

November 2, 2015

The Honorable David P. Fornshell  
Warren County Prosecuting Attorney  
520 Justice Drive  
Lebanon, Ohio 45036

SYLLABUS:

2015-033

1. No provision of the Ohio Constitution or the Revised Code mandates that a clerk of a court of common pleas or a clerk of a county court be available at all hours of the day and on all days of the week to receive payments of bail. A clerk of court shall set the hours of the day and the days of the week that his office is open to facilitate a person's payment of bail.
2. Pursuant to R.C. 301.28(B), a board of county commissioners may authorize a clerk of a court of common pleas or a clerk of a county court to receive payments of bail by a financial transaction device. Pursuant to R.C. 301.28(E), a person using a financial transaction device to pay bail may be charged a fee for using the service that is either a set amount or a percentage of the bail amount. A clerk of court authorized by a board of county commissioners to receive payments of bail by a financial transaction device may use an electronic kiosk to receive payments of bail at all hours of the day and on all days of the week. (2012 Op. Att'y Gen. No. 2012-016 (syllabus, paragraph 1) overruled, on the basis of statutory amendment.)



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November 2, 2015

OPINION NO. 2015-033

The Honorable David P. Fornshell  
Warren County Prosecuting Attorney  
520 Justice Drive  
Lebanon, Ohio 45036

Dear Prosecutor Fornshell:

You have requested an opinion about the receipt of payments of bail by a clerk of court.<sup>1</sup> You ask whether a clerk of court shall be available to receive payments of bail regardless of the day of the week or the time of day. If that question is answered affirmatively, you inquire whether bail paid in cash or by credit card may be accepted by a clerk of court through the use of an electronic kiosk<sup>2</sup> that is owned by a private company and that charges a fee for using the service to the person posting bail. You have explained that Warren County's interest in using an electronic kiosk results from the county's wish to provide a cost-effective means of receiving bail payments if it is determined that a clerk of court is required to be available at all hours of the day and on all days of the week to receive payments of bail.

### **Arrest and Bail in Criminal Cases**

We begin with the first part of your inquiry, which asks whether a clerk of court shall be available at all hours of the day and on all days of the week to receive payments of bail. To answer that question, we must examine the laws governing bail in criminal cases. Article I, section 9 of the Ohio Constitution provides, in pertinent part:

All persons shall be bailable by sufficient sureties, except for a person who is charged with a capital offense where the proof is evident or the presumption great, and except for a person who is charged with a felony where the proof is evident or the

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<sup>1</sup> The Warren County Clerk of Court serves the Warren County Court of Common Pleas and the Warren County Court. Thus, this opinion considers the powers and duties of a clerk of a court of common pleas and a clerk of a county court to receive bail payments.

<sup>2</sup> A kiosk is "a small stand-alone device providing information and services on a computer screen[.]" *Merriam-Webster's Collegiate Dictionary* 688 (11th ed. 2005); 2012 Op. Att'y Gen. No. 2012-016, at 2-130.

presumption great and where the person poses a substantial risk of serious physical harm to any person or to the community.

“Bail is security for the appearance of an accused to appear and answer to a specific criminal or quasi-criminal charge in any court or before any magistrate at a specific time or at any time to which a case may be continued, and not depart without leave.” R.C. 2937.22(A). The court may grant one of the following kinds of bail:

- (1) The personal recognizance of the accused or an unsecured bail bond;
- (2) A bail bond secured by the deposit of ten percent of the amount of the bond in cash. Ninety percent of the deposit shall be returned upon compliance with all conditions of the bond;
- (3) A surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the defendant.

Ohio R. Crim. P. 46(A); *see also* R.C. 2937.22(A)(1)-(3).

R.C. 2935.13 and Ohio R. Crim. P. 4 address post-arrest bail procedures. When a person is arrested pursuant to a warrant, the person shall be brought “forthwith” before the court or the magistrate that issued the warrant for proceedings in accordance with R.C. 2937.01-46 (preliminary examination, arraignment, preliminary hearing, and bail). R.C. 2935.13. If the issuing court is “not in session and a misdemeanor or ordinance violation is charged, [the arrested person] shall be taken before the clerk or deputy clerk of the court and let to bail, as provided in [R.C. 2937.22-46].” R.C. 2935.13. “[I]f the magistrate [is] not available, or if the defendant is arrested in a county other than that of the issuing court or magistrate he shall forthwith be taken before the most convenient magistrate, clerk, or deputy clerk of a court of record” for the purpose of setting bail. *Id.*

