

CNO REVIEW

61
Dec 10. 1865. Vol 126. 11/17
November 2016

Thirty-ninth Congress of the United States of America;

At the First Session,

Begun and held at the City of Washington, on Monday, the fourth day of December, one thousand eight hundred and sixty-five.

AN ACT

to protect all persons in the United States in their civil rights, and furnish the means of their vindication.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains and penalties, and to none other, any law, Statute, ordinance, regulation, or custom, to the contrary notwithstanding. Sec. 2. And be it further enacted, that any State or Territory which shall refuse to admit to the full rights of citizenship any person born in the United States shall be subject to the same punishment, pains and penalties, and to none other, any law, Statute, ordinance, regulation, or custom, to the contrary notwithstanding.

A PROMISE OF FREEDOM

Although it became law 150 years ago, the Civil Rights Act of 1866 lives on today in lawsuits arguing for racial equality. **Story on page 6.**

About Court News Ohio

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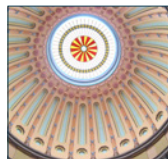
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On the Cover: An image of the Act of April 9, 1866 (Civil Rights Act), Public Law 39-26, 14 STAT 27, which protected all persons in the United States in their civil rights and furnished the means of their vindication. Source: National Archive Catalogs.

Cases

Visit courtnewsOhio.gov for the most current decisions from the Ohio Supreme Court, Courts of Appeals, and Court of Claims.

Supreme Court of Ohio

Probate Court Can Consider Adoption over Objections of Children Services Agency with Custody

The Supreme Court on Oct. 20 determined that an order of temporary custody does not override a parent's right to consent to an adoption of the child. The Court majority decided that a parent loses the legal right to consent to an adoption after the termination of parental rights.

The decision allowed the Mercer County Probate Court to proceed with the adoption case of a toddler identified as "M.S." The Supreme Court resolved competing claims of exclusive jurisdiction by the Allen County Juvenile Court and the Mercer County Probate Court. The Allen County Children Services Board placed M.S. with the child's aunt who lives in Indiana, while the probate court approved the child's adoption by a couple who served as foster parents to M.S. after the children services board removed the child from her mother's care.

The dissenting justices in the 4-2 decision, with one justice not participating, questioned the probate court's right to assert its jurisdiction because the Allen County Juvenile Court was already involved. They cited the 2000 *In re Adoption of Asente* decision where the Ohio Supreme Court held that "once a court of competent jurisdiction has begun the task of deciding the long-term fate of a child, all other courts are to refrain from exercising jurisdiction over that matter."

State ex. Rel. Allen County
Children Services Board
[Slip Opinion No. 2016-Ohio-7382](#)

Proving Crime of Photographing Nude Children Without Consent Differs from Possessing Child Nudity

The Supreme Court voted 5-2 to affirm the 2012 felony conviction of Terry Lee Martin for videotaping an 11-year-old girl undressing. The state was not required to prove that a secret recording was lewd or graphic to convict Martin of creating nudity-oriented material involving a minor.

The Court ruling, issued on Oct. 5, clarified that the definition of "nudity" differs for those charged with possessing materials with nude children from those charged with creating non-pornographic materials with child nudity.

The majority's interpretation of R.C. 2907.323 is that to convict a person for possession of images of nude minors without violating the First Amendment, the images must depict nudity that "constitutes a lewd exhibition or involves a graphic focus on the genitals." But to convict a person of creating the child nudity materials, the lewd or graphic element does not apply.

The dissenting justices cited the U.S. Supreme Court's 1990 *Osborne v. Ohio* decision, which found the only way the state law regarding possession of nude pictures was found constitutional was for the lewd or graphic requirement to be found. They argue the same would apply to the video's creation.

State v. Martin
[Slip Opinion No. 2016-Ohio-7196](#)

Courts of Appeals

Tenth District: School Teacher's Conviction for Showing Obscene Movie Upheld

The Tenth District Court of Appeals recently affirmed the conviction of substitute teacher Sheila Kearns, who showed five Columbus high school Spanish classes portions of the movie "The ABCs of Death" in 2013. Under R.C. 2907.31(F), it is a first-degree misdemeanor to disseminate matter harmful to a juvenile, but if the material is found to be obscene, the violation increases to a fifth-degree felony. A jury found the materials to be obscene, and Kearns was convicted on four felony charges.

