

**HB265 - JURY TRIALS (Slaby, L., O'Brien, S.)** To authorize prosecuting attorneys to demand a jury trial in a criminal case, notwithstanding a defendant's waiver of trial by jury and over a defendant's objection. (CONTINUED; 2nd Hearing-Proponent)

The Ohio prosecuting attorneys' proposed change in jury waiver rights by criminal defendants prompted serious questions from members of both parties.

Thomas L. Sortini, Ashtabula County prosecuting attorney and president of the Ohio Prosecuting Attorneys Association, led testimony and ran into a host of questions about the impact of the proposal that he said has been sought periodically for several years.

Mr. Sortini contended some judges are biased about certain criminal matters and that defendants or their attorneys know it and request trial to the bench rather than a jury. The law would allow prosecutors to insist on a jury trial. Mr. Sortini first countered points the Ohio Judicial Conference made in a report opposing the measure. Foremost, he said, defendants don't waive juries to save time or money. Most criminal defendants are represented by public defenders and never repay court costs or other trial expenses. "The last thing they ever think about is paying court costs," he said.

Rep. Sprague questioned the need to change a system that has been in place for an untold number of years, to which Mr. Sortini said, "It works well for defendants in cases where there is (judicial) bias." He noted that judges can rule against a jury trial when the prosecution has a weak case but that the prosecution has no rights to determine when a jury trial is held.

Rep. Pillich, an attorney, waded in with a series of questions attacking the proposal, leading with the constitutional rights of a defendant to a trial but nothing that protects the rights of the state. Mr. Sortini countered that the constitution deals with a trial, not by jury, and insisted the law change "would not deprive defendants of anything." Rep. Pillich and the witness had brief exchanges over costs and whether the bill was based on interviews with defendants. Mr. Sortini said, "Most of the time we prosecutors will agree" to a trial to the bench.

Rep. Sprague wondered if the law change would result in all cases going to trial and Mr. Sortini doubted it would result in a major shift allowing that prosecutors usually agree to waive juries. Rep. Young also questioned the constitutional right to trial and wondered if certain kinds of cases could be legally exempted from jury trial, but Mr. Sortini doubted that would work because all are different.

Dennis Will, Lorain County Prosecuting Attorney and the association's president-elect, outlined how a trial to a jury requires a high threshold of evidence plus a unanimous verdict by so that requiring a jury trial favors a defendant. He noted that a defendant has to do nothing, including testify. "Prosecutors must constantly combat the often faulty notions that are presented to jurors every night on television. Shows such as CSI, Law and Order and others provide jurors with expectations that are unreasonable and in some cases, just plain false," he said.