



Ohio Prosecuting Attorneys Association

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House Bill 405
Interested Party Testimony
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Chairman Manning, Vice-Chair Rezabek, Ranking Member Celebrezze and members of the House Criminal Justice Committee, thank you for the opportunity to provide interested party testimony on House Bill 405, a bill to create the offense of counterfeiting within the definition of “corrupt activity” under the Corrupt Activities Law.

The Ohio Prosecuting Attorneys Association supports creating a counterfeiting offense in the Ohio Revised Code. We recognize the difficulties that law enforcement and prosecutors have had in deciding what to charge counterfeiters with under current law. As the Secret Service described at a previous hearing, the closest correct charge under current law is forgery, which essentially prohibits fabricating, creating, possessing or uttering inauthentic writings. Confusion arises, however, between forgery and criminal simulation. Criminal simulation prohibits, among other things, making or altering any object so that it appears to have value because of its source which it does not in fact possess.

House Bill 405 alleviates the confusion for law enforcement and prosecutors that exists under current law. By creating a section that is specific to fraudulently creating, passing, or possessing obligations, other securities, or devices like credit and debit cards, the bill will make it easier to charge and convict counterfeiters in Ohio.

Despite our general support for House Bill 405, we do recommend one change that we believe is necessary to give prosecutors and law enforcement even broader discretion to appropriately charge counterfeiters. Under the bill, the offense of counterfeiting is currently a value based penalty. Someone who counterfeits less than \$5,000 is subject to a felony of the fourth degree. Someone who counterfeits \$5,000 to \$100,000 is subject to a felony of the third degree and so on. If, however, I counterfeit multiple access devices I am only subject to the penalty for the amount that is on one of those devices. So, for example, if I counterfeit 5 devices worth \$4999 each, I am subject to only the felony four for each device whereas if I counterfeit 1 device worth \$5000, I am subject to the increased felony three. We believe that an individual who counterfeit multiple devices displays a higher degree of criminality just as someone who counterfeits a greater value does. As such, we recommend providing for an increased penalty for individuals who counterfeit multiple access devices.

Thank you, again, for the opportunity to testify on House Bill 405. I would be happy to answer any questions you might have.