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Smart Bail Reform Will Strengthen Public Safety

Interested Party Testimony
Ohio House Criminal Justice Committee
House Bill 315

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Thank you, Chairman LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the Committee, for the opportunity to testify regarding House Bill 315.

My name is Alan Smith. I am the criminal justice fellow at **The Buckeye Institute**, an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states.

House Bill 315 will help Ohio fix a broken cash bail system and take significant steps toward protecting the public from violent offenders. Cash bail on its own does not provide the public safety that many advocates assume, but too many recent bail-reform efforts across the country have settled for a singular vision of reform, often eliminating bail bond systems without retaining adequate public protection.

Cash bail does not provide adequate public safety because a defendant's financial means to post bail is not a sound proxy for good behavior. Those accused of violent offenses, for example, should not be released after arrest simply because they or someone they know can afford the bond. Unrepentant perpetrators out on bail still pose serious risks to the community because the posted bond is inadequate to deter crime.

Several recent and tragic examples illustrate the point.

Dragan Sekulic from Canton was arrested after he attacked and unsuccessfully attempted to kill his ex-wife with his car. Sekulic paid a bail bondsman \$10,000—10 percent of his \$100,000 bail—and was released. Sekulic stalked, found, and murdered his ex-wife just two weeks later.

Lonnell Anderson posted a \$400 bond for a weapons-possession charge. He then jumped a patio fence at a crowded, Cincinnati-area bar, walked up behind Derek Smith—a man with no established relationship to Anderson—and shot him in the back of the head. The crime, if not the victim, could have been reasonably foreseen.

In Wisconsin last year, **Darrell Brooks, Jr.** was free on a \$1,000 bond despite his lengthy criminal rap sheet. He made national headlines when he tragically drove his SUV through a Christmas parade, killing six people—including a child.

Court-ordered cash bail did not prevent these murders. But prudent pretrial detention systems might have.

Regrettably, bail reform has been pursued in some states without proper concern for public safety. New York, for example, does not allow its judges to directly consider public safety when ordering bail, conditions of release, or pretrial detention. Dramatically reducing the pretrial detention population in New York City became a pressing need after the city council **voted** in October 2019 to shut down all 11 jails in the city and build four smaller ones closer to the criminal courts by 2026. The council's order will reduce the current jail capacity from an average of 7,300 per day to about 3,300 per day. New York subsequently **enacted a law** that eliminated pretrial detention and bail for an **estimated 90 percent** of criminal offenses—excepting mostly violent felonies.

The state of New York has gone “all in” on supervised release and now generally **prohibits monetary bonds** for most misdemeanors and nonviolent felonies.

According to the New York Criminal Justice Agency, although the number of offenders released before trial has remained fairly stable through the most recent statutory change, the number of persons rearrested for violent felonies **doubled** from 2019 to 2021. Shootings increased in New York City by 260 percent and murders by 60 percent from the summer of 2019 to the summer of 2020. Debate and controversy have understandably ensued, and New York City’s new mayor is now **asking** that some discretion be restored so that courts may consider the danger that offenders present to the community if released before trial.

Fortunately, House Bill 315 avoids New York’s mistake and offers a more responsible approach.

This legislation recognizes that judicial and law enforcement resources are limited, and that those limited government resources should be used to prevent serious crime and to apprehend those who commit it. House Bill 315 not only retains pretrial detention hearings for those accused of serious crimes, but it rightly expands the list of offenses eligible for pretrial detention, including felony domestic violence, felony violation of protection orders, involuntary manslaughter, reckless homicide, aggravated vehicular homicide, vehicular assault, aggravated assault, aggravated menacing, sexual conduct with a minor, and commercial sexual exploitation of a minor. These judicial and prosecutorial tools acknowledge the grave threat that those accused of such crimes may pose to the public.

House Bill 315 also allows judges to order mental health evaluations in cases involving menacing by stalking or violating a protective order. After such an evaluation and hearing, pretrial detention may then be imposed in the interest of public safety or out of concern for individual victims.

While avoiding New York’s recent mistakes, House Bill 315 recognizes that nonviolent offenders accused of low-level, nonviolent misdemeanors should not be detained merely because they and their families cannot afford bail. It acknowledges that it is expensive for the government to babysit individuals accused of petty, nonviolent offenses, many of whom will not be convicted or will ultimately have their cases dismissed. But to its credit, House Bill 315 also proves consonant with **research** and considerable anecdotal evidence showing that accused persons are pleading guilty to charges simply to avoid losing jobs, housing, or childcare while awaiting trial. In Harris County, Texas, for example, home to Houston, the fourth-largest city in America, the misdemeanor docket operates under a federal court **consent decree** and is extensively monitored and reported. The **estimated cost** to defendants of pretrial detention is approximately 10 times the estimated cost to the government, which excludes social pathologies spiraling out in employment, housing, and long-term earning potential.

Responsible bail reform will improve Ohio’s pretrial criminal justice system by retaining adequate protection for public safety, enhancing fairness across economic classes, and reducing unnecessary costs for taxpayers. House Bill 315 takes commendable strides toward each of these improvements.

Thank you for your time and attention. I would be happy to answer any questions that the Committee might have.



About The Buckeye Institute

Founded in 1989, The Buckeye Institute is an independent research and educational institution – a think tank – whose mission is to advance free-market public policy in the states.

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