

Note from the Attorney General's Office:

2002 Op. Att'y Gen. No. 2002-014 modified
in part at paragraph 2 by 2022 Op. Att'y
Gen. No. 2022-018.

OPINION NO. 2002-014

Syllabus:

1. Transcripts prepared pursuant to R.C. 2301.23 by a court reporter of the court of common pleas are public records under R.C. 149.43, unless the transcripts include or comprise a record that is excepted

from the definition of "public record" in R.C. 149.43(A)(1). (1989 Op. Att'y Gen. No. 89-073, syllabus, paragraph two, approved and followed.)

2. A party in a trial of a civil or criminal action in the court of common pleas that requests a photocopy of a transcript previously prepared pursuant to R.C. 2301.23 in the action is required to pay the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 in order to obtain the photocopy of the transcript from the court.
3. Each party in a trial of a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23 is required to pay the court reporter of the court of common pleas who prepares the transcript the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24.
4. Each time that a party in a trial of a civil or criminal action in the court of common pleas requests a transcript pursuant to R.C. 2301.23, the court reporter of the court of common pleas who prepares the transcript is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24, unless the party requests at the same time more than one transcript of the same testimony or proceeding. In such a situation, pursuant to R.C. 2301.25, the court reporter is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 for the first copy and to one-half the compensation allowed for the first copy for each additional copy.
5. A prosecuting attorney in a trial of a civil or criminal action in the court of common pleas or the court of appeals may not obtain a photocopy of a transcript previously prepared in the action from the court's file without paying the court reporter of the court of common pleas or the court of appeals, respectively, the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 or the judges of the court of appeals in accordance with R.C. 2501.17, respectively.

To: Jim Slagle, Marion County Prosecuting Attorney, Marion, Ohio
By: Betty D. Montgomery, Attorney General, June 12, 2002

You have requested an opinion concerning transcripts prepared pursuant to R.C. 2301.23 by court reporters of the court of common pleas. For ease of discussion, we have rephrased your questions as follows:

1. Is a transcript prepared pursuant to R.C. 2301.23 by a court reporter of the court of common pleas a public record under R.C. 149.43?

2. Is the cost which may be charged for a photocopy of a transcript, which is a public record, the actual cost of preparing a photocopy as defined in R.C. 149.43(E)(2)(a) or is it whatever compensation is set by the judges of the court of common pleas pursuant to R.C. 2301.24?
3. Is a prosecuting attorney in a pending case, requesting a copy of a transcript from that pending case, required to pay the court reporter the compensation established pursuant to R.C. 2301.24?
4. Is the prosecuting attorney entitled to obtain from the court of common pleas a photocopy of a transcript of a public hearing in a criminal case which has already been prepared by a court reporter of the court of common pleas by paying the actual copying costs as defined in R.C. 149.43(E)(2)(a)?
5. Is the prosecuting attorney required to ensure full payment to court reporters pursuant to R.C. 2301.24?
6. In determining the appropriate cost which may be charged to obtain a photocopy of a transcript, does it make any difference whether the transcript has been filed with the clerk of courts, is in the possession of a court reporter, or is in the possession of the common pleas judge?
7. Is it permissible for a court reporter of the court of common pleas to receive additional compensation for providing a photocopy of a public record?
8. Is a court reporter of the court of common pleas entitled to the additional compensation provided for in R.C. 2301.24 from each and every party to the case that requests a transcript?
9. If so, should the court reporter receive the full rate from each party, as set by the judges pursuant to R.C. 2301.24?
10. Is it unlawful for a prosecutor, representing a party in a case in the court of common pleas or the court of appeals, to obtain a copy of a transcript from the clerk of court's file, without paying any compensation to either the court reporter or the clerk?