More specific bail procedures are provided in Ohio R. Crim. P. 4. If the warrant “states it was issued before a scheduled initial appearance, or the warrant is silent as to when it was issued, the judicial officer before whom the person is brought shall apply [Ohio R. Crim. P. 46].” Ohio R. Crim. P. 4(E)(1)(a). Ohio R. Crim. P. 46 sets forth the types of bail that may be ordered and the factors to be used in setting the conditions and amount of bail. If the person is arrested in the county that issued the warrant, or an adjoining county, the warrant “states it was issued after an initial appearance or the failure to appear at an initial appearance[,]” and the warrant provides for bail, the person shall be permitted to post bail or shall be brought “without unnecessary delay before the court that issued the warrant.” Ohio R. Crim. P. 4(E)(1)(b).

Under Ohio R. Crim. P. 4(E)(1)(c):

Where a person is arrested upon a warrant that states it was issued after an initial appearance or the failure to appear at an initial appearance and the arrest occurs in any county other than the county from which the warrant was issued or in an adjoining county, the following sequence of procedures shall be followed:

- (i) Where the warrant provides for the posting of bail, the arrested person shall be permitted to post a sum of cash or secured bail bond as contained in the warrant

with the requirement that the arrested person appear before the warrant issuing court at a time and date certain.

(ii) The arrested person may in writing waive the procedures in division (E)(1)(c)(iii) of this rule after having been informed in writing and orally by a law enforcement officer of those procedures, and consenting to being removed to the warrant issuing court without further delay. This waiver shall contain a representation by a law enforcement officer that the waiver was read to the arrested person and that the arrested person signed the waiver in the officer's presence.

(iii) Where the warrant is silent as to the posting of bail, requires that the arrested person be held without bail, the arrested person chooses not to post bail, or the arrested person chooses not to waive the procedures contained in division (E)(1) of this rule, the arrested person shall, except as provided in division (F)<sup>3</sup> of this rule, be brought without unnecessary delay before a court of record therein, having jurisdiction over such an offense, and the arrested person shall not be removed from that county until the arrested person has been given a reasonable opportunity to consult with an attorney, or individual of the arrested person's choice, and to post bail to be determined by the judge or magistrate of that court not inconsistent with the directions of the issuing court as contained in the warrant or after consultation with the issuing court. If the warrant is silent as to the posting of bail or holding the arrested person without bail, the court may permit the arrested person to post bail, hold the arrested person without bail, or consult with the warrant issuing court on the issue of bail. (Footnote added.)

“If the arrested person is not released, the arrested person shall then be removed from the county and brought before the court issuing the warrant, without unnecessary delay.” Ohio R. Crim. P. 4(E)(1)(d).

A person arrested without a warrant shall be brought “without unnecessary delay before a court having jurisdiction of the offense” to conduct proceedings in accordance with Ohio R. Crim. P. 5, unless the person was charged with a misdemeanor and was released following the issuance of a summons. Ohio R. Crim. P. 4(E)(2). Ohio R. Crim. P. 5 governs the initial appearance and preliminary hearing. At the initial appearance, “if the defendant has not been admitted to bail for a bailable offense, the judge or magistrate shall admit the defendant to bail as provided in [the Ohio Rules of Criminal Procedure].” Ohio R. Crim. P. 5(A).

Which public official shall set bail is dictated by the offense for which the person was arrested. A judge or magistrate shall set bail when the offense charged is “a felony or a violation of [R.C. 2903.11 (felonious assault), R.C. 2903.12 (aggravated assault), or R.C. 2903.13 (assault)] when the victim of the offense is a peace officer[.]” R.C. 2937.23(A)(1). A judge, magistrate, or a clerk of

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<sup>3</sup> Under Ohio R. Crim. P. 4(F), a person who was arrested with or without a warrant for a misdemeanor offense may be released pursuant to a summons.

court may set bail in accordance with a previously established bail schedule, when the offense charged is “a misdemeanor or a violation of a municipal ordinance and not ... a felony or a violation of [R.C. 2903.11, R.C. 2903.12, or R.C. 2903.13] when the victim of the offense is a peace officer[.]” R.C. 2937.23(A)(2). R.C. 2937.23(A)(2) further provides, “[i]f the judge, magistrate, or clerk of the court is not readily available, the sheriff, deputy sheriff, marshal, deputy marshal, police officer, or jailer having custody of the person charged may fix the amount of bail in accordance with a schedule previously fixed by the judge or magistrate[.]”<sup>4</sup>

“Procedures for establishing the amount and conditions of bail” are established by rule of the Ohio Supreme Court. Ohio Const. art. I, § 9; Ohio Const. art. IV, § 5(B). Thus, a statute that conflicts with an Ohio Supreme Court rule of procedure on a matter pertaining to bail has no effect. Ohio Const. art. IV, § 5(B).

