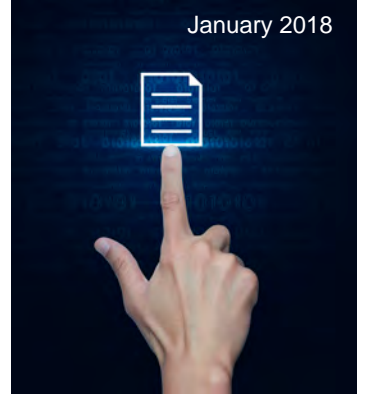
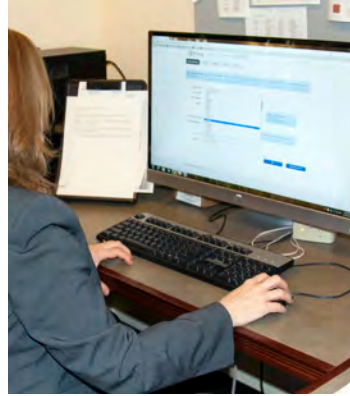


# CNO REVIEW



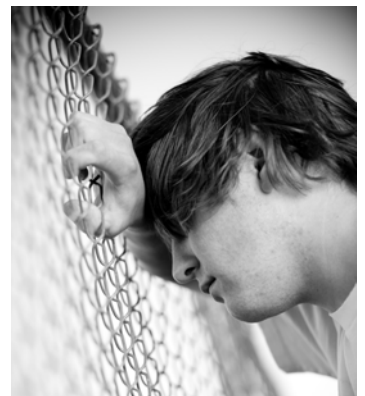
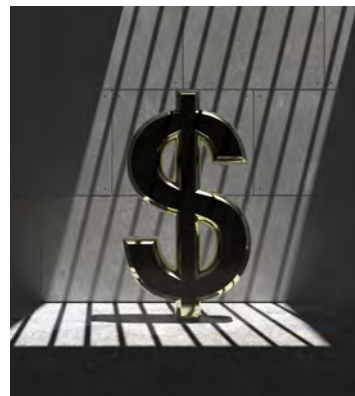
Fines, Fees, Bail • Opioids • Women in Law •  
Addiction & Children • Law Libraries • Public  
Off-Site Court 30th Anniversary • E-Filing •

## A look back at 2017

STORY ON PAGE 6



Ohio Judicial College Court Management Pr  
Specialized U...  
Opioids • Women in Law School • Addictio  
• Law Lib...  
Anniversary • E-Filing In re Gault • Ohio Ju  
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## 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](http://courtnewsohio.gov)), a monthly publication (CNO Review), a television program (CNOTV), a Facebook page ([facebook.com/courtnewsohio](https://www.facebook.com/courtnewsohio)), a Twitter feed ([@courtnewsohio](https://twitter.com/courtnewsohio)), and a YouTube channel ([youtube.com/CourtNewsOhioTV](https://www.youtube.com/CourtNewsOhioTV)).

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# Cases

Visit [courtnesohio.gov](http://courtnesohio.gov) for the most current decisions from the Ohio Supreme Court, Courts of Appeals, and Court of Claims.

## Supreme Court of Ohio

### Landowners Can Challenge Increased Property Tax Value Placed on Woodlands

The Ohio Supreme Court ruled Dec. 7 that landowners who complain that their agricultural lands have been overtaxed may challenge their land values before the Ohio Board of Tax Appeals. In proceedings before the board of tax appeals (BTA), the landowners sought to challenge current agricultural use values (CAUVs) established by the tax commissioner on the basis that the values set for their woodlands were too high.

In a pair of decisions, the Court rejected arguments by the tax commissioner that the BTA lacked jurisdiction to hear objections to the CAUVs because the commissioner's entry was not a "final determination."

Under guidelines established by administrative rules, the tax commissioner sets the CAUVs after consulting with an expert advisory committee. The values are adopted in a "journal entry." The entry is the last step in the process of setting CAUVs, so it is a final determination, the Court found. The BTA has jurisdiction to hear final determinations and must hear the landowners' challenges.