In order to answer your questions, we must examine, *inter alia*, the provisions of the Revised Code that govern the appointment, duties, and compensation of court reporters. A court of common pleas is authorized by R.C. 2301.18-.19 to appoint an official shorthand reporter and assistant shorthand reporters for terms up to three years. Court reporters are considered to be public employees and officers of the court. 1989 Op. Att'y Gen. No. 89-073 at 2-333; 1946 Op. Att'y Gen. No. 1143, p. 598, at 599.

The primary duties of court reporters are to "take accurate shorthand notes of the oral testimony or other oral proceedings," R.C. 2301.20; *see, e.g.*, R.C. 2301.25-.26, and to "make full and accurate transcripts of the notes," R.C. 2301.23. The compensation of court reporters is addressed in R.C. 2301.22 and R.C. 2301.24. R.C. 2301.22 provides that "[e]ach shorthand reporter shall receive such compensation as the court of common pleas making the appointment fixes." This compensation is in place of any per diem compensation, unless the appointment is for less than a year, in which case there may be per diem compensation plus payment of actual and necessary expenses incurred. *Id.* "Compensation paid pursuant

to R.C. 2301.22 is for taking testimony and performing other duties under the orders of the court." 1999 Op. Att'y Gen. No. 99-003 at 2-19.

Pursuant to R.C. 2301.24, separate compensation is allowed to a court reporter for making transcripts and copies of decisions rendered and charges delivered by the court. *See* R.C. 2301.25; 1999 Op. Att'y Gen. No. 99-003 at 2-19. The separate compensation allowed for preparing transcripts is fixed by the court. R.C. 2301.24. Court reporters thus may receive two types of compensation, one for taking testimony, R.C. 2301.22, and one for preparing transcripts, R.C. 2301.24. 1999 Op. Att'y Gen. No. 99-003 at 2-19.

Let us now turn to your first question, which asks whether a transcript prepared pursuant to R.C. 2301.23 by a court reporter of the court of common pleas is a public record under R.C. 149.43. R.C. 149.43(A)(1) defines a "[p]ublic record" as "records kept by any public office," unless it is specifically excepted by the terms of R.C. 149.43(A)(1). 1989 Op. Att'y Gen. No. 89-073 at 2-335. R.C. 149.011, in turn, defines the terms "[p]ublic office" and "[r]ecords" as follows:

As used in [R.C. Chapter 149]:

(A) "Public office" includes any state agency, public institution, political subdivision, or any other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.

....

(G) "Records" includes any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

Accordingly, we must determine whether a transcript prepared by a court reporter pursuant to R.C. 2301.23 is a record that is kept by a public office for purposes of R.C. 149.43(A)(1).

R.C. 2301.23 provides, in part:

When shorthand notes have been taken in a case as provided in [R.C. 2301.20],¹ if the court, or either party to the suit or his attorney, requests transcripts of any portion of such notes in longhand, the shorthand reporter reporting the case shall make full and accurate transcripts of the notes for the use of such court or party. The court may direct the official shorthand reporter to furnish to the court and parties copies of decisions rendered and charges delivered by the court in pending cases. (Footnote added.)

¹R.C. 2301.20 states, in relevant part:

Upon the trial of a civil or criminal action in the court of common pleas, if either party to the action or his attorney requests the services of a shorthand reporter, the trial judge shall grant the request, or may order a full report of the testimony or other proceedings. In either case, the shorthand reporter shall take accurate shorthand notes of the oral testimony or other oral proceedings.

1989 Op. Att'y Gen. No. 89-073 at 2-335 examined the status of transcripts prepared by a court reporter pursuant to R.C. 2301.23, and determined that these transcripts "are records of a public office, namely, the court of common pleas." See 1946 Op. Att'y Gen. No. 1143, p. 598. These transcripts serve to document the "decisions ... operations or other activities" of the court and such transcripts are "records" of the court of common pleas under R.C. 149.011. 1989 Op. Att'y Gen. No. 89-073 at 2-334 and 2-335. The opinion then concluded that, because no general exception exists in R.C. 149.43(A) for court records, transcripts prepared by a court reporter pursuant to R.C. 2301.23 are public records under R.C. 149.43, unless the transcripts include or comprise a record which is excepted from the definition of "public record" in R.C. 149.43(A)(1). *Id.* at 2-334 through 2-336; see 1967 Op. Att'y Gen. No. 67-018; see also 1974 Op. Att'y Gen. No. 74-097.