### **Receipt of Bail by a Clerk of Court**

“All bail shall be received by the clerk of the court, deputy clerk of court, or by the magistrate, or by a special referee appointed by the supreme court pursuant to [R.C. 2937.46].” R.C. 2937.22(C) (footnote added). When a judge, magistrate, or clerk of court is unavailable, and bail is accepted by one of the officials identified in R.C. 2937.23(A)(2) (*i.e.*, a sheriff, deputy sheriff, marshal, deputy marshal, police officer, or jailer), the bail shall be accepted “only in the county courthouse, the municipal or township building, or the county or municipal jail.” R.C. 2937.23(A)(2). No statute or criminal rule of procedure expressly addresses a clerk of court’s duty to be available to accept bail at a specific time or on certain days. Language in R.C. 2937.23(A)(2) and R.C. 2937.46(A)(4) suggests that the General Assembly contemplates that there will be times when a clerk of court may not be available to accept bail payments, such as at a time when the clerk’s office is closed. R.C. 2937.23(A)(2) authorizes certain law enforcement officers to accept bail for certain offenses when a clerk of court is not “readily available[.]” Similarly, R.C. 2937.46(A)(4) authorizes the Ohio Supreme Court to “[designate] special referees [in traffic cases] ... for receiving pleas or bail at times when courts [inferior to the court of common pleas] are not in session[.]” The General Assembly’s provision of alternate officials to accept bail when a clerk of court is unavailable suggests that a clerk of court is not required to be available at all hours of the day and on all days of the week to receive bail payments.

No cases in Ohio have addressed a clerk of court’s duty to maintain specific hours of operation to receive bail. We are not aware of a statute that requires a clerk of a court of common pleas, who is also a clerk of a county court, to maintain certain hours of operation or to be open certain days of the week. Thus, a clerk of court has discretion to set the hours in which his office is open to

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<sup>4</sup> “Amount of bail, and nature of security therefor in misdemeanor cases may be set by a schedule fixed by the court or magistrate[.]” R.C. 2935.15. “Each court shall establish a bail bond schedule covering all misdemeanors including traffic offenses, either specifically, by type, by potential penalty, or by some other reasonable method of classification.” Ohio R. Crim. P. 46(G).

conduct official business. See 1954 Op. Att’y Gen. No. 3480, p. 32, 34 (“the General Assembly has left to the sound discretion of each individually elected county officer the determination of the hours during which his office should be kept open for the transaction of business”). While a clerk of court has discretion to determine which hours his office will be open, he shall ensure that his office is open a sufficient number of hours and days to fulfill the duties of his office, including those duties that are tied to the functions of or that are required by the court that the clerk serves. *Id.* at 34-35; see generally R.C. 1907.20(C) (“[t]he clerk [of a county court] shall have such other powers and duties as are prescribed by rule or order of the court”); R.C. 1907.20(E)(3) (“[t]he clerk or a deputy clerk of a county court shall be in attendance at all sessions of the court, although not necessarily in the courtroom”); R.C. 2303.26 (“[t]he clerk of the court of common pleas shall exercise the powers conferred and perform the duties enjoined upon him by statute and by the common law; and in the performance of his duties he shall be under the direction of his court”).

