



STATE SENATOR
CHARLETA B. TAVARES

15TH DISTRICT

Sponsor Testimony
Presented by: Senator Charleta B. Tavares
Senate Bill 137
Transportation, Commerce, and Workforce
Senator Frank LaRose, Chair
Wednesday, May 23, 2018

Good afternoon, Chairman LaRose, Ranking Member Schiavoni and members of the Transportation Committee. Thank you for the opportunity to present Senate Bill 137.

SB 137 will designate the eastbound lanes of 1-70, between the intersection of 1-70 and 1-71 and the intersection of 1-70 and the James Road exit, in Franklin County as the “Judge Robert Duncan Memorial Highway.”

Judge Robert Duncan was a true trailblazer of his time, breaking barriers to education and the practice of law for many to follow. He was the former federal judge who ordered the desegregation of Columbus Public Schools. His career accomplishments include a long list of firsts for black lawyers in the state. He was the first African American elected to judicial office in Franklin County; the first appointed general counsel in the Ohio attorney general's office; the first to serve on the Ohio Supreme Court; the first to win a seat in a statewide Ohio election; the first to serve on the U.S. Court of Military Appeals; and the first to be appointed a federal district judge in Ohio. During an intense racial climate, he was a beacon of hope to many that they too could accomplish great things (see attached bio).

Judge Duncan attended The Ohio State University and fell in love with Columbus. Among many other civic roles, he served on the boards of Franklin University, Columbus College of Art and Design, and the American Red Cross of Greater Columbus, making positive contributions to the improvement of the city, state, and lives of its

residents. He was the chairman of Ohio State's board of trustees in 2006 and 2007 and was part of the first class of inductees into the Ohio Civil Rights Hall of Fame in 2009.

Judge Duncan was a friend and mentor to anyone he could help and a humble servant-leader. He touched the lives of many, having a lasting and profound impact. SB 137 seeks to honor the life of a true Ohio trailblazer, who devoted his time on earth to serve citizens and communities across all of Ohio.

Chairman LaRose and members of the Committee, I appreciate your attention to this important issue and I respectfully request your favorable consideration and passage of Senate Bill 137 to honor this servant-leader, service member and notable jurist. Thank you and I am happy to respond to questions from the committee.



ROBERT MORTON DUNCAN – BIO

Robert Morton Duncan, a pioneering Ohio jurist who was the first African American to serve on the Ohio Supreme Court and who later decided the Columbus schools' historic desegregation cases, died on November 2, 2012 at age 85.

He was a jurist of many firsts: the first African-American elected to judicial office in Franklin County, the first to serve on the Supreme Court of Ohio, the first to win a seat in a statewide Ohio election, the first to serve on the U.S. Court of Military Appeals and the first to be appointed to the federal bench in Ohio.

Born on August 24, 1927 in Urbana, Ohio, he was born to Benjamin Austin and Wanda Brown Duncan. Duncan frequently commented on his early schooling, noting his education in a desegregated school in a completely segregated community. In 1948, he received his bachelor's degree from Ohio State University. He earned his law degree in 1952. Graduating as president of his law class, he admitted, "I wasn't on fire about the law as a law student ... I didn't see myself as having a place in the law. I didn't know any black lawyers." He was admitted to the Ohio bar the same year.

From 1952 to 1956, Duncan served in the U.S. Army in Korea. A family acquaintance from Champaign County, William Saxbe, was elected Ohio attorney general. Saxbe asked Duncan to serve as assistant attorney general and it was his experience there that changed Duncan's views on his role as a lawyer: "I caught fire," he said. Unfortunately, the political climate in Ohio changed and Saxbe lost the attorney general's office and most of his staff with it. In Duncan's next position as an attorney with the Bureau of Workers' Compensation's Industrial Commission from 1958 to 1960, his duties included preparing opinions and making recommendations on compensation cases.

In 1960, Duncan was hired by Russell Leach as the assistant city attorney for Columbus, where he tried criminal cases for four years. In 1962, Saxbe won back the Attorney General's office and, in 1963, Duncan returned to work for him as chief of the workers' compensation section. When the position of chief counsel opened in 1965, Saxbe moved Duncan into a position supervising 125 assistant attorneys general and directing all legal work for the office. Duncan brought considerable experience with municipal law to the office.

Duncan was elected in 1966 to Franklin County Municipal Court. Gov. James A. Rhodes appointed him to succeed Supreme Court Justice Paul W. Brown in 1969. Duncan subsequently won his seat in the 1970 election. He refers to his term on the Supreme Court as, "A monastic life...conducted mostly away from lawyers and litigants...but as exciting as it is exacting."

He left the Supreme Court in 1971, when President Richard Nixon appointed him to the U.S. Court of Military Appeals, a three-justice bench created by Congress in 1950, as the highest court for military personnel. It hears appeals of cases originally adjudicated in military tribunals, which are presided over by commissioned officers or military judges. Duncan, who later became chief judge, described himself as a "constitutionalist who believes the law should be applied equally without regard to personality and to meet the challenge of our times."

Nixon appointed Duncan to the U.S. District Court for southern Ohio in 1974. Over the 11 years Duncan served the court, he identified the Columbus schools' desegregation cases as the most meaningful cases over which he presided, because he was able to secure equal educational opportunity for all African-Americans (*Penick v. Columbus Board of Education*, 1977).

As contentious and highly emotional as the school segregation cases were, Duncan said he does not think they were the hardest to decide in his time on the federal bench. In these cases the precedent was well established. Duncan said he believes the most difficult proceeding was a case involving Allied Artists. In that case, the "big name" movie production companies challenged an Ohio law that prohibited "blind bidding," a practice by which theater owners were forced to purchase the license for movies without the opportunity to preview them. The movie production companies argued that this violated their First and 14th Amendment rights. The case had no clearly established precedent and involved a complex analysis of constitutional issues and provisions of the Uniform Commercial Code. Duncan determined the blind-bidding laws did not impose on the constitutional rights of the motion picture companies and ultimately upheld the laws as constitutional.

Duncan ended his judicial career in 1985, when he stepped down from the federal bench to join the private firm of Jones, Day, Reavis and Pogue in Columbus, as administrative partner, as well as firm coordinator for the new associates group. His colleagues in the courts considered him a careful judge, a moderate, striving for "honest advocacy" in his courtroom.

Over the years, he served the Ohio State University in many capacities, as vice president and general counsel, a member, and later chairman, of the board of trustees and as the Moritz College of Law College's Distinguished Jurist in Residence. In 1985, Duncan won the Distinguished Service Award from the American Civil Liberties Union, honored by Executive Director Benson Wolman as "one of the most impressive persona ever to grace the Columbus scene...as a jurist in the courts of Ohio and the United States, he fairly and justly demonstrated exceptional devotion to securing constitutional guarantees of expression and belief, due process, and equal protection of the laws for all citizens."

Devoted to his community, Duncan served on numerous boards, including American Electric Power, Red Cross of Greater Columbus, Columbus College of Art & Design, Franklin University, and Ohio State University Hospital.

Duncan married his wife Shirley in 1955. They had three children: Linn, Vincent and Tracey; and four grandchildren.

A memorial service for Duncan took place on Friday, November 9, 2012 at the Fawcett Center on the Ohio State campus. Further, the Robert M. Duncan Scholarship Fund also was established, benefiting the OSU Moritz College of Law.