Acting Judges Dayton

Supervisor SeriesCourt Personnel
Columbus

Nov. 14 Probation Officer Training Program Probation Officers Perrysburg

Nov. 15 Guardian ad Litem Continuing Education Course: The GAL Interview Guardians ad Litem Cincinnati 12:30 - 4 p.m.

Probate Course Web Conference Judges & Magistrates Nov. 15 - 17 Court Managemen

Court Management Program (CMP) 2017: Purposes of Courts & Class Graduation Columbus

Nov. 17

Domestic Relations

Judges Winter Seminar

Judges & Magistrates

Columbus

Traffic Law Judges, Magistrates & Acting Judges Columbus

Nov. 28 Probation Officer Training Program Probation Officers Akron

Nov. 29 **Court Executive Team** Judges & Court Personnel Columbus

Nov. 30 Probation Officer Training Program Probation Officers Columbus

Street Smart Probation Officers Columbus

Dec. 1 Judicial Conduct Web Conference Judges & Magistrates

Court Services Training

sc.ohio.gov/JCS/courtSvcs

Nov. 8 Advanced Parenting Coordination Training Columbus

Parenting Coordination Roundtable (In-Person Meeting) Columbus 11:30 a.m. to 12:30 p.m.

Nov. 15 Mediator Roundtable Meeting Columbus

Dec. 1 Advanced Mediation Training Columbus

Interpreter Orientation
Training
Certified Interpreter Exam
Candidates
Columbus

Dec. 1 & 2

Court Roundtables

sc.ohio.gov/JCS/roundtables.pdf

NOTE: All meetings are at the Thomas J. Moyer Ohio Judicial Center in Columbus

Nov. 9 **Domestic Relations Magistrates** Midsized and Rural Courts

Nov. 14 Juvenile Administrators Midsized and Rural Courts

Dec. 7
Court of Appeals
Administrators
All Districts

Supreme Court of Ohio

sc.ohio.gov

Nov. 10

The Supreme Court of Ohio & the Moyer Judicial Center will be closed.

Nov. 13 Bar Admissions Ceremonies Ohio Theatre Columbus 10:30 a.m. & 2 p.m.

Nov. 15 Deadline to make application to register as a candidate for admission to the practice of law in Ohio

(For applicants in the second year of law school)

Nov. 21 **Oral Arguments** Live Stream at 9 a.m.

Nov. 23 & 24 The Supreme Court of Ohio & the Moyer Judicial Center will be closed.

Dec. 5 & 6
Oral Arguments
Live Stream at 9 a.m.

Conference

Nov. 30 — Dec. 1

Ohio Association of Juvenile
Court Judges (OAJCJ)
Winter Conference
Judges
Columbus