



Ohio House Civil Justice Committee
House Bill 488
Opponent Testimony

December 7, 2021

Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski and members of the House Civil Justice Committee, thank you for the opportunity to provide written opposition testimony to House Bill 488 on behalf of the County Commissioners Association of Ohio (CCAO) and the Ohio Prosecuting Attorneys Association (OPAA).

While HB 488's primary focus is to reform the probate court guardianship laws, a secondary aspect of the bill allows any judge within the common pleas court, on their own initiative and at their sole discretion, to retain outside legal counsel without first requesting one through the normal statutory process. The judge should only be able to hire their own attorney if the prosecutor, the commissioners, or both have a conflict of interest and are refusing the judge's request. This provision would allow the current process of review and discussion among the court, commissioners and prosecutors to review for conflict prior to the authorization of outside counsel to be bypassed and eliminate this current "check and balance." This discourages cooperation between the executive, legislative and judicial branches of local government and will likely result in unnecessary costs to our taxpayers.

While we are grateful for the discussion of adopting amendments to limit this provision, and would like to thank the sponsors for their work to find common ground in a brief time period, CCAO and OPAA believe that greater discussion and more deliberation is needed. We oppose this provision at least until more discussions with the involvement of all stakeholders can take place.

We are also concerned with two new provisions contained in HB 488 which would, in essence, allow a court to charge parties appearing before it to pay for these outside counsel legal fees. The bill would expand the purpose of a court's "special projects funds" authority in O.R.C. Section 2303.201(E)(1) to charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession to include the employment of legal counsel. The bill would also, as specifically related to the probate court, expand the use of the probate court conduct of business fund, ORC Section 2101.19(B), to include the employment of legal counsel.

These concepts also require significant discussions among the interested parties and are separate and distinct from the primary focus of the legislation upon guardianship reform.

Reporting this bill upon its second hearing is premature. CCAO and OPAA oppose the hurried nature of these discussions and believe that, at a minimum these concepts require greater deliberation. Until those discussions can take place, we respectfully request that these provisions be removed from the bill.

We thank you for the opportunity to provide our written comments on House Bill 488. If you have any questions, please feel free contact CCAO or OPAA.