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JOHN M. DURKIN, JUDGE

September 20, 2021

Re: Written Testimony in Support of SB 207

Chairman Manning, Vice Chair McColley, and Members of the Judiciary Committee:

I am submitting this written testimony as a proponent of SB 207 that would modify the Hamilton County Drug Court jurisdiction.

My name is Jack Durkin, and I have been a judge serving in the General Division of the Mahoning County Common Pleas Court since 1997. I also began the second drug court in the State of Ohio, and continue to preside over that program along with my criminal and civil docket.

As you are probably aware, the Hamilton County Drug Court is the only drug court in this state that was created by statute. At the time it was innovative, well intentioned, and designed to offer treatment to people who were charged with low-level felony drug possession offenses.

Fortunately, we have learned many things about drug courts over the past 24 years. Treatment has changed, our target population has changed, and drug courts have evolved and changed as well. Many years ago a judge from Michigan said that if you are doing something today the same as when you first started, you are doing something wrong. The drug court that I oversee today is different from the program that I started in 1997. The goal is the same, but changes have been implemented to include evidence-based practices and treatment to guarantee the best outcomes possible.

Unfortunately, because the drug court in Hamilton County was statutorily created, it has been unable to make those same changes that are necessary to most effectively treat people in the criminal justice system who suffer from a substance use disorder.

The effectiveness of adult drug courts is not a matter of conjecture or debate. More research has been published on the effects of adult drug courts than virtually all other criminal justice programs combined. This research conducted by the National Institute On Drug Abuse (NIDA), the Bureau of Justice Assistance (BJA), and the National Institute of Justice (NIJ), among many others, has concluded that drug courts significantly reduce drug use and crime with substantial cost savings.

To achieve these results, a drug court must follow the evidence-based practices that have been developed over the past 24 years. The Specialized Docket Section of the Supreme Court of Ohio requires that a drug court utilize evidence-based practices to obtain certification to operate as a specialized docket, or drug court.

I have had an opportunity to recently visit the Hamilton County Drug Court. I met with Judge Nicolle Sanders, Administrative Judge Jody Luebbers, Monica Kagey, the former Director of the Specialized Docket Section, and several other members of their bench. This visit confirmed that Judge Sanders is passionate and committed to making the changes necessary to obtain certification from the Supreme Court. Unfortunately, because the statute does not permit the drug court to make the changes that are necessary to adopt evidence-based practices, the Hamilton County Drug Court cannot obtain that certification.

This also means that Hamilton County is precluded from receiving additional money for treatment from the State Mental Health and Recovery Board, as those dollars are set aside for drug courts that have been certified by the Supreme Court. The reason for this is simple. The State provides funding to those courts who have adopted and implemented evidence based practices because their outcomes are most favorable.

It is my understanding that the Hamilton County Prosecutor's Office opposes SB 207. It is important to address several sections contained under existing law that not only fall short of what evidence-based practice requires, but simply make very little sense.

Initially, the current statute prohibits a person from entering the Hamilton County drug court if they have a mental illness. Quite frankly, well over one half of the people who participate in treatment programs have a co-occurring substance use and mental health disorder.

Second, a person is prohibited from entering the drug court in Hamilton County if they have an acute health condition. Those conditions are not defined under the statute.

Finally, and perhaps most concerning, is that under the current law, the prosecutor must approve any referral to drug court if a person is incarcerated. If SB 207 were to pass, the prosecuting attorney would be a key stakeholder and integral member of the drug court team. This team would establish criteria to determine eligibility, considering both current charges and criminal history. This would ensure not only that the public is protected, but also that individuals who would benefit the most from the program are identified immediately upon their arrest. These are some of the fundamental principles of evidence-based practice. Additionally, the prosecutor's office could still create a separate diversion program that would actually mirror the structure of the current drug court if it decides to do so.

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In summary, SB 207 would allow the key stakeholders in Hamilton County to simply do what every other drug court now does in the State of Ohio; to create and develop a drug court that is evidence based, that reduces recidivism, that generates savings to the county, and that ultimately saves lives. Isn't that the ultimate goal of good government? I know that it's the reason that I have presided over a specialized docket for over 24 years, and it's the reason why I fully support SB 207.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Durkin". The signature is written in a cursive style with a large initial "J" and "D".

Judge Jack Durkin

Mahoning County Court of Common Pleas

JMD: lc