Adams v. Testa  
[Slip Opinion No. 2017-Ohio-8853](#)  
 and [Slip Opinion No. 2017-Ohio-8854](#)

### Red-Light Camera Cases Sent Back to Lower Courts

Challenges by the cities of Springfield and Toledo to a 2015 state law regulating the use of red-light and speed cameras must be resolved by trial courts applying the Ohio Supreme Court's July ruling that parts of the state law are unconstitutional.

In separate one-sentence entries, the Supreme Court on Dec. 13 vacated decisions by the Second and Sixth District Courts of Appeals and remanded the challenges to Senate Bill 342 to trial courts in Clark and Lucas counties for further proceedings. The order directs the courts to consider the cases based on its July 26 opinion in *Dayton v. State*, where the Court found three provisions regulating the use of the cameras violated the home-rule provisions of the state constitution.

Toledo v. State  
[Slip Opinion No. 2017-Ohio-8955](#)

Springfield v. State  
[Slip Opinion No. 2017-Ohio-8954](#)

### Pike County May Withhold Portions of Autopsy Reports From Press

Portions of a county coroner's autopsy reports that are part of an open homicide investigation are not public records and not available for public inspection until investigators release them, the Ohio Supreme Court ruled.

In a 4-3 decision, the Court ruled Dec. 14 that the Pike County Coroner's office properly denied the Cincinnati Enquirer and the Columbus Dispatch unredacted versions of the autopsy reports for eight members of the Rhoden and Gilley families who were murdered in April 2016. The Court majority stated the legislature amended the law regarding coroner records in 2009 to exempt "confidential law enforcement investigatory records," and that the portions redacted by the coroner met the exemption.

After the Rhoden family members were discovered murdered, the Hamilton County chief deputy coroner conducted autopsies on behalf of Pike County. The Pike County Coroner's office received final autopsy reports in July 2016. Within days of the delivery of the final autopsies, reporters from the Enquirer and Dispatch made public record requests of Pike County Coroner Dr. David Kessler, who denied the requests.

Three days after the denial, the Enquirer sought a writ of mandamus from the Supreme Court to direct the coroner to release the reports, and weeks later, the Dispatch made a similar request.

State ex rel. Cincinnati Enquirer v. Pike Cty. Coroner's Office  
[Slip Opinion No. 2017-Ohio-8988](#)

# HappeningNow

News and Notes from Courthouses Across the Buckeye State

## Former Judge Who Mediated NFL Settlement in Concussion Cases to Keynote Ohio Dispute Resolution Conference

A former U.S. district court judge and U.S. attorney made headlines a few years ago when he served as the court-appointed mediator in a settlement between the NFL and 4,500 retired players over alleged concussion-related brain injuries.

**Layn Phillips** spent two months going back and forth between the parties to help find a resolution acceptable to both sides. The \$765-million settlement Phillips presented to the judge in the case was designed to resolve thousands of potential individual lawsuits, pay players some medical costs for certain cognitive impairments, and create a research and education fund on concussions.

It's just one example of how dispute resolution can settle difficult conflicts, and save the substantial time and money that are associated with longer trials. Phillips will talk about his experience in the high-profile NFL mediation at the Ohio Supreme Court's first statewide [conference on dispute resolution](#) on March 13, 2018.

### Conference to Delve into Problem-Solving Power of Dispute Resolution

The conference will feature 40 breakout sessions with national and state experts and court representatives sharing dispute resolution ideas and initiatives.

Staff from the [Franklin County Municipal Court](#) will demonstrate their online dispute resolution program, which won an [innovative](#)

[court practices award this year from the Ohio State Bar Association](#). Other sessions will identify how dispute resolution helps address an array of issues, such as the opioid crisis, truancy, public records disputes, child support enforcement, and eldercare conflicts, and how courts use the approach in all of these areas and more, from landlord-tenant cases to civil protection orders.

### Prominent Lunch Speakers Will Focus on Civil Litigation

During lunch, attendees will hear from distinguished panelists who will explore conflict resolution options in the civil justice arena. [Nancy Hardin Rogers](#), professor emeritus and former dean of the Ohio State University Moritz College of Law and former Ohio attorney general, will lead a discussion with several experts, including [Phillips](#); [Tom Stipanowich](#), associate dean of the top-ranked [Straus Institute for Dispute Resolution](#) at Pepperdine University School of Law; and [Ben Davis](#), University of Toledo College of Law professor and chair of the American Bar Association's Alternative Dispute Resolution Section.

