

Senate Bill 21 Testimony  
Jeanne Ogden  
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Chair Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson and the rest of the Senate Judiciary Committee,

Good morning.

Thank you for allowing me to speak to you today.

My name is Jeanne Ogden. I was born and raised in Ohio, and I am here today to oppose Ohio Senate Bill 21.

I was taught that one of the essential pieces of our democracy is the separation of powers between our three branches of government.

The legislative branch makes the laws  
The executive branch administers the laws  
The judicial branch interprets and enforces the laws.

This bill muddies those waters.

The tagline for Senate Bill 21 states that it “regards venue for appeal from an agency order, court changes.”

However, this bill also gives the speaker of the House, the president of the Senate, and the governor each the right to retain legal counsel at taxpayers expense, to represent, and intervene on behalf of the house, the senate, and the governor in any challenge to the constitution or to laws of this state. This bill gives them the right to intervene without limit.

While I appreciate their enthusiasm to defend Ohio’s constitution and laws, we already have a process in place for procuring outside counsel to represent the state’s interest in any litigation. Ohio Revised Code gives sole power to Attorney General Yost, who has a whole “Outside Counsel” office to do that.

We also already have a process to allow the House, Senate, or governor to intervene in constitutional challenges to Ohio law or its constitution. They may petition the court for permission. Judges have historically been accommodating, but for the sake of balancing

powers, it should remain a judicial branch call as to whether it is appropriate or relevant for another state entity to intervene.

Further, the way this bill is written, we could have three attorneys, one from the senate, one from the house, and one from the executive branch, taking different positions in one court case. Who would represent the state? And why do legislators think they need to represent “the house” or “the senate” as opposed to the state or its citizens?

So my question is, why now? Why is this one of the first bills of this General Assembly? Why do the sponsors want the power to hire their own attorneys instead of going through Attorney General Yost’s office?

My concern is that sponsors know that recently passed laws or laws in development will be challenged. They know that abortion bans and redistricting efforts will be back on the table. They want to hire their own attorneys, again, at taxpayer expense, if Attorney General Yost or a future administration, belonging to a different party, doesn’t agree with their position.

It is evident that Ohio citizens are becoming frustrated about the extreme positions some of your colleagues are pushing, and it will become more likely they will look to a change of party in our state leadership to push back. Voters themselves are also planning their own effort to take some of their power back from the state legislature. These are the people these sponsors want more power and flexibility to fight – Ohio citizens. I advocate for the trans and nonbinary communities in Ohio. They deserve the right to participate in a government where the power to control their lives is duly checked, one branch upon another.

I see Senate Bill 21 as an encroachment on our judicial branch of government. It has the potential to create chaos in a state where the Republican party is already fracturing and a record-breaking corruption case pits the levers of power, including the AG, the governor and the former Speaker, against each other. It is not hard to imagine them showing up in court each proclaiming to represent the state’s interest. If this happens, voters lose. Ohio loses.

The system we have works.

I urge you to work on fixing something that Ohioans actually do need.

Thank you.