



**OHIO
ASSOCIATION *for*
JUSTICE**
TRIAL LAWYERS HELPING PEOPLE

**Testimony in Opposition to Senate Bill 80
Robert Wagoner, President
June 17, 2021**

Chairman Wilkin, Vice-Chair White, Ranking Member Sweeney, and members of the Government Oversight Committee:

My name is Bob Wagoner. I am a lawyer practicing law throughout Ohio, with my firm located in the Columbus area. I am proud to serve as the Immediate-Past President of the Ohio Association for Justice. OAJ is a bipartisan, statewide organization whose mission includes protecting and promoting Ohioans' right to a fair and impartial civil justice system. On behalf of OAJ, thank you for the opportunity to testify in opposition to Senate Bill 80.

This my third testimony in opposition to SB 80 and HB 149. OAJ continues to believe that these bills will have an effect on the partisanship and public perception of Ohio's judicial branch. Instead, Ohio should strive to be a national example of fairness and impartiality.

Fundamental to maintaining a fair and impartial justice system is promoting and protecting the independence of the judiciary, both in practice and in appearance. Of course, our justice system can only be fair to Ohio's citizens so long as those serving as judges and justices act in a non-partisan and impartial manner. But perception is also critical. Judicial legitimacy rests on the perception of judicial impartiality. So, it is also very important to consistently acknowledge and distinguish the independence of judges and judicial candidates.

By identifying the political party affiliation of judicial candidates, voters would likely rely more heavily on partisan affiliation than a candidate's qualifications, and judicial elections, under the current version of SB 80, would become significantly more partisan. Increasing the partisanship of judicial elections negatively impacts the public perception of an independent judiciary, as the partisan political label would likely follow a judge from the ballot to the bench.

It is critical that we continue to communicate to voters that candidates for judicial seats are different from other office holders, because the judiciary is different. The judicial branch is our state's check on overreach and foundationally directs the process for juries to fairly decide disputes. We hold the decision-making process of a judge to the highest level of public transparency and impartiality. Identifying judicial candidates by party affiliation treats the judiciary the same as other elected

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officials. In addition to increased partisan campaigning, this would inevitably inject more unnecessary politicization into courtrooms, jury boxes, and judges' decisions. The manner in which someone who serves as a judge is elected is vital to their position of integrity and to the integrity of the legal system.

Furthermore, SB 80 unnecessarily treats candidates for Supreme Court Justice and District Court of Appeals Judge differently than candidates for county and municipal judge. If the current version of SB 80 becomes law, voters will see a political party identification for Supreme Court and District Court of Appeals Candidates, but there will continue to be no party identification for candidates for county and municipal judge. This inconsistent treatment invites confusion.

OAJ acknowledges that the political party affiliation of Ohio judicial candidates is currently identified on primary ballots. To consistently identify the independence of the judiciary, the continued use of partisan primaries should be revisited.

OAJ would very much welcome the opportunity to participate in a collaborative effort to improve the education of and information available to Ohio voters when it comes to selecting their judges and justices. Every Ohio citizen and the entire election process would benefit from such an effort.

One example would be producing a non-partisan voter guide that would be available to every Ohioan. According to the 2014 Ohio Judicial Elections Survey prepared by the Ray C. Bliss Institute of Applied Politics at the University of Akron, many Ohioans think a non-partisan voter guide would be helpful. Instead of adding a political party label next to a judicial candidate's name, let's find reasonable, common sense ways to educate voters about the candidates and the judicial positions they seek.

On behalf of lawyers who interact with the judiciary and who, along with their clients, rely upon the judiciary's independence, I respectfully voice opposition to SB 80 and caution members of the Committee to consider the consequences of the proposed bill.