The three-judge panel's majority found the movie met the definition of obscene and the evidence was sufficient to lead to Kearns' felony convictions. The dissenting judge wrote that neither of the two students who testified in the case stated they saw the segments of the movie that authorities labeled obscene and that, taken as a whole, it wasn't clear the movie was obscene.

State v. Kearns
[2016-Ohio-5941](#)

HappeningNow

News and Notes from Courthouses Across the Buckeye State

Hess Named Supreme Court Deputy Administrative Director

The Ohio Supreme Court's director of the Office of Court Services was promoted to deputy administrative director of the Supreme Court. The justices unanimously voted on Oct. 11 to appoint **Stephanie Hess** to the post.

Hess brings to the job more than 20 years of experience working in the Ohio court system, including the last 12 years at the Supreme Court.

Hess will work with Administrative Director **Michael L. Buenger** and the chief justice, justices, Ohio Judicial Conference, and judges to develop and communicate the long-term vision, values, and direction of the Supreme Court and the judicial branch. The Office of the Administrative Director is the lead office in the Administrative Division and is responsible for providing oversight to the other offices within the division and to the other divisions at the Supreme Court.

Chief Justice **Maureen O'Connor** wrote of the confidence she and the justices have in Hess, in an announcement to staff.

"She has worked with judges and court staff throughout our state, and enjoys a tremendous reputation for providing proactive, engaging, and helpful support to their operations," Chief Justice O'Connor said. "Her national colleagues saw in her what many of us see every day, which is why she was elected president of the National Association for Court Management in 2015. Her experience, her commitment to the effective administration of justice, her tremendous integrity, her concern for the well-being of people, and her high work ethic will serve all of us very well."

In addition to her national leadership role with NACM, Hess also serves on the Board of Directors for the National Center for State Courts.



“Her experience, her commitment to the effective administration of justice, her tremendous integrity, her concern for the well-being of people, and her high work ethic will serve all of us very well.”

— Chief Justice
Maureen O'Connor



PUBLICATION SPOTLIGHT:

New Guide Leads Courts Through Custody and Visitation Issues Complicated by Domestic Violence

The Ohio Supreme Court on Oct. 12 announced the availability of a [guide](#) for domestic relations and juvenile courts that sorts out custody and visitation issues involving domestic violence.

The guide seeks to help courts craft parenting time orders that maximize family safety, yet consider potentially dangerous risk factors. It also explains the child's best interest factors contained in state law.

The guide cautions courts about its limitations.

"This Guide is not exhaustive or designed to be a substitute for the court's discretion in determining the credibility of the allegations and weight of each [best interest] factor," according to the introduction. The guide points to how important it is for courts to consider the "nature, frequency, and severity of the violence" in determining custody and visitation issues.

The Supreme Court's Domestic Violence Program prepared the guide in collaboration with its Advisory Committee on Domestic Violence, the Center for Court Innovation, and the Battered Women's Justice Project.

Judges, magistrates, court administrators, and court personnel working in domestic relations and juvenile courts will receive copies at upcoming courses hosted by the Supreme Court.



Rule Amendment Summary

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

Practice and Procedure

The first round of public comments closed on Oct. 26 on amendments to the annual update to the Rules of Practice and Procedure, including those concerning grand juries. Amendments to Criminal Rule 6 would outline what constitutes a grand jury's "record," who may have access to that record, and establish a process and set the standards a petitioner must meet to obtain access to records when a grand jury returns a no bill. The changes were recommended by the Task Force to Examine Improvements to the Ohio Grand Jury System, which was established to maintain the public's trust and confidence in grand juries. The annual rules update also includes amendments to the appellate procedure, civil procedure, criminal procedure, and traffic rules, and the Ohio Rules of Evidence. The amendments were proposed by the Commission on the Rules of Practice and Procedure in Ohio Courts.

Magistrate Rules

Public comment closed on Oct. 26 on amendments to the Rules of Superintendence affecting magistrates. The amendments would require magistrates to register annually with the Supreme Court's Attorney Services office, take an oath of office upon appointment and file the oath with the local clerk of court, and require the administrative judge of a court to notify the Court's Attorney Services office upon a magistrate's appointment or termination. The amendments were proposed

after Chief Justice **Maureen O'Connor** asked a subcommittee of the Commission on the Rules of Superintendence to review the rules and recommend changes to improve communication and tracking of magistrates in Ohio.

