



Ohio Judicial Conference

The Voice of Ohio Judges

March 2, 2020

Honorable Darrell Kick
Ohio House of Representatives
77 South High Street, 13th Floor
Columbus, Ohio 43215

Honorable Thomas West
Ohio House of Representatives
77 South High Street, 10th Floor
Columbus, Ohio 43215

Re: Ohio Judicial Conference's Concerns and Recommendations for House Bill 477

Dear Representative Kick & Representative West:

The Ohio Judicial Conference's Domestic Relations, Juvenile, and Traffic Law & Procedure Committees has reviewed and discussed House Bill 477. We have some concerns about the bill and suggestions on how it may be improved, which we hope to discuss at the upcoming interested party meeting. We thank you for the opportunity to participate in the meeting and look forward to working with you on improving the bill.

Separation of Powers

Our biggest concern is the bill's requirement that domestic relations and juvenile courts must reserve docket time at least once every two weeks to grant limited privileges to persons who fail to pay child support. This requirement may be an unconstitutional violation of the separation of powers. Courts are best qualified to determine the best and most efficient use of their limited court time. The docket time requirement does not seem to contemplate the ways counties have divided their court jurisdictions. The docket time requirement would be most problematic for the smallest county courts where one judge handles both the general division and domestic relations matters, and another judge has juvenile and probate jurisdiction. In another 11 counties, the domestic relations court handles most of the parentage issues, and their juvenile courts only hear child support matters when they are connected to an abuse, neglect, or dependency action. Under the bill, these counties would be required to reserve court time every two weeks for a small handful of cases, if any. Instead, courts of all sizes should be allowed to maintain a docket schedule that works for them.

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

Judicial Discretion in Granting Limited Privileges

The bill, as introduced, requires a court, any time it elects or is required to suspend a person's license, to automatically grant limited driving privileges. While judges are often quite generous in granting limited driving privileges, and very rarely suspend licenses when the underlying offense has nothing to do with the operation of a motor vehicle, they also believe strongly that judges should always have the discretion to deny a request for limited driving privileges, particularly if the person seeking the privileges poses a danger to public safety. Under your bill, a court would be **required** to grant driving privileges to a person in the throes of an opioid or other addiction, who likely should not be operating a motor vehicle, simply because the person asks. We believe this provision in the bill could pose a great risk to public safety, and we ask that it be removed.

Judges share your concerns and interest in helping people be able to drive legally and safely. We believe the intent behind H.B. 477 can be furthered in a much more efficient way: by 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 total license suspension as an arbitrary punishment" and, again, judges would agree wholeheartedly with this premise. However, H.B. 477 creates a rather complicated process whereby a judge first must consider whether to order a license suspension (or issues the suspension because of a statutory mandate), but then is required to grant driving privileges for the offender whose license the judge just determined ought to be suspended. Rather than maintaining the suspensions as they exist in current law, and then requiring a court to grant limited privileges, we believe a better solution would be simply to eliminate these suspensions altogether, or to at least make discretionary all suspensions that are currently mandatory. Judges see every day 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 and potential risks to public safety that the driver may pose.

Domestic Relations Courts Have No Access to Suspension Information

The bill requires courts to grant limited privileges when a suspension is for failure to pay child support, provided that the driver does not have another suspension. County and municipal courts, along with juvenile courts, handle traffic cases and have access to Bureau of Motor Vehicle records. Domestic relations courts have no connection to the BMV, and thus have no way to access those records to confirm whether a driver has other suspensions. At a minimum, the bill should require drivers seeking limited privileges in the domestic relations court to provide the court with a recent driving suspension abstract.

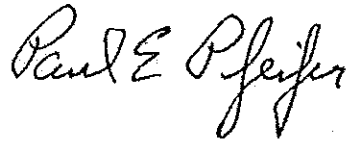
Reinstatement fee reduction

Judges certainly appreciate the provisions in the bill that decrease the reinstatement fee for licenses that were suspended for driving without proof of insurance, but we would like to see the bill go farther. We believe that all reinstatement fees should be lower, and uniform across the board. Under existing law, reinstatement fees vary depending on the reason for the suspension, from as little as \$15 (warrant-block suspension) to \$650 (third non-compliance offense within five years). It makes little sense that the fee to reinstate a license can vary so greatly, because the type of suspension does not result in additional work or costs for the Bureau of Motor Vehicles to reinstate the license. The amount for a reinstatement fee should be equal to the administrative costs the BMV incurs in reinstating the license. If the underlying behavior warrants stiffer penalties, then the fine for the offense should indeed be higher. But the fee to reinstate a license, once all punitive sanctions have

been satisfied, should be the same, regardless of the reason for the underlying suspension. The Judicial Conference would suggest a uniform reinstatement fee regardless of the offense that resulted in the suspension.

We thank you for the opportunity to present our concerns and suggestions for improving the bill. We would be happy to work with you in creating alternative language to address our concerns. If you have any questions, please do not hesitate to contact our Domestic Relations and Juvenile Law & Procedure Committee liaison, Shawn Welch, by phone at (614) 387-9765 or by email at shawn.welch@sc.ohio.gov. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Paul E Pfeifer". The signature is written in black ink and is positioned above the typed name and title.

Paul E. Pfeifer
Executive Director