



Office of the Ohio Public Defender

Timothy Young, State Public Defender

**Testimony in Support of HB411
Wrongful Imprisonment Compensation
Sponsors Representatives Seitz and Sykes**

Chairman Blessing, Vice Chair Reineke, Ranking Member Clyde, and members of the House Government Accountability and Oversight Committee, I am Niki Clum, the legislative liaison for the Ohio Public Defender. Thank you for the opportunity to testify in support of HB411.

As this committee knows, HB411 corrects a drafting error that caused the Ohio Supreme Court to conclude that individuals who were wrongfully imprisoned could only be compensated if the procedural error in their case occurred after the sentencing portion of the case.¹ This opinion had devastating consequences on the ability of wrongfully imprisoned individuals to collect compensation. A procedural error that results in the wrong person being convicted of a crime occurs before or during trial in the vast majority of cases. Passages of HB411 will allow more individuals who had years of their life stolen to receive compensation so that they can adjust to life outside of prison.

When individuals are wrongfully imprisoned, lives, families, and generations are destroyed. Compensation collected pursuant to this bill is imperative for helping these families get back on their feet. While someone is wrongfully imprisoned, they are unable to provide financial support to their family. They cannot build up their career or obtain promotions and raises. Saving for retirement or a catastrophic event like an illness in the family is impossible. In addition to the needs of their family, some wrongfully imprisoned persons suffer mental health challenges as a result of being incarcerated, including post-traumatic stress disorder. Compensation is essential for helping these individuals obtain the services they

¹ *Mansaray v. State*, 138 Ohio St.3d 277, 2014-Ohio-750.

require. HB411 will help Ohio avoid the unconscionable outcome of throwing these people back into the world with nothing.

While OPD enthusiastically encourages the passage of HB411, we want to note a couple of concerns we have with the bill. R.C. 2743.48(F)(3) requires the compensation a wrongfully imprisoned person receives to be reduced by any debt they owe to the state or a political subdivision. While OPD does not take issue with previously accumulated debt being reduced from their judgement, OPD feels any interest that accumulated because the individual was wrongfully imprisoned should not be removed from their wrongful imprisonment judgement. For example, the interest rate for most overdue Ohio taxes in 2017 was 4% and 1% for estate tax and tangible personal property tax.² The wrongfully imprisoned person should not be required to pay interest that only accumulated because that person was in prison and unable to pay off their debt.

Second, R.C. 2743.48(F)(5) states that if a wrongfully imprisoned person is later convicted of an offense for an act associated with the wrongful imprisonment conviction, then that person must reimburse the state for the entire sum of money paid under the wrongful imprisonment judgement. This provision is inconsistent with R.C. 2743.48(B)(5), which states that a wrongfully imprisoned person would be compensated for any part of their incarceration that was not served concurrent to another rightful conviction. Therefore, if the wrongfully imprisoned person was charged with an offense that is “based on an act associated with the conviction” at the same time as the wrongful conviction, they would still be able to collect compensation for any time wrongfully spent in prison for the wrongful conviction. They just would not be able to collect compensation for the prison time associated with the rightful conviction. Fair enough. However, the bill requires the wrongfully imprisoned person to reimburse their entire

² Annual Certified Interest Rates, Ohio Department of Taxation,
https://www.tax.ohio.gov/ohio_individual/individual/interest_rates.aspx



compensation if the conviction for the new offense that is “based on an act associated with the conviction” comes after the wrongfully imprisoned person receives their compensation. This is contrary to the purpose of the bill. Any wrongful imprisonment is separate from any rightful imprisonment, and the individual should be compensated for the time wrongfully spent in prison.

Ensuring that those wrongfully imprisoned are compensated is a nationwide trend. Currently 32 states allow for compensation in some form.³ This bill will strength Ohio’s position among those states. As Representative Sykes testified in her sponsor testimony, 62 known people have been exonerated in Ohio since 1975.⁴ Ohio has spent a lot of money incorrectly imprisoning these people. Ohio made the mistake, and Ohio has an obligation to correct it.

Thank you for the opportunity to speak today before your committee. On behalf of the Ohio Public Defender, I encourage you to support HB411. I am happy to answer questions at this time.

³ *Compensating the Wrongfully Convicted*, Innocence Project, <https://www.innocenceproject.org/compensating-wrongly-convicted/>

⁴ The National Registry of Exonerations, <http://www.law.umich.edu/special/exoneration/Pages/browse.aspx>