Although R.C. 149.43(A) has been amended several times since the issuance of 1989 Op. Att'y Gen. No. 89-073, we believe that the opinion's conclusion that transcripts are public records for purposes of R.C. 149.43 remains valid. No provision within R.C. 149.43(A) currently excepts transcripts prepared by a court reporter from the definition of "public record" set forth therein. Accordingly, transcripts prepared pursuant to R.C. 2301.23 by a court reporter of the court of common pleas are public records under R.C. 149.43, unless the transcripts include or comprise a record that is excepted from the definition of "public record" in R.C. 149.43(A)(1).

Your second, third, fourth, fifth, sixth, and seventh questions concern the same issue: whether a party in a trial of a civil or criminal action in the court of common pleas that requests a photocopy of a transcript previously prepared pursuant to R.C. 2301.23 in the action is required to pay the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 in order to obtain the photocopy of the transcript from the court.² We will, therefore, consider these questions together.

R.C. 2301.24, which establishes the system for compensating court reporters for making transcripts for parties pursuant to R.C. 2301.23, provides as follows:

The compensation of shorthand reporters for making transcripts and copies as provided in [R.C. 2301.23] shall be fixed by the judges of the court of common pleas of the county wherein the trial is had. Such compensation shall be paid forthwith by the party for whose benefit a transcript is made.

Thus, a party in a trial of a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23 is required to pay the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 in order to obtain the transcript from the court. See 1999 Op. Att'y Gen. No. 99-003 at 2-19; 1989 Op. Att'y Gen. No. 89-073 (syllabus, paragraph six); 1980 Op. Att'y Gen. No. 80-099 (syllabus, paragraph three).

In correspondence with the Marion County Court of Common Pleas, you have proposed that, when a transcript has been prepared pursuant to R.C. 2301.23 in a civil or criminal action, R.C. 149.43(B), rather than R.C. 2301.24, controls for purposes of determining what a party in the action shall pay in order to obtain a photocopy of the transcript

²Transcripts prepared pursuant to R.C. 2301.23 are the property of the court of common pleas. 1989 Op. Att'y Gen. No. 89-073 (syllabus, paragraph one); see R.C. 2301.26. See generally R.C. 2301.23 ("[w]hen the compensation for transcripts ... is taxed as a part of the costs, such transcripts ... shall remain on file with the papers of the case").

from the court.³ R.C. 149.43(B)(1) provides, in pertinent part: "Subject to [R.C. 149.43(B)(4)],⁴ upon request, a public office or person responsible for public records shall make *copies available at cost*, within a reasonable period of time." (Emphasis and footnote added.) You thus assert that, under R.C. 149.43(B), if a transcript has previously been prepared pursuant to R.C. 2301.23 in a civil or criminal action in the court of common pleas, the court must make a photocopy of the transcript "available at cost" to a party in the action.

In order to resolve this issue, we must first review 1989 Op. Att'y Gen. No. 89-073. This opinion examined R.C. 2301.24 and R.C. 149.43(B) in regard to the fee to be charged for a photocopy of a transcript, and advised as follows:

Pursuant to the dictate of R.C. 149.43(B), as a person responsible for public records, the official shorthand reporter of the court of common pleas, an assistant shorthand reporter or the clerk of the court of common pleas, if in possession of a copy of a transcript requested by any person, must make available a copy of such transcript at cost.