### Dispute Resolution Conference Hosts

The conference is hosted by the Ohio Supreme Court's Commission on Dispute Resolution and Dispute Resolution Section. The section promotes statewide rules and uniform standards concerning dispute

THE SUPREME COURT of OHIO

**Dispute Resolution** '18  
CONFERENCE

**MARCH 13, 2018**

The Ohio State University  
Columbus, Ohio



**KEYNOTE  
SPEAKER**

**LAYN  
PHILLIPS**

Former U.S. District  
Court Judge and  
U.S. Attorney

**REGISTRATION NOW OPEN!**

Register at: [sc.ohio.gov/JCS/  
disputeResolution](http://sc.ohio.gov/JCS/disputeResolution)

resolution programs; develops and delivers innovative dispute resolution services to Ohio courts and sponsors training programs for judges, court personnel, and dispute resolution professionals; and provides mediation for Supreme Court litigants, Ohio Court of Claims litigants, and Ohio public officials. The commission advises the Court and its staff on these activities.

## Board of Professional Conduct Issues Advisory Opinion on Judges in Parades

In [Advisory Opinion 2017-8](#), the Ohio Board of Professional Conduct concluded that a judge may appear in a community parade, regardless of whether the parade is held in an election year. A judge is not barred by the Code of Judicial Conduct from appearing in a parade in a non-election year, even if the activity may be considered “campaigning.”

Judges generally are encouraged by the Code of Judicial Conduct to participate in community activities. However, participation is only permitted if it will not undermine the independence, integrity, or impartiality of the judge. For that reason, the opinion recommends that a judge consider the nature and purpose of the organization sponsoring a parade before agreeing to participate. Participation in a parade organized by a group that practices discrimination is prohibited by the Code of Judicial Conduct. Participation in a parade sponsored by an entity that is promoting a particular position on a controversial issue may later call into question the judge’s impartiality in cases involving the same issue.

The opinion further advises that judges avoid the appearance of a political endorsement by not walking with or riding in a parade with non-judicial candidates. The same advice applies to appearing with officeholders with whom the judge may frequently interact, including prosecutors and sheriffs, because of the potential for eroding judicial independence and impartiality.

The opinion withdraws the previous Advisory Opinion 1993-09.

*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.*

## Board of Professional Conduct Re-Elects Leadership for 2018

The Ohio Board of Professional Conduct announced the reelection of board Chairman **David L. Dingwell** and Vice Chairman **Sanford E. Watson** to serve in their positions again in 2018.



Dingwell has served on the Board of Professional Conduct since 2012, and recently was reappointed to his third, three-year term. Dingwell is a partner in the Canton firm of Tzangas Plakas Mannos, where his practice focuses on litigation, probate and estate planning, and employment law.



Watson was appointed to the board in 2011, and chaired the Board Advisory Opinion Committee in 2015 and 2016. He is a partner with the Cleveland firm of Tucker Ellis, practicing in the areas of business litigation, products liability, and public law.



## Board of Professional Conduct Issues Ethics Guides on Law-Practice Transitions

The Ohio Board of Professional Conduct issued two new ethics guides to assist the bar and bench with issues commonly faced when changing law firms or leaving the practice of law when becoming a judge.

The [Ethics Guide on Switching Law Firms](#) provides guidance on ethical issues that must be addressed when a lawyer switches from one law firm to another. The guide emphasizes the importance of protecting clients’ interests and ensuring clients have the right to choose who represents them. The guide provides practical ethics advice on issues such as confidentiality, notice to clients, and conflicts of interest. The guide includes sample forms for lawyers and law firms to use when a lawyer changes firms.

The [Ethics Guide on Transition from the Practice of Law to the Bench](#) addresses the necessary steps an incoming judge must take to wind up his or her legal practice and prepare for the role of judge. The first steps outlined by the guide focus on the duties owed to clients to ensure that their ongoing matters, files, and property are timely and properly

Story continues on p. 9.