In setting the days and times that his office shall be open, a clerk of court shall be cognizant of constitutional protections regarding the time within which a person shall be brought before a court or other official for the purpose of setting bail. Although “[t]here is no constitutional right to speedy bail[.]” *Fields v. Henry Cnty., Tenn.*, 701 F.3d 180, 185 (6th Cir. 2012), the language of Ohio R. Crim. P. 4(E)(1), requiring that an arrested person be brought “without unnecessary delay” before the appropriate official to set bail, and R.C. 2935.13, requiring that an arrested person be brought before a court to set bail “forthwith[.]” indicates that timing is a component of the right to bail and is an aspect of whether a person is being held in custody in accordance with the requirements of the federal and state constitutions. See *Shobe v. Seneca Cnty. Sheriff’s Office*, No. 3:07 CV 1783, 2008 WL 4981362 at \*4-5 (N.D. Ohio Nov. 19, 2008) (R.C. 2935.13, *inter alia*, creates a constitutionally protected liberty interest). Safeguarding a person’s constitutionally protected liberty interest may not necessarily require that a person who is arrested be immediately released upon bail. For example, a person may be held in custody overnight before being brought to court for a bail hearing. In *State v. Lutz*, 12th Dist. No. CA2000-09-07112, 2011-Ohio-8640, 2001 WL 1598768, at \*2 (Dec. 17, 2001), the court concluded that a defendant who was arrested at 3:00 p.m. and was brought to court for a bail hearing the next morning “was appropriately afforded a bail hearing without unnecessary delay.” It follows from this holding that the concept of “without unnecessary delay” incorporates the ordinary operating hours of a court.

Additionally, a person does not have a right to immediate release upon arrest if the person’s physical or mental condition makes him a danger to himself or the public. *State v. Berry*, Guernsey App. No. CA-617, 1980 WL 354257, at \*2 (July 22, 1980); *State v. Meyers*, 59 Ohio Misc. 124, 126-27, 394 N.E.2d 1037 (Mun. Ct. Miamisburg 1978). In *Berry*, the court stated “[w]e have been shown no authority for the proposition that the right to bail includes a right to immediate release notwithstanding the accused is so intoxicated as to be a danger to himself and others.” *State v. Berry*, Guernsey App. No. CA-617, 1980 WL 354257, at \*2 (July 22, 1980). When a danger is posed, a person may be kept in jail “for a reasonable period of time after the arrest in order to permit the officer to give the appropriate tests and complete all of the booking procedures.” *State v. Meyers*, 59 Ohio

Misc. at 127. Yet, in *Shobe*, the court found that the defendant's liberty interest was violated and the defendant was denied due process when she was held in jail for seven days before being taken to court for a bond hearing. *Shobe v. Seneca Cnty. Sheriff's Office*, No. 3:07 CV 1783, 2008 WL 4981362 at \*5 (N.D. Ohio Nov. 19, 2008).

Even as a court is not required to be available at all hours and on all days of the week for a bail hearing, a clerk of court, the court's ministerial officer, is not required to be available to receive a payment of bail at all hours and on all days of the week. As discussed above, the language of R.C. 2937.23(A)(2) and R.C. 2937.46(A)(4) suggests that a clerk of court is not required to be available at all hours and all days of the week to accept bail payments. A clerk of court, in conjunction with the court he serves, has discretion to set the hours in which his office will be open. However, in light of the language of Ohio R. Crim. P. 4(E)(1) and R.C. 2935.13 and the holding of *Shobe v. Seneca Cnty. Sheriff's Office*, it follows that a person's liberty interest may be affected adversely if, after bail is set by the appropriate official, a person is unable to obtain his release because a clerk of court is not available to accept the person's payment of bail. See *State v. Meyers*, 59 Ohio Misc. at 127 (when a person does not pose a danger, "the failure to release the defendant when he [has] the means and the ability to be released on bail [is] an unnecessary restraint upon the defendant"); 1988 Op. Att'y Gen. No. 88-060, at 2-302 ("[p]retrial detention is terminated upon the posting of sufficient bail"). While we do not believe it necessary that a clerk of court's office be open to accept bail payments at all hours of the day and on all days of the week, a clerk of court shall, in the reasonable exercise of his discretion, set the hours in which his office is open so as to not unnecessarily or unreasonably delay a person's ability to post bail. Therefore, in response to the first part of your inquiry, no provision of the Ohio Constitution or the Revised Code mandates that a clerk of a court of common pleas or a clerk of a county court be available at all hours of the day and on all days of the week to receive payments of bail. A clerk of court shall set the hours of the day and the days of the week that his office is open to facilitate a person's payment of bail.

### **Use of Electronic Kiosk to Receive Bail Payments**

In your second question you ask whether bail paid in cash or by credit card may be accepted by a clerk of court through the use of an electronic kiosk that is owned by a private company. You state that this question is based upon the premise that a clerk of court shall be available at all hours of the day and on all days of the week to receive bail payments. While we do not so conclude in this opinion, we will explain how a board of county commissioners may authorize a clerk of court to use a financial transaction device to accept bail payments regardless of the time or day that the payments are made.