R.C. 149.43 does not define "at cost." A reasonable policy setting forth copy costs would be within the sound discretion of the public office. *Where, however, a statute establishes a fee to be charged for copies provided, the statutory fee will control. Here, under R.C. 2301.24, the judges of the court of common pleas are required to fix the fee for copies of transcripts obtained from the court reporter.* If the transcript is filed with the court, the clerk of the court of common pleas is required to charge one dollar per page for certified copies of the transcript. R.C. 2303.20(G) [now R.C. 2303.20(Z)]. For copies which are not certified, the clerk of the court of common pleas may adopt a policy which sets a reasonable fee for copies. Such policy is subject to the direction of the court. *A reasonable rule setting forth the fees for receiving a copy of a public record should reflect the actual costs involved in making a copy, unless the cost is otherwise set by law. See R.C. 149.43(B). R.C. 2301.24 directs the judges of the court of common pleas to fix the cost of making copies of transcripts by the court reporter.* In summary, the cost of a certified copy obtained from the clerk of courts is set by R.C. 2303.20(G). Since no fee is statutorily set for the other public records discussed in this opinion, the public office responsible for those public records may adopt a reasonable policy setting a fee for copies which reflects the actual costs involved in making a copy. (Emphasis added and citations omitted.)

1989 Op. Att'y Gen. No. 89-073 at 2-336 and 2-337.

1989 Op. Att'y Gen. No. 89-073 thus concludes that, in the absence of a statute establishing the fee to be charged for a photocopy of a transcript that has previously been prepared pursuant to R.C. 2301.23 in a trial of a civil or criminal action in the court of common pleas, the court of common pleas must make a photocopy of the transcript available at cost, in accordance with the language of R.C. 149.43(B). However, where a statute

³A "photocopy" is "a copy of printed or other graphic material made by a device (**photocopier**) which photographically reproduces the original." *Webster's New World Dictionary* 1072 (2d college ed. 1986) (bold in original).

⁴R.C. 149.43(B)(4) limits the rights of a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect and copy certain public records.

establishes the fee to be charged for such a photocopy, the statutory fee will control. *Id*; see *State ex rel. The Warren Newspapers, Inc. v. Hutson*, 70 Ohio St. 3d 619, 625, 640 N.E.2d 174, 180 (1994). See generally R.C. 149.43(E)(1) (authorizing the Bureau of Motor Vehicles to charge fees in addition to actual cost for responses to public record requests designated as "bulk commercial special extraction requests"); *State ex rel. Dublin Sec., Inc. v. Ohio Div. of Sec.*, 68 Ohio St. 3d 426, 627 N.E.2d 993 (1994) (the special provisions of R.C. 1707.12 control over the general provisions of R.C. 149.43); 1994 Op. Att'y Gen. No. 94-006 (for photocopying a document described in R.C. 317.32(I), a county recorder must charge all persons, without exception, the fee prescribed in R.C. 317.32(I)).

In this instance, therefore, we must determine whether the language of R.C. 2301.24 controls for purposes of establishing the fee to be charged for a photocopy of a transcript that was previously prepared in a trial of a civil or criminal action in the court of common pleas. If not, then the court of common pleas must make a photocopy of the transcript available at cost to a requesting party, in accordance with the language of R.C. 149.43(B). 1989 Op. Att'y Gen. No. 89-073.

R.C. 2301.24 authorizes a court reporter of the court of common pleas to receive additional compensation for making transcripts pursuant to R.C. 2301.23. This compensation is fixed by the judges of the court of common pleas and "paid forthwith by the party for whose benefit a transcript is made." R.C. 2301.24. Thus, pursuant to R.C. 2301.24, a party in a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23 in the action is required to pay, as a fee, the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 in order to obtain the transcript.

Nothing in the language of R.C. 2301.24 indicates that a party in a civil or criminal action in the court of common pleas is relieved of the responsibility of paying the compensation fixed by the judges of the court of common pleas when the party receives a photocopy of a transcript rather than an original transcript. Instead, R.C. 2301.24 unequivocally provides that a court reporter is entitled to the compensation for making transcripts whenever the court reporter prepares a transcript for a party in a civil or criminal action in the court of common pleas. The statute does not dictate or limit the manner in which a court reporter must prepare the transcript. A court reporter thus may prepare the transcript in any manner that the reporter deems appropriate. See generally *Jewett v. Valley Ry. Co.*, 34 Ohio St. 601, 608 (1878) (where a statute authorizes performance of a particular act, but does not specify how the act is to be performed, the implication is that it is to be carried out in a reasonable manner).

