



**House Criminal Justice Committee**  
**Proponent Testimony, HB283**  
**October 17, 2017**  
**Mary Wachtel, Director of Public Policy**  
**Public Children Services Association of Ohio**  
**37 W. Broad Street, Suite 1100**  
**Columbus, OH 43215**  
**614.224.5802**  
[mary@pcsao.org](mailto:mary@pcsao.org)

Chair Manning, Vice-Chair Rezabek, Ranking Member Celebrezze and Members of the Committee, my name is Mary Wachtel and I am with the Public Children Services Association of Ohio (PCSAO). PCSAO is a membership driven association of Ohio's county Public Children Services Agencies that advocates for and promotes child protection program excellence and sound public policy for safe children, stable families and supportive communities.

I am here today to speak in favor of HB283. The bill was introduced in June 2017 to establish clear jurisdiction for juvenile and probate court decision-making involving abandoned, dependent, neglected and abused children.

An October 2016 Supreme Court of Ohio decision (The State Ex. Re. Allen County Children Services Board v. Mercer County Common Pleas Court, Probate Division, et al.) led to the proposed legislation. In that decision, the majority ruled that a probate court could proceed with a petition for adoption of a dependent and abused child in the temporary custody of a public children services agency while the child's case in juvenile court was still pending. It is worth noting that the Court previously ruled on the same issue in June 2016 only to reverse its own decision on a motion for reconsideration, demonstrating the complexity of this issue.

Much of Ohio's juvenile code was developed in the 1970s and could not anticipate several key factors that make the impact of the decision especially challenging and relevant. These include the rise in importance of relative placement<sup>i</sup> to help assure better outcomes for the child<sup>ii</sup> and how to resolve conflicts when a parent or other caregiver does not agree with decisions of the court. In some ways, it is not surprising that it took until 2016 for these issues to come to the forefront in the way that they did in this case.

In its decision, the majority notes that “nothing in statute expressly precludes the probate court from exercising its jurisdiction in adoption proceedings regarding a child who is the subject of custody proceedings in the juvenile court” (¶134) and that “had the legislature intended a temporary dispositional order to be a barrier to adoption in these circumstances, it could have required the consent of the temporary custodian or the juvenile court, but it did not” (¶135).

HB283 addresses these issues by requiring the consent of a juvenile court judge when a petition for adoption has been filed regarding a child in temporary custody or under protective supervision of a public children services agency or a private child placing agency. This is sound public policy given that in carrying out its duties, the juvenile court gains an understanding of family history, dynamics, and progress towards reunification or permanency – critical information to inform the consent decision. And, significantly, it ensures that the juvenile court can carry its work on abuse, neglect and dependency cases to conclusion.

While some may view HB283 as an attempt to prevent adoptions in this manner or to diminish parental rights, nothing in this bill does that. Birth parents who have not lost permanent custody of their child can still initiate a petition for adoption. Probate courts still maintain jurisdiction over adoption proceedings and juvenile courts still maintain jurisdiction over abuse, neglect and dependency cases. No court gains an advantage over the other. Significantly, Ohio’s probate **and** juvenile judges sought this legislation to clarify these issues.

By nature, child welfare cases are difficult situations with multiple competing interests. All parties within the system---the children, birth parents, foster parents, relatives, agencies—need and deserve clearly defined boundaries about which court makes what decisions when. The General Assembly should provide that clarity by passing HB283.

Thank you and I am happy to answer any questions.

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<sup>i</sup> The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires child welfare agencies to notify all adult relatives when a child enters foster care to provide those relatives with information on how they can be involved. Ohio has incorporated this federal language into state law regarding relative notification (OAC5101:2-39-01(H)). Additionally, Ohio law states that a relative placement is the least restrictive environment for a child and should be the first preference for placement (OAC5101:2-42-05(F)(2)).

<sup>ii</sup> See Koh, E. (2010). Permanency outcomes of children in kinship and non-kinship foster care: Testing the external validity of kinship effects. *Children and Youth Services Review*, 32(3), 389-398. doi:10.1016/J.CHILDYOUTH.2009.10.010 and Wheeler, C., Newton-Curtis, L., Schisler, A., & Vollet, J. (2016). Final evaluation report: ProtectOhio third waiver period.