



Larry Obhof
Senate President

Statehouse
1 Capital Square
Columbus, Ohio 43215
Obhof@ohiosenate.gov
614-466-7505

Sponsor Testimony on Senate Bill 108

House Civil Justice Committee

May 14, 2019

Chairman Hambley, Vice Chair Patton, Ranking Member Brown, and members of the House Civil Justice Committee, thank you for allowing me the opportunity to provide testimony on Senate Bill 108.

This bill would repeal Section 1.49 of the Ohio Revised Code. This Section, enacted in 1972, specifically authorizes courts to determine “the intention of the legislature” when interpreting statutes. It goes on to list ways by which the courts may do this, including (among others) the “object sought to be attained,” the legislative history of the provision in question, and the “consequences of a particular construction.”

I am proposing a repeal of Section 1.49 for several reasons. First, I believe that when a court is interpreting a statute, it should apply the plain meaning of the statutory text. As Justice Scalia spent his career explaining, “it is the law that governs, not the intent of the lawgiver.” In contrast to this, the current statute is an invitation to judicial lawmaking. It is the responsibility of the *legislature* to weigh the consequences of a particular statute or policy. It is the role of the courts to say what the law is, consistent with the statutory language. It is not the role of the courts to render judgment on their preferred policy outcomes by weighing the alleged “consequences of a particular construction.”

I recognize that different courts may follow different interpretive methodologies, and that some judges may continue to rely on legislative history or search for “legislative intent” when interpreting statutory language. They can, and some undoubtedly would, continue to do this without Section 1.49. However, the Ohio Revised Code should not codify an interpretive methodology that encourages judges to apply something other than the plain meaning of the statutory text that is before the court. It is the statutory text that is law—not after-the-fact attempts to divine the legislature’s supposed intent.

This legislation passed the Senate unanimously in April. Thank you again for the opportunity to testify today. I would be happy to answer any questions you may have at this time.