Photocopying is an appropriate method by which a court reporter may reproduce an original transcript. See note three, *supra*. Thus, when a court reporter, at the request of a party in a civil or criminal action in the court of common pleas, has prepared a transcript by photocopying an original transcript, the reporter has made a transcript for the party. Accordingly, a court reporter who prepares a photocopy of a transcript for a party in a civil or criminal action in the court of common pleas is entitled to the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 for that photocopy.

Because R.C. 2301.24 establishes the method for determining the amount that a party in a civil or criminal action in a court of common pleas must pay for a photocopy of a transcript, R.C. 2301.24 applies in such a situation, rather than R.C. 149.43(B). See *State ex rel. The Warren Newspapers, Inc. v. Hutson*, 70 Ohio St. 3d at 625, 640 N.E.2d at 180; 1989 Op. Att'y Gen. No. 89-073. See generally *State ex rel. Steckman v. Jackson*, 70 Ohio St. 3d 420, 639 N.E.2d 83 (1994) (R.C. 149.43 may not be used to obtain records from law enforcement officials when the records are not available through discovery pursuant to Ohio R. Crim. P.

16(B)); *State ex rel. Perrysburg Twp. v. City of Rossford*, Court of Appeals No. WD-01-056, 2002 Ohio App. LEXIS 337, at *9 (Wood County Jan. 30, 2002) (“the use of R.C. 149.43 by a litigant to circumvent the discovery process is improper”). Therefore, a party in a trial of a civil or criminal action in the court of common pleas that requests a photocopy of a transcript previously prepared pursuant to R.C. 2301.23 in the action is required to pay the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 in order to obtain the photocopy of the transcript from the court.⁵ See generally *Goshien v. Garrett*, Nos. 37683, 37908, 1978 Ohio App. LEXIS 7909, at *6 (Cuyahoga County Oct. 5, 1978) (when either party in a case requests a transcript, “the [court] reporter must produce it (R.C. 2301.23), and compensation is to be paid by the person for whom the transcript was made (R.C. 2301.24)"); *Smith v. Smith*, No. 34225, 1975 Ohio App. LEXIS 6774, at *6 (Cuyahoga County July 18, 1975) (“R.C. 2301.24 provides for compensation to be paid the reporter by the party for whose benefit a transcript is made”).

Your eighth question asks whether a court reporter of the court of common pleas is entitled to the additional compensation provided for in R.C. 2301.24 from each party that requests a transcript pursuant to R.C. 2301.23 in a trial of a civil or criminal action in the court of common pleas. The language of R.C. 2301.24 unequivocally provides that a court reporter who prepares a transcript pursuant to R.C. 2301.23 shall be “paid forthwith *by the party for whose benefit [the] transcript is made*” the compensation established by the judges of the court of common pleas. (Emphasis added.) There are no exceptions to the provisions of R.C. 2301.24. It is well settled that exceptions to the application or operation of the terms of a statute shall be recognized only when such exceptions are set forth clearly and unambiguously either in the statute itself or in another statute, and in those instances in which the General Assembly has not enacted an exception to the terms of a particular statute, there is a presumption that it has intended that there shall be no exceptions thereto. *Scheu v. State*, 83 Ohio St. 146, 157-58, 93 N.E. 969, 972 (1910). Accordingly, each party in a trial of a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23 is required to pay the court reporter of the court of common pleas who prepares the transcript the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24.

