



Mahoning County Children Services

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Ohio House of Representatives
Criminal Justice Committee
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Testimony on HB 283
Randall B. Muth, J.D. Executive Director

Good afternoon Chairman Manning, Vice-Chairman Rezabek, and Ranking Member Celebrezze. My name is Randy Muth and I am currently the Executive Director of the Mahoning County Children Services Board. We are a stand-alone agency which serves as the local public children services agency for Mahoning County. Thank you for allowing me the opportunity to provide testimony today in support of House Bill 283.

I have worked in the juvenile law field for twenty- four years. Except for a few years in private practice focusing on family law, all of that time has been in public service, including working in a County Prosecutor's office, as in-house counsel for a county Children Services agency and since 2006, as Director of Children Services-- first in Wayne County and since 2013, in Mahoning County.

This bill has its genesis in a case that arose last year involving a jurisdictional dispute between the Allen County Juvenile Court and the Mercer County Probate Court. The resolution of this dispute took a little over a year and ultimately ended up in the Ohio Supreme Court as *State ex rel. Allen Cty. Children Servs. Bd. V. Mercer Cty. Common Pleas Court, Probate Div., Slip Opinion No. 2016-Ohio-7382*. The precise issue in that case was whether a probate court may exercise exclusive jurisdiction over adoption proceedings while a juvenile court is concurrently exercising continuing jurisdiction over a child custody proceeding.

I think that it is completely fair to say that this was a complicated issue. Reputable and experienced judges came to differing conclusions and the Supreme Court even reversed itself during the proceedings. In the end, the decision was divided with four Justices in the majority and two in dissent. I think Chief Justice O'Connor said it best when she wrote, "To be sure, the statutory scheme at issue here is a labyrinth."

The Supreme Court framed and analyzed the issue in the only manner in which it could – in terms of a jurisdictional issue. The fact that the current state of the law mandated that this matter be resolved through the lens of broad jurisdictional concepts means that the result of this particular case dictates the result of the entire class of cases in the future which have legally similar facts. In other words, whatever the result of this litigation turned out to be, a similar and consistent result in all future cases is guaranteed. Normally, that's a good thing.

In this case, the majority of Justices said that the Probate Court has exclusive jurisdiction even though the Juvenile Court established jurisdiction first. Therefore, going forward, every time a prospective adoptive parent files a Petition to Adopt in Probate court during an ongoing child abuse or neglect case, the jurisdiction of the Juvenile Court ends. Had it gone the

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Mahoning County Children Services, in partnership with the community, is committed to being the leader in protecting children while helping to preserve families.



other way – had the dissenting Justices prevailed, then no person could have ever filed a Petition to Adopt while there was an active Juvenile Court case.

No matter which way you come out on this issue, the current legal process mandates a one-size-fits-all result. Representative Rezabek, through this bill, has offered us another solution. A better solution. A solution that allows for judges to make case-by-case determinations in these rare situations.

Certainly, a case-by-case decision making process is preferable when it is administratively practicable to implement. Case-by-case decisions allow the court to craft a tailor-made decision designed to render the best result in accordance with the unique circumstances of the family before it.

The legislative solution which Rep. Rezabek is proposing states that Probate Court cannot exercise its jurisdiction in an adoption proceeding regarding a child who is in the temporary custody or protective supervision of a public children services agency under the Juvenile Court's jurisdiction, unless the Juvenile Court provides its consent. Because the Juvenile Court will, often times, have had significant involvement with this family the Juvenile Judge will most likely be in the best position to determine, on a case-by-case basis, whether it is in the best interest of the child to begin the adoption proceedings.

Sometimes the answer to that question will be "yes." And sometimes it will be "no." But, either way, this bill ensures that each family – each child - receives the best attention that both our Juvenile and Probate systems have to offer. This bill maintains the integrity of the legislative intent regarding the interplay of Juvenile and Probate jurisdiction while, at the same time, provides the level of judicial discretion which is so important in child custody and adoption cases.

Thank you for the opportunity to speak with you today. On behalf of all Ohio's child welfare professionals, I respectfully ask you to support this important bill.