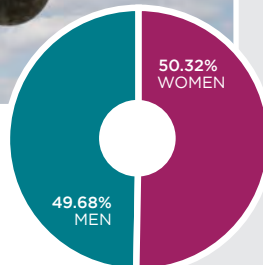
# A look back at 2017

By Kathleen Maloney

Last year, CNO Review covered emerging trends in the legal field, celebrated anniversaries of significant programs and notable court decisions, and acknowledged the hard work of employees who contribute to the success of courts statewide.



In a first, women edged out men in U.S. juris doctor programs in 2016. Statistics showed 707 more women than men enrolled in J.D. programs.



## ISSUES

### Fines, Fees, and Bail

The lives of many poor, non-violent offenders have been upended and their futures jeopardized by unaffordable fines, fees, and bail imposed by courts. An Ohio panel of judges discussed the topic on a national talk show, and their thoughts were featured in [“Unjust Costs.”](#)

Once certain fines or fees are imposed, people in contact with the courts often find themselves caught in a maddening revolving door with the justice system. Many courts have imposed fines, which are financial punishments for certain offenses, and fees, which are payments assessed for court operations, without considering whether the offender has the resources to pay. The debt pushes some offenders to choose between a court obligation and needed purchases for themselves and their families. Numerous offenders who haven’t paid fines and fees have been arrested and jailed. Incarceration, even for a few days, can jeopardize many other aspects of a person’s life, such as keeping a job and maintaining custody of children.

Ohio Chief Justice **Maureen O’Connor** now leads a national effort to address the matter as co-chair of the National Task Force on Fines, Fees, and Bail Practices.

### Women in Law School

Women who enrolled in juris doctor programs nationwide outnumbered men for the first time in 2016. Women’s ranks reached 55,766 at accredited law schools, while men’s totaled 55,059. Those numbers put women in a slight majority – 50.32 percent.

Law schools overall have had roughly equal numbers of men and women since 2001. Eight of Ohio’s law schools hovered in 2016 around parity, ranging from about 44 to 49 percent women. One, Case Western Reserve University School of Law in Cleveland, reflected the national trend, with women comprising more than half of its J.D. students.

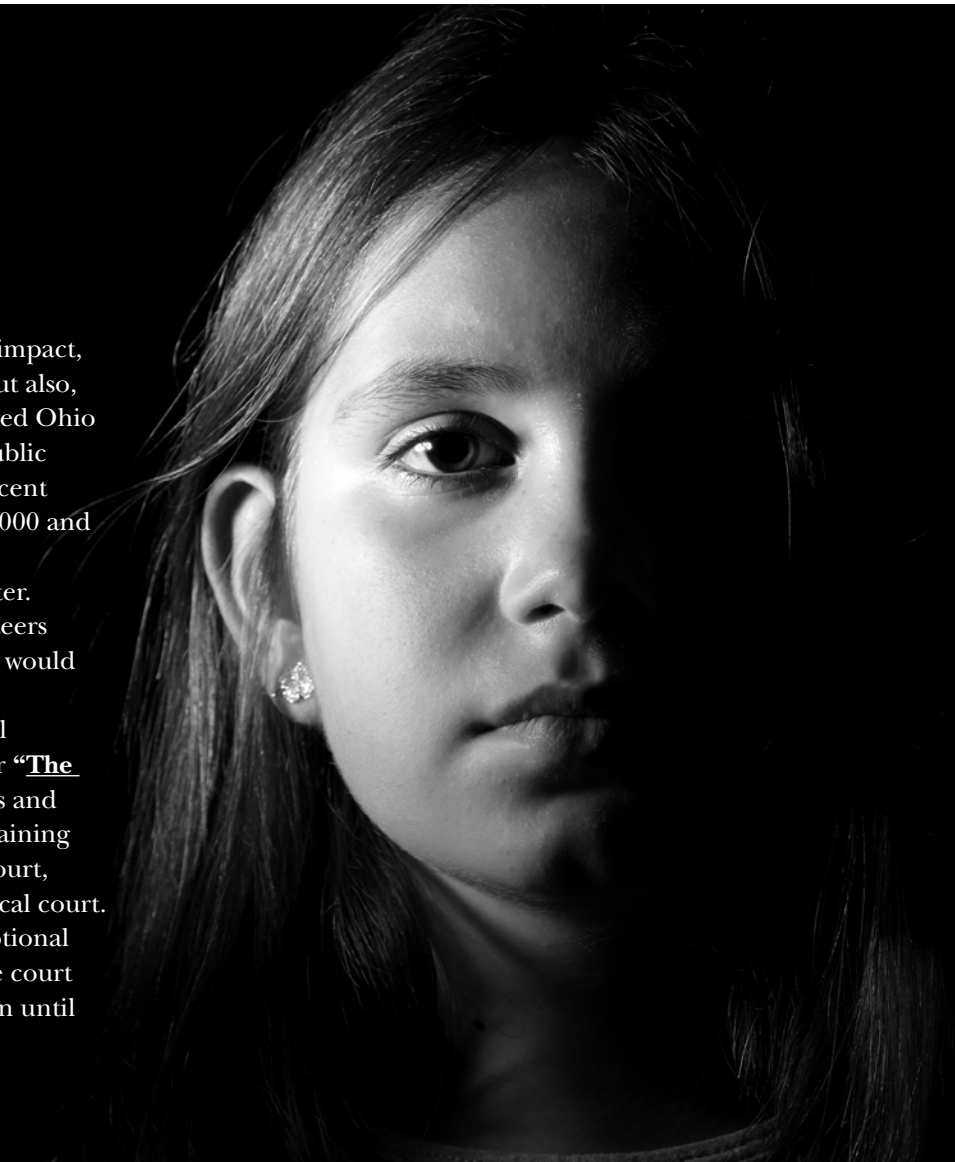
Law school officials and researchers shared their insights about the slow shift in demographics for [“Balance Tips to Women at Nation’s Law Schools.”](#) One professor noted that women earn 57 percent of undergraduate degrees, approximately 60 percent of master’s degrees, and nearly 52 percent of the wide range of doctorates, which includes professional degrees such as medicine and optometry. Those interviewed explored theories about why fewer women are attending law school than are pursuing other types of degrees, and why women make up only 36 percent of those working in the legal profession.

