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3rd Ohio Senate District

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Senate Bill 201

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Senators Kevin Bacon and Sean J. O'Brien

Senate Government Oversight Committee

Chairman Coley, Vice Chairman Uecker, Ranking Member Schiavoni, and members of the committee, thank you for the opportunity to provide sponsor testimony on Senate Bill 201, also known as the Reagan Tokes Act. This bill is named in honor of Reagan Tokes, an Ohio State University student who was kidnapped, raped and killed in February of this year by a man who had recently been released from prison. The intent of this legislation is to help ensure that Ohio families are better protected from violent criminals like the man who murdered Reagan. SB 201 will enact a simple, common-sense change to our criminal sentencing structure. In doing so, the bill will enhance the capacity of the Ohio Department of Rehabilitation and Correction (DRC) both to address violent behavior in prison and to ensure that high level felony and violent offenders are prepared for release.

As you may be aware, Senate Bill 2 of the 121st General Assembly significantly revised the sentencing structure to ensure that the vast majority of incarcerated

individuals serve an exact sentence. Prior to the passage of Senate Bill 2, most prisoners were sentenced to indefinite terms where the judge would sentence a felon to a minimum term based on the severity of the offense. The maximum term would equal 150% of the minimum. However, pre-1996 prisoners would automatically become eligible for an administrative reduction of up to 1/3rd off of the minimum term based on good behavior.

After passage of Senate Bill 2, most offenders now serve fixed sentences where the prisoner is released at a certain, static date, regardless of his or her behavior in prison or level of rehabilitation. This has had the unfortunate effect of removing one of the most significant incentives for good behavior in prison. In Reagan's case, the offender, Brian Golsby, was cited 45 times for offenses such as attacking other inmates, defying correction officers, possessing drugs, and stealing while incarcerated. If this legislation is passed, there will now be an incentive for violent offenders to reform themselves. If they cannot or choose not to be reformed, they will serve a longer sentence. Conversely, if they behave well in prison, they will serve on the lower end of the range of their sentence.

The Ohio Criminal Justice Recodification Committee recently recommended changes to the Ohio Revised Code. One of the key recommendations of the committee was that the state restore indefinite sentences guidelines for felony offenders. This bill

adopts that recommendation for first and second degree felonies, as well as third degree felonies subject to a 1-5 year definite sentence¹.

Operationally, the bill does not change the range of years which may be assigned for a given level of felony. For instance, a first degree felony offender under current law can generally be sentenced to a fixed term of between 3-11 years. The bill would not change this range. Instead, the bill specifies that a judge must select a minimum term within the current range. The maximum range would automatically equal 150% of that minimum range. The offender would be eligible for early release at the end of the minimum term based on good behavior. Vitality however, an inmate who behaves violently, is classified as a high threat-level, or who demonstrates a track record of poor behavior in prison can be retained until the culmination of the maximum term. This gives ODRC a powerful incentive to encourage inmates to engage in programming and behave well in prison and provides the state with an additional option for preventing dangerous offenders with a continued record of violence and bad behavior from being released prematurely.

To enhance this incentive structure, the bill permits DRC to grant offenders a small reduction (5-15%) in the minimum term in cases of exceptional conduct, provided that the inmate is not serving time for a sex offense. DRC by rule must specify the type

¹ (a) For a felony of the third degree that is a violation of section [2903.06](#), [2903.08](#), [2907.03](#), [2907.04](#), [2907.05](#), or [3795.04](#) of the Revised Code or that is a violation of section [2911.02](#) or [2911.12](#) of the Revised Code if the offender previously has been convicted of or pleaded guilty in two or more separate proceedings to two or more violations of section [2911.01](#), [2911.02](#), [2911.11](#), or [2911.12](#) of the Revised Code, the prison term shall be twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty months.

of exceptional conduct while incarcerated and the type of adjustment to incarceration that will qualify such an offender for such a reduction, as well as the percent of reduction that it may grant. In cases where the inmate's behavior is acceptable rather than excellent, the presumption is that he or she shall be released at completion of 100% of the minimum term. DRC may seek to rebut that presumption and retain the inmate through the end of the maximum term by initiating a hearing by the Parole Board. DRC must find at the hearing that the inmate has violated institutional rules, laws, or committed infractions that demonstrate that he or she has not been rehabilitated adequately and that the individual remains a threat to society. Alternatively, DRC may retain the individual beyond the minimum term by determining that the individual is classified as a security level 3 or higher or has been placed in extended restrictive housing within a year of his or her release in order to retain the inmate through the completion of the maximum term.

We believe that the primary goals of our correction and rehabilitation system are to protect society and encourage individuals to reform themselves. SB 201 will do both. It allows DRC and the Parole Board greater discretion to release or retain offenders based on their conduct in prison and whether or not they pose a threat to society. IN doing so, the legislation incentivizes offenders to engage in programming and good behavior while in prison in order to be released sooner.

Thank you for the opportunity to testify. We are happy to answer questions at this time.