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January 24, 2020

Honorable George F. Lang, Chairman  
House Criminal Justice Committee

*RE: Proponent Testimony, House Bill 368*

Dear Chairman Lang, Vice-Chair Plummer, Ranking Member Leland and members of the House Criminal Justice Committee:

Please be advised that I am providing this written testimony in support of House Bill 368, regarding changes to the criminal code related to electronic data theft, tampering, and manipulation. The impetus for my support was an incident that occurred at DESCO Federal Credit Union, whose corporate headquarters sits in Portsmouth, Ohio.

DESCO had its origins as the credit union formed for the members of the Detroit Empire Steel Company who had a manufacturing presence here in Portsmouth, Ohio in the mid-twentieth century. Although Detroit Steel is long gone, DESCO Federal Credit Union remains as an excellent financial service provider for area residents in Ohio, Kentucky and West Virginia.

In August 2016, a former employee of DESCO attempted several time to “hack” into DESCO’s financial system. Thankfully, these efforts were futile due to the protections in place at the credit union. An investigation occurred and ultimately, the former employee was indicted. Due to being a member at DESCO and my wife working there, I had a special prosecutor appointed to further handle the matter.

As charging decisions were made, it was recognized that there was not a lot of “teeth” in the damages-based criminal code to address what could have resulted in a substantial loss, tangible and intangible, to the credit union and its members. The prosecutor was left with low-level felony charges or attempted charges. And frankly, with the “nerfed” sentencing laws on low-level felonies that the legislature has thrown on the backs of the counties, the current law provides no serious deterrent to attempting such crimes. Further, the prosecutor is left with little leverage to attempt a settlement as the Defendant knows that the penalties won’t be any tougher after a trial, despite any aggravating facts elicited at trial.

House Bill 368 will alleviate these issues. It moves away from the current “damages-based model” and instead creates new crimes related to electronic data theft, tampering, and manipulation. For instance, if a prosecutor can prove a person knowingly obtained electronic data without authorization and with the intent to execute a scheme to defraud, deceive, or extort, the individual could be convicted of a third-degree felony even in case without significant monetary losses.

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The legislation also includes provisions which will allow the law to apply as technology continues to evolve. It also allows civil action to be brought against a person convicted of violating the law within two years of the violation or discovery of the damages. A court may award reasonable attorney's fees and equitable relief for any damages.

I have been very pleased with Representative Baldrige's efforts on behalf of our county and state. He has worked diligently with local officials and the Ohio Prosecuting Attorneys Association to fine-tune to the bill language to ensure the public and the accused are fully protected.

Thank you for your efforts on this bill and your public service.

Respectfully,

Shane A. Tieman