# Opioid Addiction & Children

The nationwide opioid crisis is having a devastating impact, not only for those ensnared by the grim addiction but also, sadly, for their children. Last summer, statistics showed Ohio leading the country in opioid use deaths, and the Public Children Services Association of Ohio saw an 11-percent increase in children in protective custody between 2000 and 2016.

The demand for volunteers had never been greater. Several counties reported that the number of volunteers needed to represent children in opiate-related cases would far outpace 2016's total.

A judge and the head of Court Appointed Special Advocates (CASA) Ohio talked with CNO Review for "**The Youngest Victims of Addiction**" about the necessities and hopes in this arena. Volunteers become CASAs by training as guardians ad litem through the Ohio Supreme Court, CASA Ohio, or another provider approved by the local court. CASA volunteers investigate a child's social and emotional background, make recommendations to the juvenile court regarding dispositions of cases, and monitor children until they no longer are involved in the court system.



## TALENT

### Court Staff Widen Skills

The need for court employees well-versed in efficient, modern court operations, and able to adapt to ever-changing obligations, is critical for a responsive judicial system that can ensure justice. Hundreds of court employees in Ohio have enriched their understanding of courts through a nationally recognized certification program that offers real-world skills and connects people across the state. In "**Higher Cred**," three graduates and one current student shared what the courses are really like and how the program has benefited them and their courts.



### Librarians Unearth Answers

Law librarians are pros at finding the answers you need, whether they have to dig through dusty stacks or tap into an online database. "**Legal Ease**" paid tribute to the talented staff who inhabit legal libraries statewide that are specifically dedicated to the needs of the bench, bar, and public. Their curiosity and persistence – and that of librarians serving in more than 100,000 libraries throughout the country – were honored for April's National Library Week.

