



Ohio Judicial Conference

The Voice of Ohio Judges

June 6, 2018

The Honorable Jim Butler
Ohio House of Representatives
77 South High Street, 13th Floor
Columbus, Ohio 43215

Re: House Bill 568

Dear Representative Butler:

The Ohio Judicial Conference's Juvenile and Traffic Law & Procedure Committees have reviewed and discussed House Bill 568. We have some concerns about the bill and suggestions on how it may be improved.

New Mandatory Bindover Requirement

H.B. 568 would add violations of aggravated vehicular homicide committed by 16 or 17 year-olds to the list of category one offenses requiring mandatory bindover to the adult court system. Requiring mandatory transfer for all aggravated vehicular homicides by 16 or 17 year-olds forecloses judicial consideration of the individual characteristics of both the juvenile and the offense and prevents otherwise amenable juveniles from getting a second chance at rehabilitation in the juvenile system. We respect the authority of the General Assembly to set public policy on this issue. But we request that you consider allowing judges to exercise their discretion on who does or does not belong in the adult criminal justice system. We suggest removing the aggravated vehicular homicide mandatory bindover language.

Constitutional Concerns

We are concerned about the constitutionality of the provisions in H.B. 568 that would allow an officer to order a chemical test without a warrant. Under the bill, an officer may take a person to a hospital and order a chemical test if it is not feasible to request a warrant, or the officer does not receive a response within one hour of requesting a warrant. These provisions are likely unconstitutional. The U.S. Supreme Court recently held that, because of their significantly intrusive nature, the Fourth Amendment does not permit warrantless chemical tests, specifically blood draws. *Birchfield v. North Dakota*, 136 S.Ct. 2160 (2016). The feasibility of requesting a warrant, or the length of time it takes to obtain a response, are not valid exceptions to the driver's Fourth Amendment protections against unreasonable searches and seizures. We suggest that those provisions be removed from the bill.

OHIO JUDICIAL CONFERENCE

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We thank you for the opportunity to present our concerns and suggestions for improving the bill. If you have any questions, please do not hesitate to contact our Juvenile Law & Procedure Committees liaison, Shawn Welch, by phone at (614) 387-9765 or by email at shawn.welch@sc.ohio.gov.

Sincerely,

A handwritten signature in black ink that reads "Paul E Pfeifer". The signature is written in a cursive style with a large, prominent "P" at the beginning.

Paul E. Pfeifer
Executive Director

Cc: Rep. Nathan Manning, Chair, House Criminal Justice Committee
Rep. Nicholas Celebrezze, Ranking Member, House Criminal Justice Committee