Rules of Practice

The Supreme Court will accept public comment until Nov. 9 on proposed amendments to the Rules of Practice. They include:

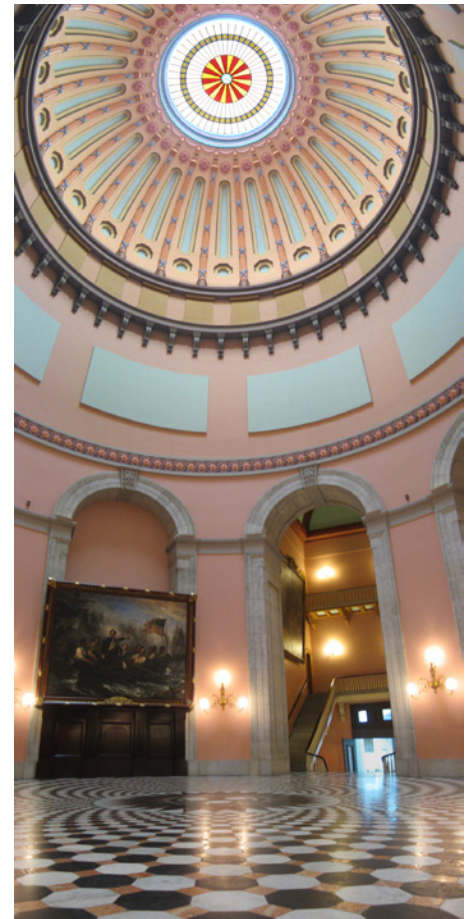
Rule 2.02 – Pro Hac Vice Admission – would clarify the requirement that out-of-state attorneys must file a motion for admission before being deemed to have made an appearance in a case.

Rule 3.02 – Filing Electronic Documents by Email – would eliminate filing by email because attorneys and self-represented litigants can file electronically through the Court's e-Filing portal.

Rule 4.06 – Substitution of Parties – would direct parties on how to proceed when substituting a party is required.

Rule 11.06 – Applications for Reopening in Death-Penalty Cases – would increase to 15 the page limit for applications and require specific citations to the record.

Rules 16.08 and 17.08 – would modify the rules to permit filing a citation to a relevant authority less than seven days before oral argument if the authority was issued within that timeframe.



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.

SB 357 – INSURANCE-OPIOIDS, Sen. Cliff Hite (R-Findlay)

Generally allows for health insurance and Medicaid plans to apply to abuse-deterrent opioid analgesic drug products.

STATUS: Introduced in the Senate on Sept. 27, 2016.

Rec-10.47. Pub. 26. 1865

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the recovery of judgments, and the execution of the same, as is enjoyed by white persons of the same State and Territory; and that any person who under color of any statute, ordinance, regulation, compact, or any law, shall deny to any of the above described persons the equal benefit of the laws of the United States, shall be subject to the same punishment as is provided for the punishment of any person who shall deny to any of the above described persons the equal benefit of the laws of the United States.

A PROMISE OF FREEDOM

Eight students who attended high school together in Shaker Heights reunited post-graduation to catch up. They traveled one evening to a nightclub, lining up outside the entrance. Four of the former classmates were white, and four were black. Bouncers who checked their identification allegedly asked the black men in the group for two forms of ID, while requesting only one ID from the white men.

Cleveland civil rights lawyer **Avery Friedman** filed a lawsuit for the former classmates against the nightclub and used a federal law to argue that the actions of the club's employees were discriminatory. The law Friedman relied on – the Civil Rights Act of 1866 – might be considered a bit dusty at 150 years old. But Friedman has found during his decades-long legal career that the 1866 law “remains a very powerful weapon in the

arsenal of America’s promise to ensure that all people are treated fairly.”

Friedman, who serves as CNN’s weekend legal analyst and teaches constitutional law at Ursuline College, recounted the nightclub case, which settled, and discussed the 1866 act’s legal history and significance at the Ohio Supreme Court’s 14th Forum on the Law. The October event commemorated the 150th anniversary of the act.

Congress Takes Action

The 1866 Civil Rights Act emerged from a complex historical context, following the 1863 order by President Abraham Lincoln emancipating slaves in the South, the end of the country's tumultuous Civil War in 1865, and the ratification that same year of the U.S. Constitution's [Thirteenth Amendment](#), which embedded the national abolition of slavery and involuntary servitude into our constitution. The Thirteenth Amendment's second clause gave Congress the power to enforce the country's ban through legislation.

