



Ohio Judicial Conference

The Voice of Ohio Judges

**Ohio Senate
Senate Finance Committee
House Bill 50 – Interested Party Testimony
May 17, 2016**

Judge Jan Michael Long – Pickaway County Probate/Juvenile Court

Thank you Chairman Oelslager, Vice-Chair Coley, Ranking Member Skindell and members of the Senate Finance Committee for the opportunity to present this testimony as an interested party of House Bill 50. My name is Jan Long, Judge of the Pickaway County Probate/Juvenile Court and Co-Chairman of the Judicial Conference's Probate Law & Procedure Committee. I submit this testimony to offer the perspective of the probate judges on this legislation.

At previous hearings in the House, the Judicial Conference testified on behalf of the juvenile judges, supporting the expansion of the Fostering Connections program to qualified young adults between the ages of 18 and 21. Judges witness the struggles faced by eighteen year olds who "age out" of the support systems addressed in this legislation. These young people are often ill-equipped to face the financial challenges of adulthood and stand to benefit greatly from the Fostering Connections provision in House Bill 50. I would like, however, to focus today's testimony on the guardianship provisions of the bill, appearing between Lines 15 and 59.

Many of the state's probate judges remain uncomfortable with the fact that the bill requires a judge to distribute materials that the individual judge has no control over. I can think of no other place in the Revised Code where the legislative branch orders a member of the judicial branch to pass out a pamphlet prepared by the executive branch. Ordering probate judges to distribute something they do not themselves produce encroaches upon a judge's inherent authority to control the administration of his or her own court, and is likely a violation of the separation of powers. Because it violates the separation of powers doctrine, this portion of the bill could be determined to be unconstitutional. This concern could be addressed through an amendment making the distribution of the guardianship guide permissible instead of mandatory or requiring only that the Attorney General make a guide available to the public.

As stated in Representative Pelanda's sponsor testimony, this bill was first proposed during the 130th General Assembly, through the introduction of House Bill 624, introduced on September 22, 2014. At that time, there was no statewide guardianship training, and the bill rightfully responded to this void by requiring that all guardians be provided a document outlining the responsibilities of guardianship as well as the rights of the ward.

OHIO JUDICIAL CONFERENCE

65 South Front Street, 4th Floor | Columbus, OH 43215 | 614.387.9750 | 800.282.1510 | FAX 614.387.9759 | www.ohiojudges.org

On June 1, 2015, however, the Rules of Superintendence for the Courts of Ohio were updated to include Rules 66.01 through 66.09. These Rules are the result of the hard work of the Supreme Court's Subcommittee on Adult Guardianship, which has been analyzing Ohio's guardianship system since 2004. Rule 66.06 requires six hours of training before a guardian can be appointed and Rule 66.07 requires three hours of annual continuing education. These trainings are provided by the Ohio Judicial College at no cost to guardians and have been designed by experts who work with wards on a daily basis. As part of the initial training, guardians are provided with a 183-page booklet which provides every detail necessary to fulfill the role of guardian. The document includes seven pages of detailed analysis of the rights of the ward.

Prior to the adoption of Rule 66 et seq., the guardianship provisions of House Bill 50 would have helped to fill a void that existed in the education of guardians. The adoption of these rules filled this void. Requiring courts to now pass out a separate guide in addition to the training and 183-page booklet provided by the Supreme Court is duplicative and could even create confusion for guardians, to the detriment of their wards, if the information in two booklets differ.

Thank you very much for the opportunity to present this testimony. I am happy to answer any questions you have.