



Ohio Judicial Conference

The Voice of Ohio Judges

SB 204 – Proponent testimony

Judge Kenneth Spanagel on behalf of the Ohio Judicial Conference and the Ohio Criminal Sentencing Commission

Judiciary Committee, Ohio House of Representatives

May 10, 2016

Chairman Butler, Vice Chair Manning, Ranking Member Johnson, and members of the Judiciary Committee:

I am Judge Ken Spanagel, of the Parma Municipal Court, where I have served since 1988. I also presently serve as a member of the Ohio Criminal Sentencing Commission, of which Representative Pelanda is also a member, and where I chair the Sentencing Subcommittee. I am also a past Chair of the Ohio State Bar Association's Traffic Law Committee, and am currently the faculty member of the Ohio Judicial College teaching Driving under Suspension law to judges, acting judges, visiting judges, and magistrates. As a member of the Ohio Judicial Conference, I serve as a member of the Traffic Law and Procedure Committee and Criminal Law and Procedure Committee. I am appearing here today on behalf of both the Ohio Judicial Conference and the Ohio Criminal Sentencing Commission, from where this proposal was originated.

Revised Code section 105.91 creating the Judicial Conference directs the Conference to consider the business and problems pertaining to the administration of justice and to make recommendations for its improvement. Every two years, the Judicial Conference adopts a legislative platform consisting of initiatives Ohio's judges wish to see enacted by the General Assembly. SB 204 would implement an item on this year's platform, pertaining to driving suspensions for offenders of certain drug-related offenses.

Back in October, I appeared before this Committee to provide the Ohio Judicial Conference's proponent testimony for HB 307, sponsored by Rep. Pelanda. Today, I am here to provide proponent testimony for its companion version, SB 204, sponsored by Sen. Seitz, which passed unanimously out of the Senate Government Oversight and Reform Committee as well as the full Senate. Because you have heard mine as well as numerous testimonies already on both versions of this bill, I will try not to be too repetitive with my remarks.

As this Committee is aware, federal law mandates that states must impose driver's license suspensions for drug offenses, regardless of whether the offense involved the use of a motor vehicle, or lose federal funding. Ohio enacted this sentencing requirement in the 1990s. It is my opinion, as well of that of the Judicial Conference and the Sentencing Commission, that these mandatory license suspensions, whether the underlying offense had anything to do with the use or operation of a motor vehicle or not, have done little to serve the expressed or implied purposes and principles of sentencing set forth in the Revised Code. In fact, the inability to operate a motor vehicle poses a major impediment to *rehabilitating* the offender, which indeed is one of the overarching purposes of criminal sentencing.

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A state may, however, elect to opt out of this federal mandate by notifying the federal government of its desire to do so, which Ohio did at the end of the last General Assembly. The next step is to amend the Revised Code to make the current mandatory licenses suspensions discretionary, which is the purpose of SB 204.

As I previously mentioned, this bill is the companion to HB 307, on which this Committee has had several hearings. SB 204 differs in two respects, as it was amended in the Senate Government Oversight and Reform Committee:

- Both versions of the bill allow a person whose license had previously been suspended as a result of a drug offense to ask a court to lift what would now be a *discretionary* suspension. Under the original version of this bill, a person could not have the suspension lifted, however, if he or she “used a motor vehicle in the commission of the underlying offense.” There were concerns over what would constitute “using a vehicle” in the commission of a drug offense, and therefore that exception was removed, leaving it instead to the discretion of a judge to determine whether the use of a motor vehicle in the underlying offense was such that a license suspension should be ordered. Important to point out is that if the underlying offense was an OVI, the person is still precluded from having the suspension lifted.
- The second amendment was technical in nature: the original version used the word “ensure,” in that a judge should “ensure” that a suspension be for a certain period of time. Per our suggestion, this was changed to “issue an order,” as a judge can only issue an order, rather than “ensure” that something occurs.

The Judicial Conference supports both amendments, and would urge this Committee to favorably report SB 204 in its current form.

I would like to thank both Sen. Seitz and Rep. Pelanda for introducing their respective versions of this bill, and for always taking into account the feedback of the Ohio Judicial Conference. I would also like to thank Chairman Butler for the opportunity to provide the Judicial Conference’s proponent testimony today. I am happy to answer any questions you might have.