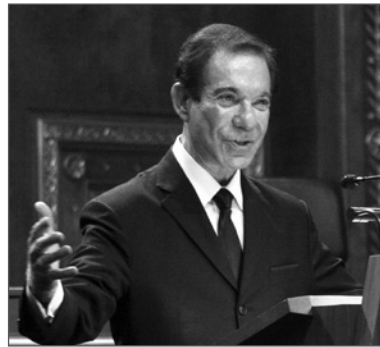
Congress wasted no time. A few weeks after the amendment was ratified, a U.S. senator introduced the proposed law that became the 1866 Civil Rights Act, said Professor **Rebecca Zietlow** of the University of Toledo College of Law. Congress passed it, and even overrode a veto by Lincoln's successor, President Andrew Johnson, with a two-thirds majority supporting the measure.

The law states that people born in the country are United States citizens who "shall have the same right ... as is enjoyed by white citizens":

- to make and enforce contracts
- to sue, be parties, and give evidence
- to inherit, purchase, lease, sell, hold, and convey real and personal property
- to enjoy full and equal benefit of all laws and proceedings for the security of person and property

Spelling out the rights that could be enforced in court to eliminate slavery was a critical step, Friedman explained at the forum. Despite the Thirteenth Amendment, many freed slaves couldn't escape their "masters"

and their enslavement, he pointed out. And those who did encountered substantial barriers to their freedom. For example, Friedman said, former slaves were often prevented from purchasing basics, such as flour and eggs, because store owners wouldn't accept their money.



“Freedom without rights is no different than servitude.”

Avery Friedman

“Freedom without rights is no different than servitude,” Friedman stressed. “It was clear that if you had no access to goods or services, or you had merchants or vendors or salesmen who wouldn't sell you anything, you can't survive.”

“Without equal economic power, it doesn't work,” he added. “Economic factors fit into the equation of freedom.”

Government Fails to Enforce Act

The [Fourteenth Amendment](#) soon followed the passage of the 1866 act. Zietlow said the amendment's language ensuring citizenship to those born or naturalized in the United States mirrors the words of the 1866 act. Her review of the debates at the time show that Congress intended to shield the 1866 legislation

from possible repeal in the future by enshrining the citizenship right into the constitution. The [Fifteenth Amendment](#) guaranteeing men's right to vote regardless of race was passed not long after, and African-Americans in some places exercised many of these rights for several years during the Reconstruction era. But opposition escalated, and the federal government subsequently stepped back from enforcing the measures.

“The country lost the political will to fight to ensure these rights,” Zietlow explained. “The presidents didn't care, the federal government didn't care, and they let Jim Crow segregation practices build in the South.”

“For a century, the [1866] law sat there without being enforced,” Friedman said.

U.S. Supreme Court Reviews Law in 1960s

It took until June 1968, but the U.S. Supreme Court breathed renewed life into the languishing 1866 law. At the center of the case before the court was a St. Louis couple who wanted to buy a house in a new development in 1965. The real estate company refused to sell to them because the man was African-American.

In *Jones v. Alfred H. Mayer Co.*, the nation's highest court examined the 1866 act's history when reviewing and upholding a federal statute, [§ 1982](#), that was drafted directly from the property rights language in the 1866 law.

“On its face, therefore, § 1982 appears to prohibit all discrimination against Negroes in the sale or rental of property – discrimination by private owners as well as discrimination by public authorities,” the Court wrote in 1968. “Stressing what they consider to be the revolutionary implications of so literal a reading of § 1982, the [real estate company] argue[s] that

Story continues on p. 12.

Judicial Voter Website Updated to Include County Court Candidates

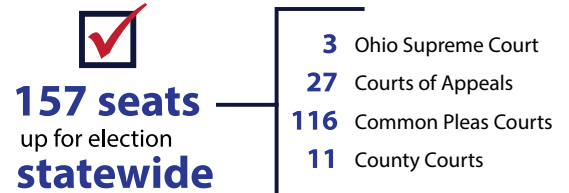
JUDICIAL  COUNT

Profiles of judicial candidates for county court seats have been added to the Judicial Votes Count website (www.judicialvotescount.org). Ohio voters will elect 11 judges to county courts in Ashtabula, Belmont, Butler, Fulton, Jefferson, Mahoning, Monroe, Muskingum, Trumbull, and Warren counties.

The Nov. 8 general election also will include Ohio Supreme Court, appeals court, and common pleas court races. In all, Ohio voters will determine 157 judicial seats this year.

