



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Support of HB5 Public Defender Loan Repayment Program Sponsors Representatives Hillyer and Leland

Chairman Dolan, Vice Chair Burke, Ranking Member Sykes, and members of the Senate Finance Committee, thank you for the opportunity to testify in support of HB5 on behalf of the Office of the Ohio Public Defender. I am Tim Young, the Ohio Public Defender.

Public defenders are a vital part of Ohio's criminal justice system. In Fiscal Year 2017 alone, public defenders in Ohio served as legal counsel in 280,828 cases. These individuals provide a constitutionally guaranteed service and represent some of the most vulnerable individuals in our state. HB5 will offer some relief to public defenders whose wages are not commensurate with the significant investment they have undertaken in law school. This bill will allow public defenders to receive funds towards their student loan debt when the individual works in a region of Ohio where there is a need for more public defenders. In addition to incentivizing talented attorneys to take these essential positions in areas of need, HB5 will also result in overall economic savings to the state – as skilled attorneys serving as public defenders lead to better systematic outcomes.

According to data collected by the U.S. News and World Report, the average cost of tuition at a public in-state law school is \$27,591 per year.¹ For private law schools, the average

¹ Kowarski, Ilana, *See the Price, Payoff of Law School Before Enrolling*, U.S. News and World Report, March 12, 2019, <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/law-school-cost-starting-salary>

cost of a year of law school is almost \$50,000.² It is important to keep in mind that these astonishing numbers only include tuition, they do not include the additional money students need to pay for housing, food, books, and other expenses. It goes without saying that most people do not have the money to pay these huge expenses out of pocket. Law students are forced to utilize student loans. On average, law students leave school with a debt of \$122,000.³ However, it is not unusual to have law school debt twice that number.

While the cost of law school tuition continues to increase, the same cannot be said for public defender wages. In 2014, the average starting wage for prosecutors and public defenders in Ohio was \$48,025, which is below the average starting wage nationally for public defenders.⁴ Ohio's indigent defense system has been severely underfunded for over a decade and a half. As a result, many counties are unable to pay public defenders competitive wages. In fact, some counties do not have pay parity with prosecutors despite pay parity being contemplated in the Ohio Revised Code.⁵ While HB5 does not specifically address wages paid to public defenders, it will help alleviate some of the economic burden on public defenders, which will allow them to stay in the field instead of leaving public service for higher paying private jobs.

HB5 not only addresses the moral imperative of ensuring those in need without resources have a quality attorney, it is also a fiscally responsible bill. Good defense attorneys can reduce societal costs and improve public safety. The vast majority of people in our criminal

² Kowarski, Ilana, *See the Price, Payoff of Law School Before Enrolling*, U.S. News and World Report, March 12, 2019, <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/law-school-cost-starting-salary>

³ Robson, Brian, *7 Ways to Figure Out if Going to Law School is Worth It*, Bankrate, September 21, 2018, <https://www.bankrate.com/loans/student-loans/going-to-law-school-worth-it/>

⁴ *When It Costs More to Pay Less*, Florida Taxwatch, March 2014.

⁵ R.C. 120.40



justice system have addiction and/or mental health issues. Children continue to be raised in poverty. Thorough defense attorneys can help guide clients to services that will help. They can provide guidance to children and parents. But, as the data shows, good attorneys continue to leave the defense practice because of the economic hardship of high debt and low wages. This results in increased costs in other areas of the criminal justice system, including jail and prison populations and the costs to run those facilities.⁶ A good public defender is able provide quality representation – including engaging in motion practice and taking the time to communicate with clients to ensure they understand the proceedings and their options – all of which contributes to a criminal justice system that is effective, efficient and saves Ohio money in the long run. HB5 will help alleviate some of the economic hardship that dissuades capable attorneys from engaging in public defense work.

High turnover of trained public defenders is very costly to the state. Researchers have found the cost of staffing turnovers can “range from 50 percent of the [employee’s] annual salary to 400 percent...”⁷ High turnover in criminal law is even more costly to society in ways that cannot be quantified. For example, when public defenders leave their position it creates costs associated with trial preparation that is lost and must be repeated, cases needing to be covered by other public defenders who have their own overburdened caseloads, lost knowledge of the court and services in that area, cost to the office to interview and train new

⁶ For additional studies supporting the link between low attorney pay and poor outcomes, see also: Iyengar, R. (2007). *An Analysis of the Performance of Federal Indigent Defense Counsel*; and National Bureau of Economic Research – Harvard University and Roach, M. (2010). “Explaining the Outcome Gap between Different Types of Indigent Defense Counsel: Adverse Selection and Moral Hazard Effects,” available at Social Science Research Network: <http://ssrn.com/abstract=1839651>.

⁷ *When It Costs More to Pay Less*, Florida Taxwatch, March 2014; citing “*How Much Employee Turnover Really Costs You*” Aug 30, 2013 Inc.com; *Cost of Employee Turnover*, The Small Business Advisor; *How Much Does it Cost Companies to Lose Employees?* CBS News Nov 21, 2012; *What are the Costs of Employee Turnover?* AARP, June 2013.



attorneys, interruptions in cases frustrating victims and witnesses, and delayed or denied justice for defendants.⁸ By alleviating some of the economic hardship for public defenders, HB5 will save Ohioans from these huge costs associated with high public defender turnover.

Public defenders made an investment in education, and they are using that investment by working to better Ohio communities. Our criminal justice system cannot function without their contribution. Law school tuition and suppressed wages due to underfunding of indigent defense have made it difficult for skilled attorneys to remain working as public defenders. HB5 will remove some of the stress of student loan debt and make it easier for public defenders to stay in their field. When talented attorneys serve as public defenders, all Ohioans reap the benefits of a criminal justice system that is more efficient, effective, and has heart.

Ohio made a strong commitment to indigent defense during the budget by adding additional state money for county reimbursement. In fiscal year 2021, we anticipate that Ohio will be paying for approximately 90% of the cost of indigent defense. However, the State of Ohio will not be able to control how that system is implemented at a local level. This committee discussed during sponsor testimony that there is a shortage of public defenders and appointed defense counsel statewide. As Representative Hillyer said in sponsor testimony, Ohio is going to have to address its indigent defense system eventually. There are significant questions that need to be answered regarding how indigent defense is structured and delivered in this state. Instead of having this debate in committee hearings and through email, it makes more sense to put all the interested parties in a room, allow them to hear from experts, and to make informed recommendations to the legislature before the next budget.

⁸ *When It Costs More to Pay Less*, Florida Taxwatch, March 2014; citing “*How Much Employee Turnover Really Costs You*” Aug 30, 2013 Inc.com; *Cost of Employee Turnover*, The Small Business Advisor; *How Much Does it Cost Companies to Lose Employees?* CBS News Nov 21, 2012; *What are the Costs of Employee Turnover?* AARP, June 2013.



This is why the Office of the Public Defender, the County Commissioner's Association of Ohio (CCAO), Americans for Prosperity, and the ACLU of Ohio support the establishment of a legislative task force to study Ohio's indigent defense system. I know this committee is worried that the task force recommendations will be left to wither on the vine as so many task force recommendations have in the past. I can assure you that the supporters of this task force are committed to ensure that does not happen. We plan to seek inclusion of the task force recommendations in the next biennium budget bill. After all, this legislature has committed to spending \$156.9 million on indigent defense. We have a duty to ensure that money is being used in the best way possible and should act accordingly.

Thank you for the opportunity to testify before your committee. I am happy to answer questions at this time.

