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Senator John Eklund – Sponsor Testimony
Senate Bill 66
Senate Judiciary Committee
March 7, 2017

Good Morning Chairman Bacon, Vice-Chair Dolan, Ranking Member Thomas, and members of the committee. Thank you for the opportunity to give sponsor testimony along with Senator Tavares on 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 the 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. The Bill also would add options the judge can impose on someone who violates the terms of a previously imposed CCS.

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. 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 SB 66 would eliminate that disqualifier.

Another current disqualifier is an offender whose offense carries a mandatory term of local incarceration or jail time. 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. SB 66 would empower the court to instead continue the offender on ILC.

5. Sealing records: 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. SB 66 would remove repeated violations as a sanctioning factor, and limit the sanction available to 90 days in prison.

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