Ohio Judicial Conference

The Voice of Ohio Judges

House Transportation and Public Safety Committee
H.B. 260, 132nd General Assembly
Interested Party Testimony

Chair Green, Vice Chair Greenspan, and Ranking Member Sheehy:

Thank you for the opportunity to provide interested party testimony for House Bill 260 on behalf of the Ohio Judicial Conference.

I am Judge Mike Daugherty, and I have been the Clinton County Municipal Court Judge since 2015. Prior to that, I practiced law for 20 years. I represented thousands of people in traffic cases over the course of my career. I also prosecuted thousands more as a municipal prosecutor over the course of ten years. In Clinton County, over 8,000 traffic cases have been filed so far this year. About half of those involve driving with a suspended license. We also, daily, receive numerous cases involving criminal charges where optional penalties include suspension of someone's driver's license.

The Traffic Law and Procedure Committee of the Ohio Judicial Conference has reviewed House Bill 260, which requires judges who order a license suspension to grant limited driving privileges when the underlying offense is unrelated to the use or ownership of a motor vehicle. While judges generally support the intent behind the bill, we are concerned with the removal of judicial discretion in determining whether limited privileges should be granted.

In their testimony to this Committee, the sponsors of HB 260 indicate that the intent behind the legislation is to "discontinue the unfair practice of suspending a person's license, and then not granting them driving privileges, when the offense they committed had nothing to do with driving or using a motor vehicle for criminal reasons," and cite the "detrimental and counterproductive" and "burdensome" results that occur when taking away one's ability to drive to and from work.

Ohio's judges could not agree more. In fact, the Judicial Conference was the leading proponent behind Senate Bill 204 of the 131st General Assembly. Prior to SB 204's enactment, courts in Ohio were *required* to suspend the driver's license of a person who committed *any* drug offense, even when that offense had nothing to do with the operation of a motor vehicle. In response to demand from judges, and recognizing the counterproductive and detrimental consequences that followed from suspending someone's driver's license when a motor vehicle was never involved in the offense, the Judicial Conference advocated to have these mandatory suspensions made discretionary, allowing courts to assess each offender on a case-by-case basis to determine whether a suspension is actually an appropriate sanction. The legislature agreed, and passed SB 204 overwhelmingly in 2016.

SB 204 also contained a provision, included at the request of the Judicial Conference, expanding a judge's authority to grant limited driving privileges. Prior to SB 204's passage, judges could grant limited driving privileges for only three purposes: work or school, taking a driver's license examination, or

attending court-ordered treatment. Now, judges can grant limited driving privileges for "any other purpose the court determines to be appropriate," such as attending court hearings, taking children to and from school, or tending to the care of a sick relative.

Much of the testimony in support of HB 260 reflected a notion that judges are suspending licenses and refusing to grant any limited driving privileges. In reality, judges rarely suspend an offender's driver's license when the underlying offense has nothing to do with operating a motor vehicle. When we do, it is because we are either mandated to do so by statute, or, based on the facts of the particular case and the judge's knowledge of and familiarity with the defendant, the judge feels that a license suspension is an appropriate sanction. Even when a suspension is imposed, it is even rarer that a judge would not grant limited driving privileges to and from the offender's workplace. Sometimes, however, judges see the benefit in not granting limited driving privileges. Take, for example, a defendant with a heroin addiction. A judge may opt not to grant limited privileges to that person until the person can show that he or she is seeking treatment, and judges often use limited driving privileges as the carrot, so to speak, to encourage defendants to seek the help they need. Under HB 260, a judge would be required to grant this person limited driving privileges, which could pose a risk to public safety, as the person could go on to drive while impaired. And while an amendment today would allow a judge to notify the BMV if the judge feels the person is incompetent or otherwise not qualified to drive, the bill still requires the judge to grant that person driving privileges.

For some suspensions, like child-support suspensions, existing law severely limits a judge's ability to grant limited privileges. For these suspensions, in order to obtain limited driving privileges, an individual must first violate the child support order, a contempt action must be initiated, and after a hearing, the person must be found to be in contempt of the support obligation – that could take weeks, if it happens at all. The Judicial Conference, through its Legislative Platform, has been advocating for the creation of some other mechanism to permit these individuals to obtain limited driving privileges without having to first be in contempt of their obligations. We thank the sponsors for including language that would address this problem, although I would note that there is not a consensus yet in our organization as to whether this amendment is the best means to achieve that end. We are hopeful we can work with the sponsors and other interested parties to improve that language in the Senate.

In closing, I would like to reiterate that the Judicial Conference supports the intent behind HB 260. We believe though that that intent can be furthered in a much more efficient way: simply eliminating from the Revised Code all of the punitive suspensions that have nothing to do with the operation of a motor vehicle. The sponsors seek to "stop using a license suspension as an arbitrary punishment" and, again, judges would agree wholeheartedly with this premise. However, HB 260 creates a rather complicated process whereby a judge first considers whether to order a license suspension, but then is required to grant driving privileges for the offender whose license was just suspended. Rather than maintaining the suspensions as they exist in current law, and then requiring a court to grant privileges, perhaps a better solution would be to eliminate these suspensions altogether, or to at least make discretionary all suspensions that are currently mandatory. As judges, we recognize as well as anyone that unnecessary license suspensions do more harm than good. But, if a license suspension is one of the penalties available under the Code, judges should always maintain the discretion to grant or deny limited privileges if warranted based on the facts of the case.

Thank you, and I am happy to answer any questions you may have.