



Ohio Judicial Conference

The Voice of Ohio Judges

**Senate Judiciary Committee
Judge David Hejmanowski
Proponent Testimony on House Bill 283**

Chair Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, I thank you for this opportunity to submit proponent testimony for House Bill 283 on behalf of the Ohio Judicial Conference.

I am Judge David Hejmanowski of the Delaware County Probate/Juvenile Court. I have served as a judge since 2015 and was previously a magistrate from 2003 to 2015 and Juvenile Court Administrator from 2008 to 2015. I am a member of the Ohio Judicial Conference's Juvenile and Probate Law and Procedure Committees, a member of the Governor's Council on Juvenile Justice, past chair of the Ohio State Bar Association's Juvenile Justice Committee, member of the Governor's Council on Juvenile Justice, a member of the National Council of Juvenile and Family Court Judges' Curriculum Committee, chair of the Ohio Judicial College's Juvenile Curriculum review committee, and a member of the Supreme Court of Ohio's Commission on the Rules of Superintendence. I have also served as an Assistant Prosecuting Attorney for Delaware County.

I am testifying in support of H.B. 283, which provides a solution when the juvenile and probate court have conflicting jurisdiction over certain cases. This jurisdictional problem was highlighted when the Supreme Court of Ohio decided *State ex rel. Allen Cty. Children Servs. Bd. v. Mercer Cty. Common Pleas Court, Probate Div.*, 150 Ohio St. 3d 230, 2016-Ohio-7382. The Court held that a probate court's authority to order preadoption placement is within its exclusive, original jurisdiction over adoption proceedings even while the child is subject to juvenile court's continuing jurisdiction on an abuse, neglect or dependency case.

The *Allen-Mercer* decision was reviewed by both the Juvenile and Probate Law & Procedure Committees of the Ohio Judicial Conference. Both Committees determined that additional legislative clarification of the jurisdictional boundaries between the juvenile and probate court was necessary to avoid overlapping litigation and future conflicts between the courts.

Some Ohio counties have separate juvenile and probate courts and some counties have courts that are jointly juvenile and probate. H.B. 283's language was drafted by a subcommittee of judges with juvenile jurisdiction, juvenile and probate jurisdiction, and probate jurisdiction, with input from the Public Children Services Association of Ohio. The bill would only apply to a small number of cases where a child in the temporary custody of a public children services agency or private adoption agency has a pending abuse, neglect or dependency case in juvenile court and subsequently a petition for adoption has been filed in probate court.

The Ohio Judicial Conference's Juvenile and Probate Law & Procedure Committees both decided that the juvenile court should have an opportunity to provide consent to the initiation of an adoption proceeding

in probate court. At the time an adoption petition is filed, the juvenile judge would know the history of the abuse, neglect or dependency case, and would have worked with the parties on a case plan for up to two years. The Committees would like to thank the bill's sponsor, Representative Rezabek, for being receptive to the input of the Committees.

The goal in drafting H.B. 283 was to provide clear guidance on court jurisdiction for future cases. Any pending or finalized adoption proceedings will not be affected. H.B. 283 will clarify jurisdiction between juvenile and probate courts, reduce litigation, maintain parental rights, and discourage forum-shopping between the courts of different counties by providing for a consideration of the pending juvenile court action before initiation of adoption proceedings in probate court. This allows the juvenile court judge who is most familiar with the case to determine what is in the best interest of the child.

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 of this testimony. I am available to answer any questions you may have.