

## Written Testimony Opposing Portions of HB 488

December 6, 2021

Dear Chairman Hillyer, Ohio House of Representatives Civil Justice Committee,

I am very happy to see that Ohio's outdated guardianship law is being modernized, and I trust that the Civil Justice Committee will carefully consider the proposed changes in guardianship law and move forward the many aspects of the bill that will improve the lives of Ohioans.

I want to express my serious concerns about the portion of HB 488 that has been tacked onto the bill and has nothing to do with guardianship law – the parts of the bill that give judges the power to hire outside counsel to provide legal services to the judge or to court employees. This proposed change would give Ohio judges carte blanche to spend taxpayer dollars on outside counsel with no oversight.

Proponents claim that these amendments to the laws pertaining to judges hiring outside legal counsel are necessary because of the Ohio Supreme Court decision in *State ex rel. O'Diam v. Greene Cty. Bd. of Comm'rs*, 161 Ohio St. 3d 242, 162 N.E.3d 740 (2020). **In its 5-2 decision, the Supreme Court held that a judge who did not follow the statutory procedures for hiring outside counsel was not entitled to compel the county to pay for his lawyer. The court specifically found that the current statutory process by which judges obtain legal counsel is constitutional.**

*O'Diam* could not be more clear or straightforward. Judges who do not follow the constitutional statutory procedures cannot simply demand that taxpayers pay for their outside counsel. Neither can county officials abuse these procedures to deprive judges of counsel. *See State ex rel. Wilke v. Hamilton Cty. Bd. of Commrs.*, 90 Ohio St.3d 55, 65, 2000- Ohio 13, 734 N.E.2d 811 (2000). Current law maintains the balance of power, providing the checks and balances that are at the heart of our American system of government.

The proposed amendments to the law would upset the balance in the process currently provided by county commissioners and prosecutors' offices, who oversee the hiring of outside counsel and protect public money from abuse by judges. Ohio must maintain the current checks and balances that are in place to ensure that judges receive necessary legal counsel but do not overspend or hire unnecessary outside legal counsel. The proposed amendments would open the door, for example, to a judge's use of public funds to defend court employees charged with crimes, to sue citizens for defamation, or to attack the news media.

Finally, I'll address the elephant in the room, which is that one of the sponsors of this bill, Rep. Diane Grendell, is the wife of Geauga County Probate/Juvenile Court Judge Timothy Grendell, who is currently involved personally or through his staff in at least four legal matters, criminal and civil, all of which require the hiring of outside legal counsel. Some but not all of these matters directly involve county officials. Judge Grendell would personally benefit from the proposed provisions of HB 488 that would give him the unilateral power to hire outside counsel.

This bill appears to have been written for the express purpose of allowing Judge Grendell to circumvent safeguards that protect public tax dollars from waste. It is the worst kind of judicial overreach, an attempt by a judge to interfere with the proper functioning of the executive and legislative branches of county government.

Please support the amendment of HB 488 to make it a clean bill that addresses needed changes in guardianship law and does not include the extraneous provisions that address one situation in one county in the State of Ohio and open the door to potential waste of taxpayer money and judicial abuse.

Sincerely,

Shelley Chernin  
535 Parkside Blvd.  
Cleveland, OH 44143