

THE SUPREME COURT OF OHIO AND GENERAL ASSEMBLY SIMULTANEOUSLY ESTABLISH TOLLING PERIODS AS EMERGENCY RELIEF TO LITIGANTS DURING COVID-19 PANDEMIC

MARCH 31, 2020

On March 25, 2020, the Ohio General Assembly unanimously passed Am.Sub.H.B. 197, which provides measures for emergency relief to individuals, families, schools, businesses, and communities during the COVID-19 pandemic. Governor DeWine collaborated with the General Assembly on this bill in advance, and signed the bill into law on March 27. The Senate majority's summary of the amendments can be found [here](#), and the fully integrated bill can be found online at the General Assembly's [website](#).¹ As enacted, the bill includes several temporary measures in uncodified law that impact litigants and the court system, including provisions intended to toll various time limitations.

But because “[c]onstitutional separation of powers precludes the General Assembly from tolling time requirements that have been established by the various Supreme Court promulgated rules,” the Supreme Court of Ohio, also on March 27, 2020, issued an Administrative Order, located [here](#), which closely follows the legislation but clarifies its import. The tolling provisions of Am.Sub.H.B. 197 and the Administrative Order both apply retroactively to **March 9, 2020**, and expire when the period of emergency ends or on **July 30, 2020, whichever is sooner**.

The following is a summary of how the Act and Administrative Order affect the Ohio legal community, specifically within the civil context.

STATUTES OF LIMITATION TOLLED

All criminal statutes of limitation (per R.C. 2901.13), civil statutes of limitation (per R.C. Chapter 2305), and certain statutes of limitation for administrative actions or proceedings that are set to expire **between March 9, 2020 and July 30, 2020** are tolled. The provision relating to civil statutes of limitation defines those statutes of limitation covered as follows:

When a civil cause of action accrues against a person, notwithstanding any other provision of law to the contrary, the period for limitation of commencement of the action as provided under any section in Chapter 2305 of the Revised Code, or under any other provision of the Revised Code that applies to the cause of action[.]

CERTAIN ACTIVE CASE DEADLINES TOLLED

Should the following expire **between March 9, 2020 and July 30, 2020**, they, too, shall be tolled under the Act:

- The time within which discovery or any aspect of discovery must be completed;
- The time within which a party must be served; and
- Any other criminal, civil, or administrative time limitation under the Revised Code.

¹ The Act provides sweeping emergency relief over other aspects of Ohio life and community, including:

- Prohibiting public water disconnections during the pandemic;
- Permitting state and local governments and higher education boards to conduct meetings electronically as long as notice and access are provided to the public;
- Allowing recently retired state employees to be rehired;
- Waiving state standardized testing and report cards;
- Expanding eligibility for unemployment compensation, implementing the Governor's actions in temporary law;
- Aligning state tax deadline with federal deadline of July 15, 2020;
- Making allowances for people whose licenses of various kinds will expire during the pandemic emergency; and
- Extending voting by mail to allow the counting of absentee ballots postmarked by April 28, 2020.

The Supreme Court's Administrative Order reaffirms that the legislation applies to all rules of court and clarifies that the "tolling of time requirements" includes:

- The time for filing all pleadings, appeals, and other filings;
- Time limitations;
- Deadlines; and
- Other directives relating to time, including nonconstitutional jurisdictional deadlines.

The Order further states that courts may waive any requirement that a party appear in person or any requirement requiring "in-person service"; appearance or service by technology may be allowed "if it sufficiently guarantees the integrity of the proceedings and protects the parties' interests and rights"; clarifies that time requirements imposed by the rules of court that expire during the March 9 to July 30 tolling period are tolled; clarifies that nothing in the Order precludes filings; and clarifies that a specific order issued on or after March 9 "shall supersede the tolling provisions of this order" unless otherwise noted in the Order.

PRACTICAL GUIDANCE

While the General Assembly and the Supreme Court have established relief to litigants during this unprecedented time, you should still be vigilant in communicating with the court overseeing your lawsuit to ensure that you are in compliance with all deadlines that apply to the procedural intricacies in a given case. To be sure, under the current circumstances where cases are being adjudicated remotely and from a distance, it is imperative that you have an open dialogue with the court and all parties to the lawsuit, and be particularly zealous so that the rights of your clients are protected and upheld as each case proceeds.

ADDITIONAL INFORMATION

For additional information or assistance, please contact:

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