



Ohio Judicial Conference

The Voice of Ohio Judges

Senate Judiciary Committee Judge Linda Tucci Teodosio Interested Party Testimony on Senate Bill 13

Chair Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee, I thank you for this opportunity to submit interested party testimony for Substitute Senate Bill 13 on behalf of the Ohio Judicial Conference.

I am Judge Linda Tucci Teodosio from the Summit County Juvenile Court. I have served as a juvenile judge since 2002 and have introduced programs for youth who are victims of human trafficking, for youth with co-occurring mental illness and/or substance dependence, for youth with developmental disabilities, and for parents that have lost custody of their children due to addiction. I also serve as a member of the Ohio Judicial Conference's Juvenile Law and Procedure Committee.

The Judicial Conference supports most of S.B. 13, especially the changes in the substitute bill accepted in this Committee last week. We have one recommendation that would further improve S.B. 13's goal of helping juvenile human trafficking victims and allow the Judicial Conference to provide our full support for the bill.

Hearing Requirement

The substitute bill slightly modified the provisions on the prosecutor's ability to require a hearing on a motion to hold the juvenile complaint in abeyance. Under the introduced version of the bill, the prosecutor would have to provide affirmative consent to hold the complaint in abeyance without a hearing. The substitute bill would still allow a prosecutor to file an objection to holding a complaint in abeyance without a hearing. We believe neither of these provision are appropriate as both conflict with the court's authority pursuant to Juvenile Rule 9 to divert appropriate cases from formal court action.

Recently, the Supreme Court of Ohio considered the juvenile courts' authority under Juv. R. 9 in the case *In Re. D.S.* The Supreme Court ruled that dismissal pursuant to Juv. R. 9(A) of a complaint of three delinquent charges of gross sexual imposition was not an abuse of discretion. The Supreme Court stated that "a full formal court proceeding...is precisely the kind of proceeding that Juv.R. 9(A) empowers a juvenile court to avoid—a review of the details of a sexual interaction between children under the age of 13. A juvenile court's primary concern is not always to determine culpability for acts that would be crimes if committed by an adult."¹

Likewise, the juvenile court should maintain the discretion to divert cases into "Safe Harbor" under Juv. R. 9 and avoid a formal hearing that could re-traumatize a juvenile human trafficking victim. We recommend

¹ *In Re. D.S.*, 2017-Ohio-8289 at ¶ 11.

these hearing provisions revert back to the current statutory language that is silent as to whether an abeyance hearing is required before holding the complaint in abeyance.

Extended Abeyance Period

The substitute bill extends the law's current 270-day maximum abeyance period to an 18-month period while the child engages in diversion action. This extension is part of the Judicial Conference's Legislative Platform because juvenile courts have found the current timeframe too limiting in many cases because of the complex nature and trauma suffered by juvenile human trafficking victims. Currently, a judge has only 270 days to ensure that a juvenile victim of human trafficking has been diverted and is successfully receiving treatment before being required to make the decision whether to dismiss the charge or proceed to adjudication. This is simply not enough time.

Admissibility of Statements during Clinical Assessment

The substitute bill provides that no statement made during a clinical assessment is admissible in any subsequent proceeding against the child. This is consistent with Juv. R. 32 which limits the circumstances in which the juvenile court may order social histories or physical or mental examinations, and provides that history or examination ordered pursuant to Juv. R. 32 shall be utilized only for the limited purpose specified by the court. For these reasons, we support this provision of the bill. Appellate courts have interpreted Juv. R. 32 to "prohibit the State from using any incriminating evidence obtained during a court ordered mental examination in any proceeding other than the amenability hearing."²

We are happy to discuss further clarification and improvement of this bill, if this Committee believes it is necessary. I thank you for your time and consideration. I am available to answer any questions you may have.

² *State v. Hopfer* (1996), 112 Ohio App. 3d 521 *citing State v. Hoose* (1988), 43 Ohio App. 3d 109.