Your ninth question asks whether a court reporter of the court of common pleas should receive the full rate of compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 from each party in a trial of a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23. As explained above, each party in a civil or criminal action in the court of common pleas that requests a

⁵Where a person, other than a party in a trial of a civil or criminal action in the court of common pleas, requests a photocopy of a transcript that has previously been prepared pursuant to R.C. 2301.23 in the action, the provisions of R.C. 149.43(B) and R.C. 2303.20(Z) control, instead of the provisions of R.C. 2301.24. 1989 Op. Att’y Gen. No. 89-073. Under R.C. 2303.20(Z), if a transcript prepared pursuant to R.C. 2301.23 is filed with the court of common pleas, the clerk of the court of common pleas is required to charge one dollar per page for certified copies of the transcript. *Id.* at 2-336. Pursuant to the dictate of R.C. 149.43(B), for copies not including certificate and seal, the clerk of the court of common pleas or a court reporter of the court of common pleas must make copies of the transcript available at cost. *Id.* See generally *Smith v. Smith*, No. 34225, 1975 Ohio App. LEXIS 6774, at *6 (Cuyahoga County July 18, 1975) (“transcripts already prepared for parties under R.C. 2301.23 are available to even disinterested parties upon demand as public records under the terms of R.C. 149.43”).

transcript pursuant to R.C. 2301.23 is required to pay the court reporter of the court of common pleas who prepares the transcript the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24.

However, R.C. 2301.25 sets forth the instances in which a party in a civil or criminal action in the court of common pleas is not required to pay a court reporter who prepares a transcript pursuant to R.C. 2301.23 the entire amount of compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24. In this regard, R.C. 2301.25 provides, in pertinent part:

When more than one transcript of the same testimony or proceeding is ordered at the same time by the same party, or by the court, the compensation for making such additional transcript shall be one-half the compensation allowed for the first copy, and shall be paid for in the same manner except that where ordered by the same party only the cost of the original shall be taxed as costs.

Thus, when more than one transcript of the same testimony or proceeding is ordered at the same time by the same party in a trial of a civil or criminal action in the court of common pleas pursuant to R.C. 2301.23, a court reporter of the court of common pleas who prepares the transcript is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 for the first copy and to one-half the compensation allowed for the first copy for each additional copy.

It has been suggested that, under R.C. 2301.25, once a court reporter of the court of common pleas who prepares a transcript pursuant to R.C. 2301.23 is paid the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 for that transcript, any additional copies of the transcript, whether requested by the same party or another party, are to be made for "one-half the compensation allowed for the first copy." The plain language of R.C. 2301.25 does not support this proposition, however.

By its very terms, the language of R.C. 2301.25 reducing the cost of a transcript that a party in a civil or criminal action in the court of common pleas must pay applies only "[w]hen more than one transcript of the same testimony or proceeding *is ordered at the same time by the same party, or by the court.*" (Emphasis added.) In all other instances, a party in a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23 is required to pay a court reporter the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24. Thus, except as provided in R.C. 2301.25, each party in a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23 is required to pay the court reporter of the court of common pleas who prepares the transcript the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24. *See generally Sears v. Weimer*, 143 Ohio St. 312, 55 N.E.2d 413 (1944) (syllabus, paragraph five) (where the language of a statute is clear and unequivocal, it is to be applied, not interpreted).

Accordingly, each time that a party in a trial of a civil or criminal action in the court of common pleas requests a transcript pursuant to R.C. 2301.23, the court reporter of the court of common pleas who prepares the transcript is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24, unless the party requests at the same time more than one transcript of the same testimony or proceeding. In such a situation, pursuant to R.C. 2301.25, the court reporter is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C.

2301.24 for the first copy and to one-half the compensation allowed for the first copy for each additional copy.