Your letter describes the use of the kiosk as follows:

[A]n electronic kiosk could be placed at the jail that is capable of accepting and securing the cash, accounting for its application to a specific arrestee, and electronically disbursing the funds to the appropriate court. The county would not be the owner of the kiosk, and such owner would charge a fee based upon the amount of the bail set by the court.

By resolution, a board of county commissioners may “authorize[e] the acceptance of payments by financial transaction devices for county expenses.” R.C. 301.28(B). As used in R.C. 301.28, a financial transaction device

includes a credit card, debit card, charge card, or prepaid or stored value card, or automated clearinghouse network, credit, debit, or e-check entry that includes, but is not limited to, accounts receivable and internet-initiated, point of purchase, and telephone-initiated applications or any other device or method for making an electronic payment or transfer of funds.

R.C. 301.28(A)(1). “County expenses” for the purpose of R.C. 301.28 are “fees, costs, taxes, assessments, fines, penalties, payments, or any other expense a person owes or otherwise pays to a county office under the authority of a county official,<sup>5</sup> other than dog registration and kennel fees required to be paid under [R.C. Chapter 955].” R.C. 301.28(A)(2) (footnote added). “[P]ayment to a county office of money confiscated during the commitment of an individual to a county jail, of *bail*, of money for a prisoner’s inmate account, and of money for goods and services obtained by or for the use of an individual incarcerated by a county sheriff” is the payment of a county expense for purposes of R.C. 301.28. R.C. 301.28(A)(2) (emphasis added).

“A board of county commissioners may establish a surcharge or convenience fee” to be paid by a person that uses a financial transaction device provided that the “agreement governing the use and acceptance of the financial transaction device” allows for such a fee. R.C. 301.28(E). The surcharge or fee may be a set amount or may be a “percentage of the total amount of the transaction[.]” R.C. 301.28(E)(2). Each county office that receives payments by a financial transaction device shall post a notice that notifies users of the device that a fee will be charged, the amount of the fee, and that the fee is nonrefundable. R.C. 301.28(E)(1)-(3).

R.C. 301.28(B) specifies certain information that shall be included in a board of county commissioners’ resolution authorizing the use of a financial transaction device for the payment of county expenses. The resolution shall identify the county officials and the county offices that may accept payments by financial transaction devices and which county expenses may be paid with that device. R.C. 301.28(B)(1)-(2). The resolution shall also contain a “[s]pecific identification of financial transaction devices that the board authorizes as acceptable means of payment for county expenses.” R.C. 301.28(B)(3). Any fee that is charged to a user of a financial transaction device to pay a county expense shall be specified in the resolution. R.C. 301.28(B)(4). The resolution shall require “the payment of a penalty if a payment made by means of a financial transaction device is returned or dishonored for any reason.” R.C. 301.28(B)(5).<sup>6</sup> Finally, the resolution shall identify “an

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<sup>5</sup> For purposes of R.C. 301.28, a clerk of a court of common pleas and a clerk of a county court are “county officials.” R.C. 301.28(A)(3).

<sup>6</sup> R.C. 301.28(G) sets forth the limits of the amount that a board may charge as a penalty.



administrative agent to solicit proposals ..., to make recommendations about those proposals to the board, and to assist county offices in implementing the county's financial transaction devices program." R.C. 301.28(B). R.C. 301.28(C) sets forth the process a county must follow when contracting with financial institutions, issuers of financial transaction devices, or financial transaction device processors.

"A board of county commissioners adopting a resolution under [R.C. 301.28] shall send a copy of the resolution to each county official in the county who is authorized by the resolution to accept payments by financial transaction devices." R.C. 301.28(D). After receiving a copy of the resolution, each county office that accepts payments for county expenses may determine whether or not to accept any of the payments the office collects by a financial transaction device. *Id.* If the county official elects to accept payments through the use of a financial transaction device, the "county official shall provide written notification to the board of county commissioners of the official's intent to implement the resolution within the official's office." *Id.* "Each county office subject to the board's resolution ... may use only the financial institutions, issuers of financial transaction devices, and processors of financial transaction devices with which the board of county commissioners contracts, and each such office is subject to the terms of those contracts." *Id.*; see 2012 Op. Att'y Gen. No. 2012-016 (acceptance of payments by financial transaction devices for county expenses as authorized by R.C. 301.28).

