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Senators John Eklund and Charleta Tavares – Sponsor Testimony
Substitute Senate Bill 66
House Criminal Justice Committee
March 20, 2018

Good Morning Chairman Manning, Vice-Chair Rezabek, Ranking Member Celebreeze, and members of the committee. Thank you for the opportunity to give sponsor testimony along with Senator Tavares on Substitute Senate Bill 66 and to encourage your support on this legislation.

1. Purpose of felony sentencing: The Bill retains the current purposes of protecting the public from future criminal acts by the offender and punishing the offender, but adds as another purpose of promoting the effective rehabilitation of the offender.

2. Community Control Sanctions (“CCS”): Today, for certain 4th and 5th degree felony offenders there is a presumption that CCS will be imposed. These are generally low-level, nonviolent offenders. Those sanctions have a mandatory minimum duration of 1 year. The Bill would eliminate the 1 year minimum under the presumption and if the presumption does not apply. In the latter case, the bill allows the sentencing judge to impose a combination of CCS, contoured to enhance the likelihood of the offender’s rehabilitation and reintegration. Sub SB 66 also provides that a court may impose a new term of up to six months in a community-based correctional facility, a halfway house, or jail as a penalty for a felony offender who violates a CCS condition.

3. Intervention in Lieu of Conviction (“ILC”): ILC is available for qualified individuals who show that drug or alcohol use, mental illness, intellectual disability or human trafficking was a factor leading to their criminal behavior. Sub SB 66 modifies the criteria for ILC eligibility.

Today, an offender is eligible if they have no past convictions for a felony offense of violence. That criterion remains under the Bill. But it would eliminate the criterion that someone with a past felony offense can qualify for ILC if the prosecutor recommends it. Under current law, an offender is ineligible for ILC if they already had been through an ILC program. The Sub SB 66 would eliminate that disqualifier.

Another current disqualifier is an offender whose offense carries a mandatory term of local incarceration or jail time. Sub SB 66 would eliminate that disqualifier as well. Finally, some prior drug offenses of a certain degree currently disqualify an offender from ILC. The Bill would eliminate two of those: a 3rd degree felony controlled substance *possession* offense under 2925.11, and, for a person charged with tampering with drugs, the person’s having been previously treated for drug abuse.

4. ILC Non-compliance: Today, if an offender fails to comply with the terms of their ILC program, the court's only option is to enter a finding of guilt and impose a sentence under the Felony Sentencing Law. Sub SB 66 would empower the court to instead continue the offender on ILC.

5. Sealing records: Sub SB 66 would expand the definition of who is eligible to petition a court to have their records sealed. Today, if you have more than one prior felony offense, you are not eligible to petition the court. Under the Bill, no limit on the number of priors would apply, so long as none of them are offenses of violence or felony sex offenses.

6. Parole violations: Currently, if a parolee commits multiple violations of the terms of their post-release control, a court must consider that fact in deciding what to do with the violator, and is allowed to send the violator to prison for 9 months. Sub SB 66 would remove repeated violations as a sanctioning factor, and limit the sanction available to 90 days in prison.

Sub SB 66 also extends the authority of the State Highway Patrol to enforce criminal laws at Northeast Ohio Correctional Center, a privately operated prison located in Youngstown.

Lastly, the Bill modifies the penalty for an employer's failure to remit state income taxes withheld from an employee. Currently, the penalty for failing to remit income taxes is always a fifth degree felony. Under the Bill, it lessens the penalty and allows the Department of Taxation enforcement officers to issue a misdemeanor citation rather than seeking an indictment. Other penalties would be (1) a fine of not less than \$100 nor more than \$1,000 or a 60 day imprisonment, or both or (2) if the offender previously been convicted of a violation the penalty will be a fifth degree felony.

Thank you for the opportunity to provide testimony on Sub Senate Bill 66, and we will be glad to answer any questions you may have.