Your final question asks whether it is lawful for a prosecuting attorney in a trial of a civil or criminal action in the court of common pleas or the court of appeals to obtain a photocopy of a previously prepared transcript from the clerk of court's file, without paying any compensation to either the court reporter or the clerk of court.⁶ As explained previously, a party in a trial of a civil or criminal action in the court of common pleas that requests a photocopy of a transcript previously prepared in the action is required to pay, as a fee, the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 in order to obtain the photocopy of the transcript from the court. R.C. 2301.24. Similarly, in a trial of a civil or criminal action in the court of appeals, a party that requests a photocopy of a transcript previously prepared in the action is required to pay, as a fee, the compensation fixed by the judges of the court of appeals under R.C. 2501.17 in order to obtain the photocopy of the transcript from the court. R.C. 2501.17.⁷

R.C. 2301.24 and R.C. 2501.17 thus establish the fee a party in a civil or criminal action must pay in order to obtain a photocopy of a transcript in the action from the court of common pleas or the court of appeals, respectively. Neither of these statutes sets forth any circumstances in which a party in a civil or criminal action in the court of common pleas or the court of appeals is relieved from paying this fee. Accordingly, no party in a civil or criminal action in the court of common pleas or the court of appeals is excepted from the fee provisions of these statutes. *See generally Morris Coal Co. v. Donley*, 73 Ohio St. 298, 76 N.E. 945 (1906) (syllabus, paragraph one) (“[a]n exception to the provisions of a statute not suggested by any of its terms should not be introduced by construction from considerations of mere convenience”).

A prosecuting attorney in a trial of a civil or criminal action in a court of common pleas or court of appeals thus is required to pay, as a fee, the compensation fixed pursuant to R.C. 2301.24 or R.C. 2501.17 when obtaining a photocopy of a transcript previously prepared in the action from the court of common pleas or the court of appeals, respectively. Therefore, a prosecuting attorney in a trial of a civil or criminal action in the court of common pleas or the court of appeals may not obtain a photocopy of a transcript previously prepared in the action from the court's file without paying the court reporter of the court of common pleas or the court of appeals the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 or the judges of the court of appeals in accordance with R.C. 2501.17, respectively.

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

⁶Pursuant to R.C. 2303.03(A), “[t]he clerk of the court of common pleas in each county also shall be clerk of the court of appeals of the county ... and while acting as the clerk of the court of appeals of the county and assuming the duties of that office, shall ... perform the same general duties that the clerk otherwise performs.” *Accord* R.C. 2501.16(A).

⁷R.C. 2501.17 states, in part:

Shorthand reporters may receive additional compensation for transcripts of evidence, the fee for the transcripts to be fixed by the judges of the court of appeals and paid and collected in the same manner as the fees for transcripts furnished by official shorthand reporters of the court of common pleas under [R.C. 2301.24].

1. Transcripts prepared pursuant to R.C. 2301.23 by a court reporter of the court of common pleas are public records under R.C. 149.43, unless the transcripts include or comprise a record that is excepted from the definition of "public record" in R.C. 149.43(A)(1). (1989 Op. Att'y Gen. No. 89-073, syllabus, paragraph two, approved and followed.)
2. A party in a trial of a civil or criminal action in the court of common pleas that requests a photocopy of a transcript previously prepared pursuant to R.C. 2301.23 in the action is required to pay the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 in order to obtain the photocopy of the transcript from the court.
3. Each party in a trial of a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23 is required to pay the court reporter of the court of common pleas who prepares the transcript the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24.
4. Each time that a party in a trial of a civil or criminal action in the court of common pleas requests a transcript pursuant to R.C. 2301.23, the court reporter of the court of common pleas who prepares the transcript is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24, unless the party requests at the same time more than one transcript of the same testimony or proceeding. In such a situation, pursuant to R.C. 2301.25, the court reporter is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 for the first copy and to one-half the compensation allowed for the first copy for each additional copy.
5. A prosecuting attorney in a trial of a civil or criminal action in the court of common pleas or the court of appeals may not obtain a photocopy of a transcript previously prepared in the action from the court's file without paying the court reporter of the court of common pleas or the court of appeals, respectively, the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 or the judges of the court of appeals in accordance with R.C. 2501.17, respectively.