Based upon your description, the use of an electronic kiosk to process payments of bail paid in cash or by credit card constitutes the use of a financial transaction device to pay a county expense. Accordingly, a board of county commissioners may authorize a clerk of a court of common pleas or a clerk of a county court to accept payments of bail through the use of an electronic kiosk, so long as the board of county commissioners satisfies the requirements of R.C. 301.28.<sup>7</sup> Pursuant to R.C.

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<sup>7</sup> This conclusion differs from the first syllabus paragraph of 2012 Op. Att'y Gen. No. 2012-016, which states:

A county sheriff who has been authorized by the board of county commissioners in accordance with R.C. 301.28 to accept payments by financial transaction devices may not use a processor of financial transaction devices to accept (1) money confiscated during the commitment of a person to the county jail, (2) money for a prisoner's inmate account, or (3) bail.

The opinion reasoned that a sheriff may not use a financial transaction device processor to accept moneys in those situations based upon the conclusion that those moneys were not "county expenses" as that term was defined for the purpose of R.C. 301.28. *Id.* at 2-132 to 2-135. Subsequent to the issuance of that opinion, the General Assembly amended R.C. 301.28's definition of "county expenses" to include "payment[s] to a county office of money confiscated during the commitment of an individual to a county jail, of bail, of money for a prisoner's inmate account, and of money for goods and services obtained by or for the use of an individual incarcerated by a county sheriff." Am. Sub. H.B. 59, 130th Gen. A. (2013) (eff. Sept. 29, 2013). In light of the current definition of "county

301.28(E), a person using a financial transaction device to pay bail may be charged a fee for using the service that is either a set amount or a percentage of the bail amount.<sup>8</sup> A clerk of court authorized by a board of county commissioners to receive payments of bail by a financial transaction device may use an electronic kiosk to receive payments of bail at all hours of the day and on all days of the week.

### Conclusions

Based on the foregoing, it is my opinion, and you are hereby advised that:

1. No provision of the Ohio Constitution or the Revised Code mandates that a clerk of a court of common pleas or a clerk of a county court be available at all hours of the day and on all days of the week to receive payments of bail. A clerk of court shall set the hours of the day and the days of the week that his office is open to facilitate a person's payment of bail.
2. Pursuant to R.C. 301.28(B), a board of county commissioners may authorize a clerk of a court of common pleas or a clerk of a county court to receive payments of bail by a financial transaction device. Pursuant to R.C. 301.28(E), a person using a financial transaction device to pay bail may be charged a fee for using the service that is either a set amount or a percentage of the bail amount. A clerk of court authorized by a board of county commissioners to receive payments of bail by a financial transaction device may use an electronic kiosk to receive payments of bail at all hours of the day

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expenses,” the conclusion reached in the first syllabus paragraph of 2012 Op. Att’y Gen. 2012-016 is no longer an accurate statement of the law. Therefore, 2012 Op. Att’y Gen. No. 2012-016 (syllabus, paragraph 1) is overruled, on the basis of statutory amendment.

Ohio R. Crim. P. 46(G) is another source of authority for a clerk of a county court to accept payments of bail by credit card. Ohio R. Crim. P. 46(G) requires every municipal and county court to “by rule, establish a method whereby a person may make bail by use of a credit card.” Rule 15.05 of the Local Rules of the Warren County Court complies with that requirement by authorizing the clerk of court to accept credit and debit cards for the payment of bail. Unless otherwise permitted, a clerk of court is prohibited from accepting bail payments by credit card if a fee is charged to the court or the clerk of court. Ohio R. Crim. P. 46(G); Warren County Court Local Rule 15.05.

<sup>8</sup> No court has addressed the constitutionality of charging a fee for using a financial transaction device to pay bail pursuant to R.C. 301.28. “[T]he power to determine whether the enactments of a legislative body comply with the provisions of ... the Ohio Constitution rests exclusively with the judiciary[.]” 2002 Op. Att’y Gen. No. 2002-032, at 2-210 n.1. As a member of the executive branch of government, the Attorney General is not empowered to determine in a formal opinion whether a statute is constitutional. *Id.*

and on all days of the week. (2012 Op. Att'y Gen. No. 2012-016 (syllabus, paragraph 1) overruled, on the basis of statutory amendment.)

Very respectfully yours,

A handwritten signature in blue ink that reads "Michael Dewine". The signature is written in a cursive style with a prominent initial "M" and a long, sweeping tail.

MICHAEL DEWINE  
Ohio Attorney General