



Ohio Judicial Conference

The Voice of Ohio Judges

SB 204 – Proponent testimony

Judge Robert Hart on behalf of the Ohio Judicial Conference

Senate Government Oversight and Reform Committee

November 18, 2015

Chairman Coley, Vice Chair Seitz, Ranking Member Yuko, and Members of the Senate Government Oversight and Reform Committee,

I am Judge Robert Hart, of the Fremont Municipal Court. I am here today to provide proponent testimony for Senate Bill 204, on behalf of the Ohio Judicial Conference, where I serve as a member of the Traffic Law and Procedure Committee and Criminal Law and Procedure Committee. Prior to taking the bench I was a municipal prosecutor in Fremont. Fremont is a small town in a mostly rural community. For most, the ability to hold a job and to be self-sufficient requires the ability to drive a vehicle.

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.

Current sentencing laws require the suspension, of at least six months, of an offender's driver's license for most criminal drug offenses contained in Chapter 2925 regardless of whether the offense involved the use of a motor vehicle. While a motor vehicle used in the commission of a felony drug offense can be forfeited, the law requires that there be a forfeiture specification in the indictment which must be proven by the prosecuting attorney, or a separate forfeiture action in which the prosecuting attorney must prove the nexus between the use of the motor vehicle and the underlying criminal conduct. There is no such requirement for suspension of a driver's license for drug offenses. Not only is a nexus between the suspension and the criminal offense not required, it is most often non-existent.

These mandatory license suspensions, when the underlying offense often has nothing to do with the use or operation of a motor vehicle, do 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.

OHIO JUDICIAL CONFERENCE

65 South Front Street, 4th Floor | Columbus, OH 43215 | 614.387.9750 | 800.282.1510 | FAX 614.387.9759 | www.ohiojudges.org

The General Assembly has consistently indicated that it favors community control sanctions for low-level offenses. In fact, House Bill 86 requires judges to sentence most first-time F4 and F5 offenders to community control. As part of these community control sanctions, and to reduce the likelihood of recidivism, courts may order an offender to participate in substance-abuse treatment programs, maintain employment, or attend follow-up meetings or hearings with the court or other local agencies and resources. Without question, one of the most significant impediments to fulfilling these obligations is a lack of transportation. While public transportation may be available in some of our urban areas, that simply is not the case in the majority of Ohio counties. Suspension of a driver's license means offenders must obtain transportation from other persons to and from their probation appointments, job training, job interviews, jobs, treatment, educational programs and other programs. When they cannot get to these services or programs, they are more likely to be brought back before the court for a community control violation. Alternatively, they may elect to drive and hope they don't get caught, which may result in a new offense and a possible violation of community control.

SB 204 is an important step in removing some of the collateral sanctions that lead to increased rates of recidivism in the first place. It would make these driver's license suspensions for drug offenses discretionary, rather than mandatory. As judges, we are often in the best position to weigh all factors of punishment, community safety, and rehabilitative techniques, to sensibly impose a driving suspension period with the necessary conditions and terms. If the judge, familiar with the defendant and the facts of the case, feels, in his or her discretion, that suspending the defendant's license is an appropriate sanction, he or she is still free to do so. Under SB 204 though, judges' hands will no longer be tied, and they will no longer be *required* to impose a sanction that quite often does more harm than good.

I would like to thank Senator Bill Seitz for sponsoring this important piece of legislation, as well as Representative Dorothy Pelanda who has introduced the companion version in the House. I would also like to thank Chairman Coley for giving me the opportunity to provide testimony today on behalf of the Ohio Judicial Conference. I am happy to answer any questions you might have.