



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Support of SB66 Sentencing Modification – Rehabilitation Sponsor Senators Eklund and Tavares

Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to testify on behalf of the Ohio Public Defender in support of Senate Bill 66. This bill makes a number of relatively small changes to our criminal justice code that will have a big impact on improving the system and allowing individuals with low level felony offenses the chance to become productive members of society.

SB66 expands the principal purposes of felony sentencing to include promoting the rehabilitation of offenders. In order to truly reduce crime, our criminal justice system must focus on, not only protecting the public, but also rehabilitation. The data shows rehabilitation focused programming - things like access to education, job training, mental health counseling, and substance abuse counseling, are linked to reductions in recidivism, whereas, longer prison sentences are not.¹ Making rehabilitation a priority of felony sentencing is the first step to actually seeing reductions in recidivism.

Another important change in the bill is the removal of the one-year minimum requirement for community control sentences for felonies of the fourth and fifth degree. Additionally, under SB66, the court will be permitted to impose a combination of community control sanctions. Since each case is distinct and each defendant is unique, it makes sense to give discretion to judges to craft community control sanctions specific to each defendant. Otherwise, a lot of time

¹ *Reducing Recidivism*, June 2014, The National Reentry Resource Center, A project of the Council of State Government Justice Center

and money will continue to be wasted on “one size fits all” sentencing that requires all defendants to be on community control even when there is no need.

Under current law, the only permitted incarceration for a community control violation is imprisonment. Under the bill, judges can require an individual to be incarcerated for the violation at a community-based correctional facility, jail, or halfway house. Some community control violations may warrant further incarceration, but not all rise to the level of requiring further prison time. This provision will allow judges the discretion to create a sanction that is equitable to the violation.

Perhaps most important, SB66 will open the door so that more Ohioans can take advantage of opportunities like intervention in lieu of conviction (“ILC”) and having their criminal record sealed. In regards to ILC, first, the bill eliminates the requirement that the individual would have been sentenced to community control, and the requirement that the individual has not gone through ILC before. The bill also allows ILC for offenses with mandatory incarceration and for offenders charged with third degree felony drug possession. Also, under the bill, the class of individuals who are eligible to seal their criminal record is expanded to anyone who has been convicted of one or more misdemeanors or felonies of the fourth and fifth degree, provided that none of the offenses were an "offense of violence" or a felony sex offense. This committee heard a lot of excellent testimony back in March regarding why sealing a criminal record and ILC are essential for allowing individuals a second chance at success even after committing a felony offense. A felony criminal record can severely hinder an individual’s ability to obtain employment, housing, financial aid, professional licenses, and social services. I am not going to belabor the points they made, but, I will say that this committee should support SB66 because it will allow more people access to these important opportunities.



The final provisions of SB66 I want to discuss are related to post-release control violations. The bill limits the prison term that can be imposed as a sanction for a violation of post-release control to 90 days. The bill also limits the maximum cumulative prison term for all violations to not more than one-half of the individual's original prison sentence. Finally, the bill removes the current requirement that the Parole Board consider the individual's other post-release control violations when deciding whether to impose a prison sentence, even if those violations were merely technical violations. It is important to point out that nothing in the bill stops the State from filing new charges if the post-release control violation is a felony or misdemeanor offense that warrants prosecution. The changes in SB66 will, however, ensure that individuals are not forced back into prison for long periods of time after the individual already served their time on the original offense. As I previously mentioned, keeping individuals in prison for long periods of time does nothing to reduce recidivism. While in prison, those individuals are not contributing to society. The changes in SB66 will ensure that these individuals receive an appropriate punishment for post-release control violations.

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