On Judicial Votes Count, voters in each of Ohio's 88 counties can learn about judicial candidates' experience and why these candidates are running for judge. Other resources on the website include videos about the different types of courts in Ohio and an explanation of why judges play an important role in their communities.

Judicial Votes Count is a nonpartisan partnership launched last year to better educate Ohioans about judges and the Ohio court system. The partnership also seeks to increase meaningful voter participation in judicial elections.



The website was created after a 2014 survey by the Ray C. Bliss Institute of Applied Politics at the University of Akron found that most of 1,067 registered Ohio voters polled said they don't vote for judges because they don't know enough about the candidates.

Judicial Votes Count partners are Ohio Supreme Court Chief Justice **Maureen O'Connor**, the Bliss Institute, the League of Women Voters of Ohio, the Ohio State Bar Association, the Ohio Newspaper Association, and the Ohio Association of Broadcasters.

Board Announces 2017 Judicial Candidate Seminar Schedule

The Ohio Board of Professional Conduct announced the [2017 schedule of seminars](#) for judicial candidates, which includes three live seminars and two video replays.

The Ohio Code of Judicial Conduct requires all judicial candidates, including incumbent judges, to attend and complete a two-hour seminar on judicial campaign practices. A judicial candidate is required to complete the two-hour training requirement at least one year prior to, or 60 days after, his or her candidacy is certified by the election authority.

The judicial campaign seminars include instruction on ethics rules applicable to judicial campaign conduct, including participation in campaign activities, the content of judicial campaign advertisements, and campaign fundraising activities. The seminars also address state law requirements on disclaimers and campaign finance

reporting. The seminars are a collaboration among the Ohio Board of Professional Conduct, the Ohio Judicial College, and the Ohio Secretary of State's office.

Judicial candidates are encouraged to bring their campaign treasurer and volunteers to the seminar. The seminars are offered at no cost to attendees, and no preregistration is required. Judges and attorneys attending the seminar receive two hours of continuing legal education credit.

The Ohio Board of Professional Conduct maintains an online judicial candidate information [page](#). This page contains rules applicable to judicial campaign conduct, a table setting forth the limits on judicial campaign contributions, and summaries of advisory opinions and court decisions relevant to judicial campaigns.

Chief Justice Tapped for Federal/State Advisory Role

In December, Ohio Supreme Court Chief Justice **Maureen O'Connor** will attend her first meeting of a national committee that studies the interplay of issues between federal and state courts and advises the policy-making body for the federal judiciary.

U.S. Chief Justice **John G. Roberts Jr.** appointed Chief Justice O'Connor to a three-year term on the Committee on Federal-State Jurisdiction. The Judicial Conference of the United States created the 14-member committee in 1987 "to study proposed changes in federal jurisdiction and to serve as a liaison with the state courts."

Committee members include courts of appeals judges, district court judges, a bankruptcy judge, a magistrate judge, and state supreme court chief justices. Many of the issues considered by the committee relate to bills introduced in Congress, and the committee sometimes initiates statutory amendments.

"I'm grateful for the opportunity to add another state court perspective to the committee," Chief Justice O'Connor said. "As first vice president of the Conference of Chief Justices, I will also bring issues of concern of that organization's membership."



Chief Justice Maureen O'Connor will attend her first meeting as a member of the Committee on Federal-State Jurisdiction in December.

Bench Card Offers Guidance on Sealing of Record, How to Handle Indigent Applications

The Ohio Supreme Court on Oct. 6 announced the availability of a [bench card](#) regarding sealing criminal records and the proper steps to take to waive fees for those who can't afford to pay them.

The reference guide – developed by Supreme Court staff and Lakewood Municipal Court Judge **Pat Carroll** – seeks to better educate the judicial branch about who is eligible to have a record sealed, when an offender may apply to have his record sealed, the fees that can be charged, and when a filing fee is not required.

In addition, the bench card briefly outlines the elements of the state statute that governs the sealing of a criminal record and provides sample language for courts to waive the application fee because of indigency.

The record-sealing bench card follows the release of bench cards for juvenile and adult courts about the collection of fines and court costs.

Supreme Court Chief Justice **Maureen O'Connor** has been a national leader in the elimination of the practice of "debtor's prisons." She serves as co-chair of the National Task Force on Fines, Fees, and Bail Practices to address the ongoing impact that court fines and fees and bail practices have on communities – especially economically disadvantaged areas – across the United States.

