



Ohio Judicial Conference

The Voice of Ohio Judges

House Finance Committee

Paul Pfeifer

Interested Party Testimony on House Bill 354

Chair Oelslager, Vice Chair Scherer, Ranking Member Cera, and members of the House Finance Committee, I thank you for this opportunity to submit interested party testimony for House Bill 354 on behalf of the Ohio Judicial Conference. I am Paul Pfeifer, Executive Director of the Ohio Judicial Conference, former Justice of the Supreme Court of Ohio and former State Senator and Representative.

The Ohio Judicial Conference respects House Bill 354's efforts to create a streamlined portal for background check data. However, we have concerns with how the bill's current language could be implemented. Of greatest concern is the bill's requirement that any court that fails to enter data within one business day must be fined \$500 and courts that are determined to be habitually out of compliance will be fined an additional \$1000 for each failure to input a record. We believe these fines are without statutory precedence and may violate the Ohio Constitution's Separation of Powers Doctrine. We suggest removing the fine and allowing courts, clerks and law enforcement agencies to show their ability to comply with the new data entry system without the threat of fines hanging over them.

The one business day timeframe will be unworkable in many instances. For example, the bill requires submission when a case is overturned on appeal. Trial courts are not immediately aware when appellate courts reverse or vacate a conviction. Furthermore, a reversed conviction in itself would not necessarily relieve a defendant of legal jeopardy. Depending on the circumstances, prosecutors may choose to retry a case or negotiate a plea after reversal.

Under the bill, persons with firearm disabilities can apply to remove the firearm disability in the common pleas court of their county of residence. This may be a different court than the one that initiated the disability. Similarly, courts may not always be immediately aware when a protection order terminates.

We are unclear whether the weapons disability data portal will allow separate courts to automatically connect these dots. It is also unclear whether the weapons disability data portal will connect with current court management software or the Supreme Court's Ohio Courts Network. If everything can connect seamlessly, the impact to courts will be lessened. If the data must be entered into a new,

possibly duplicative system, courts may need additional staff to comply. We suggest taking a step back and working with courts to figure out a practical way of ensuring the data is submitted in a timely manner using currently available court technology.

We are also concerned with the breadth of the data elements required to be submitted. For example, proposed R.C. 5502.80(B) contains an extensive list, including “a record of each time a person demonstrated as being drug dependent, in danger of drug dependence, or a chronic alcoholic,” and “a record of each time a person who demonstrated as being drug dependent, in danger of drug dependence, or a chronic alcoholic demonstrates that the person is *not* drug dependent, in danger of drug dependence, or a chronic alcoholic.” (R.C. 5502.80(B)(8), emphasis added.) Depending on the person, they could fluctuate between demonstrating as drug dependent or a chronic alcoholic and *not* drug dependent or a chronic alcoholic several times a day. It is onerous to have to report every such incident, and even more onerous to fine a court or other agency for failing to report these occurrences within 24-hours.

Finally, as a practical matter, we believe proposed R.C. 5502.80(C) requires revision. That language currently reads:

A court that charges a person with, indicts a person for, convicts a person of, or accepts a plea of guilty to an offense specified in division (B)(1) (a) of this section ... shall enter into the weapons disability data portal, within one business day after the charge, indictment, conviction, plea, adjudication, issuance, or commitment a record of that charge, indictment, conviction, plea, adjudication, issuance, or commitment.

Courts do not “charge” or “indict” persons. Prosecuting attorneys bring charges and indict through the grand jury process.

If our assistance on this bill would be beneficial, we would be happy to participate in conversations or help in any way we can. We thank you for considering our testimony. I am available to answer any questions you may have.