



Judge James T. Walther
Proponent Testimony on H.B. 488
March 8, 2022

Chair Hillyer, Vice Chair Grendell, Ranking Member Galonski and members of the House Civil Justice Committee, I thank you for this opportunity to submit proponent testimony for House Bill 488 on behalf of the Ohio Association of Probate Judges.

I am James Walther, Judge of the Lorain County Probate Court. I am currently in my third term, serving since 2009. I am President-elect of the Ohio Association of Probate Judges and a member of the Probate Law and Procedure Committee of the Ohio Judicial Conference. I also serve on the Supreme Court's Advisory Committee on Children & Families and as a Member of the Board of Trustees of the Ohio Judicial College.

The Ohio Association of Probate Judges and Ohio Judicial Conference support H.B. 488 for the opportunity to codify the appointment of counsel for courts.

Common pleas courts are not another division of a county. Instead, they are a separate, co-equal branch of government. This bill will strengthen the judiciary's authority to control its own administration. A court having these powers allows it to be free from excessive control by other governmental branches and ensures its independence and autonomy under the separation-of-powers doctrine. This bill removes the politics from the counsel selection process.

Judges are given broad discretion in deciding immense and far-reaching decisions, including custody allocation of children; the constitutionality of statutes; confinement of persons in hospitals for mental health issues; implementing sentences, including the death penalty, etc. As a Probate Judge, I am assigned over 620 separate duties. Many of these decisions will have a life-long impact, such as adoptions. Therefore, it is logical that a Court should have control over a more ministerial task, such as the selection of counsel, as envisioned in H.B. 488.

Ohio Judges must strictly follow The Code of Judicial Conduct. The Code prevents Judges from commenting on any litigation in which the Judge is party in his or her judicial capacity.

No such rule exists for a Judge's opponent. This presents an additional and compelling reason to allow the Judge to select the counsel in such a case.

Judges are trained to make decisions fairly and impartially. The Code of Judicial Conduct, Rule 1.2, specifically provides: "A judge shall uphold and apply the *law*, and shall perform all duties of judicial office fairly and *impartially*." For 10 years I have taught New Judges Orientation for the Ohio Supreme Court. One of the most important lessons that I teach, is the concept that an independent, fair and impartial judiciary is vital to our system of justice. Cases like *Hague*, *Hillyer* and *Hoose*, all uphold this proposition. H.B. 488 will support and defend these higher standards expected of Judges.

For the reasons stated herein, I strongly support the provisions of H.B. 488 providing for the retention and payment of counsel by common pleas courts.