"I'm grateful that Southeastern Ohio Legal Services brought this issue to our attention," Chief Justice O'Connor said. "The agency's survey of 80 courts in Ohio identified both varying fees across courts for sealing records and the fact that many courts don't accept applications without filing fees. I'm pleased that this bench card offers courts guidelines and creates more consistency across the state."

All judges, magistrates, court administrators, and chief probation officers in the state received notice in October about the availability of the bench card.



Judge Carroll

New Ohio Government Class Video Includes Justice French's Insights into Ohio Constitution



As the daughter of a schoolteacher, Ohio Supreme Court Justice **Judith L. French's** commitment to civic education in Ohio entails traveling to as many high schools as she can to speak with government students.

Now her insights into Ohio's Constitution can be viewed via [video](#). Justice French is one of several state officeholders who participated in a series of free videos produced by the Ohio Attorney General's Office for use by Ohio government classes.

In two separate segments in the nearly 8-minute Ohio Constitution video, Justice French speaks of the significant changes the revision of the 1851 Ohio Constitution had on the state judiciary. She also describes the similarities and differences between the U.S. and Ohio constitutions.

"I think the best way to really think about the interaction between the Ohio Constitution and the United States Constitution is to think of the United States Constitution as the floor," Justice French says at about the 7-minute mark in the video. "Those provisions in the United States Constitution give us our basic rights and privileges as U.S. citizens. Now, a state can go above the rights and privileges that are provided in the United States Constitution, but we can't go below."

The five videos were unveiled on Sept. 27 and posted on YouTube.

The Agenda

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

Judicial College Courses

judicialecademy.ohio.gov

Nov. 3

Adult Guardianship Continuing Education Course: Developmental Disabilities

Adult Guardians (Layperson & Professional)
Columbus
8:45 a.m. - Noon

Advanced Defensive Tactics (2 of 2)

Probation Officers
London

Guardian ad Litem Continuing Education Course: Psychiatric Disorders

Guardians ad Litem
Boardman/Youngstown
8:30 a.m. - Noon

Nov. 4

Domestic Relations Court Personnel Course

Court Personnel
Columbus

Evidence

Judges & Magistrates
Columbus

Paternity, Custody & Child Support Web Conference

Judges & Magistrates

Nov. 8

Probation Officer Training Program - Professional Communication: Oral and Written Communication Skills

Probation Officers
Toledo

Nov. 10

Acting Judge Course: Avoiding Potential Minefields (3 of 4)

Judges, Magistrates & Acting Judges
Dayton/Beavercreek

Timely Topics in Custody Evaluations

Court Personnel
Columbus

Nov. 15

Probation Officer Training Program: Introduction to Offender Skill Building

Probation Officers
Akron/Fairlawn

Court Security Fundamentals

Court Personnel
Columbus

Nov. 16

Fundamentals of Adult Guardianship Course BROADCAST

Adult Guardians (Laypersons and Professionals)
Broadcast to various Ohio sites

Guardian ad Litem Continuing Education Course - Divorce: The Impact on Children

Guardians ad Litem
Blue Ash
1 p.m. - 4:30 p.m.

Probate Course Web Conference

Judges & Magistrates

Probation Officer Training Program - Professional Communication: Oral and Written Communication Skills

Probation Officers
Columbus

Nov. 16 - 18

Court Management Program (CMP) Module VI: Purposes & Responsibilities of Courts CMP 2016 Class Columbus

Nov. 17

Guardian ad Litem Continuing Education Course - Divorce: The Impact on Children

Guardians ad Litem
Blue Ash
8:30 a.m. - Noon

Dec. 1

Probation Officer Training Program: Sex Offender Management

Probation Officers
Columbus

Dispute Resolution Training

sc.ohio.gov/JCS/disputeResolution

Nov. 10

Mediator's Roundtable

Columbus

Nov. 16

Parenting Coordinators Roundtable

Teleconference

Dec. 2

Advanced Training for Parenting Coordination

Columbus

JUDICIAL VOTES COUNT

On the BALLOT, YOU'RE the JUDGE.

Get to Know All Your Judicial Candidates.

Language Services Training

sc.ohio.gov/JCS/interpreterSvcs

Dec. 2 & 3
**Orientation Training
for Written Exam**
Exam Candidates
Columbus

Dec. 3
**Written Interpreter
Certification Exam**
Columbus
1:30 p.m.