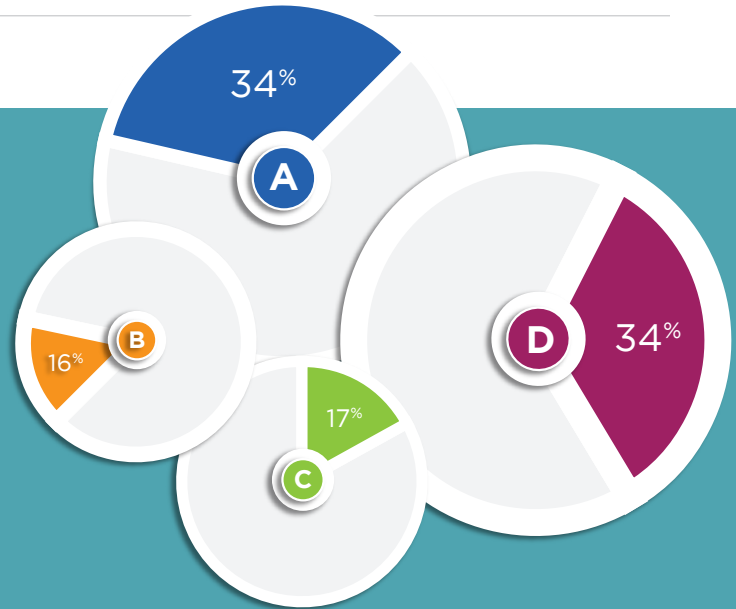
A look back ↻

ANNIVERSARIES

**1**  
YEAR

**New Public Records Appeals Process**

In September 2016, legislation took effect that launched a new way for people who think they've been wrongfully denied a public record to challenge their lack of access. The law aims to offer "an expeditious and economical procedure that attempts to resolve disputes" about public records, and the appeals are heard in the Ohio Court of Claims. One year later, CNO Review reported in "[Public Records Reboot](#)" that the court had accepted 82 public records cases of which 75 percent (41 of 55 completed cases) were resolved through mediation. The resolution of these disputes outside the courtroom forms the foundation of this retooled approach to public records appeals.



**Case Resolutions\***  
Outcome of Public Record Appeals

- A** Resolved before formal mediation
- B** Resolved in formal mediation
- C** Special master considered case, issued recommendation
- D** Pending

\*As of Aug. 30, 2017

**E-Filing**

The Ohio Supreme Court's decision to allow electronic filing stemmed from a 2006 working draft to define standards for electronic filing processes, followed by a three-month e-filing pilot program in 2014. The capability for attorneys to file documents electronically with the Ohio Supreme Court began in January the next year, doing away with the burdensome paper copies and binders. While federal courts make e-filing mandatory, the Ohio Supreme Court's e-filing system is voluntary. Two years after its launch, it's considered a tremendous success, with more than 74 percent of all filings by attorneys made electronically. Attorneys shared their thoughts about the impact of electronic submissions at the Supreme Court in "[The Art of E-Filing](#)."

**2**  
YEARS

**30**  
YEARS

**Off-Site Court Program**

As the new chief justice in 1987, Thomas J. Moyer wanted to enhance student knowledge about Ohio's judicial system by taking the Ohio Supreme Court directly to the schools and their communities. The Supreme Court held its inaugural off-site session in Marietta in October that year, and the tradition of the Court traveling to different locations statewide continues today. To commemorate the program's 30th anniversary, the Supreme Court returned to Marietta in October 2017 to hear oral arguments in front of hundreds of high school students. In "[Robes on the Road](#)," court officials, teachers, and attorneys who've arranged past off-site court sessions across the state said it's a community gathering well worth the work, with many noteworthy benefits.





## *In re Gault*

Children’s rights in court were clarified and guaranteed by *In re Gault*, a U.S. Supreme Court decision that celebrated its 50th anniversary in May. The 1967 decision stated that youth are entitled to many of the same rights adults have when encountering the justice system – the right to an attorney, the right to have an attorney appointed if not able to afford one, the right to remain silent, the right against self-incrimination, and the right to confront witnesses. “[Juvenile Justice](#)” looked at efforts in Ohio, such as limiting a child’s waiver of counsel and heightening the training lawyers need before representing youth, to continue to ensure the rights of the youngest in our society.



**ETHICS GUIDES**  
Continued from p. 5

transitioned to new counsel. The guide references financial and practical matters related to the receipt of earned fees and settlement proceeds, retirement and partnership benefits, as well as the sale of a law practice. The guide also details whether a new judge should consider recusal in light of appearances by former partners, associates, clients, and defendants.