Dec. 8
**Written Interpreter
Certification Exam**
Columbus
9 a.m. & 1 p.m.

Local Court Roundtables

sc.ohio.gov/JCS/roundtables.pdf

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

Nov. 15
Juvenile Justice Magistrates

Nov. 17
Juvenile Chief Probation Officers
Counties with Less than 100K
Population

Dec. 2
Ohio Juvenile Diversion Association
All Counties

Supreme Court of Ohio

sc.ohio.gov

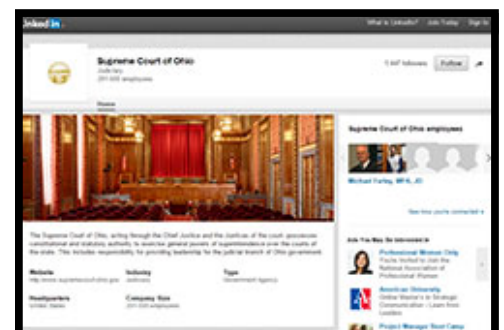
Nov. 7
Bar Admissions Ceremonies
Ohio Theatre
Columbus
10:30 a.m. & 2 p.m.

Nov. 15
**Application Deadline to Register
as a Candidate for Admission to the
Practice of Law**
For Applicants in the Second Year
of Law School

Conferences & Meetings

Nov. 18
**Domestic Relations Judges Winter
Conference**
Member Judges
Columbus

Nov. 29 & 30
**Ohio Clerk of Courts Association
Winter Conference**
Member Clerks of Courts
Worthington
occaohio.com



Are you in?
Follow the **Ohio Supreme Court**
on **LinkedIn** for job postings
and court news.

PROMISE OF FREEDOM: Continued from p. 7.

Congress cannot possibly have intended any such result. Our examination of the relevant history, however, persuades us that Congress meant exactly what it said.”

Law Still Advantageous Today

After the forum, Friedman recalled that he first used the 1866 law in an early 1970s housing case involving racial discrimination. He noted that the law remains powerful today because it contains no exceptions, while the federal Fair Housing Act in 1968 exempted landlords from liability if they had fewer than four units and initially capped damages. And Title VII of the 1964 Civil Rights Act bars employment discrimination, but it exempts employers with fewer than 15 employees and, for years, prohibited recovery of damages in racial and certain other discrimination cases, Friedman noted.

Just recently, an African-American woman contacted Friedman about her experience at a local restaurant. After some shopping, she stopped in the restaurant for a meal. She said she sat for 45 minutes at a table waiting to be served, while white patrons around her, including people who arrived after her, were attended to. Friedman is citing the 1866 act in his federal lawsuit on the woman’s behalf.

“In our America, equality doesn’t happen automatically,” he stated. “But there’s a law. It’s out there. It’s 150 years old. And, for better or worse, we have to use it even today.”

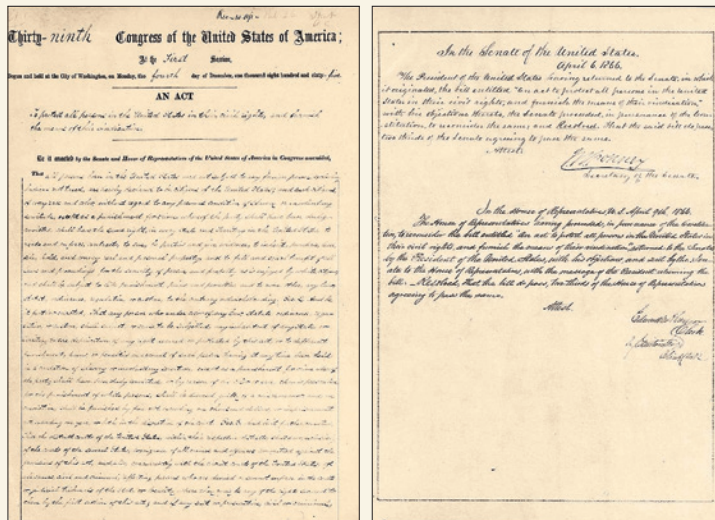
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1866 CIVIL RIGHTS ACT

14 STAT. 27-30, APRIL 9, 1866



The first two sections of the act read:

CHAP. XXXI.

An Act to protect all Persons in the United States in their Civil Rights, and furnish the Means of their Vindication.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

Sec. 2. *And be it further enacted,* That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the court.