These new guides mark the third and fourth ethics guides issued by the Ohio Board of Professional Conduct. Earlier this year, the board issued the *Ethics Guide on Succession Planning* and, in 2016, the board issued the *Ethics Guide on File Retention*. Ethics Guides provide nonbinding advice from the staff of the board based on frequent inquiries from the Ohio bench and bar.



The justices heard oral arguments in Marietta on Oct. 18, marking the Off-Site Court Program’s 30th anniversary.

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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 439 - BAIL DETERMINATIONS**

Rep. Jonathan Dever (R-Cincinnati) & Rep. Tim Ginter (R-Salem)

To require courts to use the results of a validated risk assessment tool in bail determinations; to allow nonmonetary bail to be set; to require courts to collect certain data on bail, pretrial release, and sentencing; and to require the state Criminal Sentencing Commission to create a list of validated risk assessment tools and monitor the policies and procedures of courts in setting bail and utilizing pretrial supervision services..

**STATUS:** Introduced in the House on Dec. 7, 2017.

### **HB 446 - POWER OF ATTORNEY**

Rep. John Rogers (D-Mentor-on-the-Lake) & Rep. Bill Seitz (R-Cincinnati)

Relative to the acceptance of an acknowledged power of attorney.

**STATUS:** Introduced in the House on Dec. 12, 2017.

# The 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](http://sc.ohio.gov/Boards/judCollege)

*Note: Numerous [online courses](#) also are available.*

Jan. 23

**Probation Officer Training Program: Motivational Interviewing**  
Probation Officers  
Columbus

Jan. 24

**Guardian ad Litem Continuing Education Course: Substance Use**  
Guardians ad Litem  
Columbus  
8:45 a.m. - 12:15 p.m.

**HB 448 - SIBLING VISITATION**

Rep. Sarah LaTourette (R-Chagrin Falls) & Rep. Janine Boyd (D-Cleveland Heights)

To create sibling visitation rights, to make changes to the law regarding sibling placement by a court or agency and sibling relationships when parental rights are terminated, and to extend the sibling relationship beyond adoption.

**STATUS:** Introduced in the House on Dec. 12, 2017.

**HB 451 - PUBLIC RECORDS**

Rep. Wes Retherford (R-Hamilton)

To exclude from the definition of public record under the Public Records Law any depiction by photograph, film, videotape, or digital, visual, or printed material of victims of crime under specified circumstances dealing with the victims' bodily privacy.

**STATUS:** Introduced in the House on Dec. 14, 2017.

**SB 235 - SEX OFFENDERS**

Sen. John Eklund (R-Chardon)

To create a procedure for certain tier II sex offenders convicted of unlawful sexual conduct with a minor to petition a court for reclassification or removal from the

sex offender registry and to permit record sealing in those cases.

**STATUS:** Introduced in the Senate on Nov. 27, 2017.

THE SUPREME COURT of OHIO  
**Dispute Resolution '18**  
 CONFERENCE  
**MARCH 13, 2018**  
 The Ohio State University  
**REGISTER TODAY!**

**Guardian ad Litem Continuing Education Course: The GAL Interview**

Guardians ad Litem  
 Columbus  
 1 p.m. - 4:30 p.m.

**Guardian ad Litem Pre Service Course**  
 Guardians ad Litem  
 Columbus

Feb. 6  
**Probation Officer Training Program: Communication**  
 Probation Officers  
 Akron

**Court Services Training**

[sc.ohio.gov/JCS/courtSvcs](http://sc.ohio.gov/JCS/courtSvcs)

Jan. 29 & 30  
 Fundamentals of Mediation  
 Columbus

**Supreme Court of Ohio**

[sc.ohio.gov](http://sc.ohio.gov)

Jan. 15  
**Late Application Deadline to Register as a Candidate for the July 2018 Bar Exam**

Jan 23 – 25  
**Oral Arguments**  
 Live stream at 9 a.m.

**Conferences**

Jan. 31 – Feb. 2  
**Association of Municipal/County Judges of Ohio (AMCJO) Winter Conference**  
 Member Judges  
 Columbus

Feb. 9  
**Ohio Association of Probate Judges (OAPJ) Winter Conference**  
 Member Judges  
 Columbus

