

## **Proponent Testimony to the House Criminal Justice Committee**

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Senate Bill 288

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Thank you Chairman LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the House Criminal Justice Committee, for taking the time to consider this proponent testimony regarding SB 288.

My name is Spencer Cahoon. I'm an Ohio resident and 15-year criminal defense attorney. My unusual work has focused almost exclusively on incarcerated people in prison. I spent years working full time inside the Correctional Reception Center and spoke to or with almost every incoming incarcerated person for roughly 2/3<sup>rd</sup>s of our state. I also spent 4 years acting as the first supervisor of the Prison Legal Services Section of the Ohio Public Defender and working extensively with people on supervision. Consequently, I have an unusual insight into what incarcerated people and supervisees are interested in.

### Earned Credit

Based on my experience, including countless conversations with people arriving at and incarcerated within the Ohio Department of Rehabilitation and Corrections (ODRC), I can tell you that earned credit is a topic of great interest. This expansion to 15% credit will act as an important incentive for incarcerated people to engage in risk-reduction programming that will help equip them with the tools to succeed upon reentry into free society.

Earned credit serves various important roles within our system:

#### Rehabilitation/Recidivism Reduction

Rehabilitation, in the criminal context, is helping people with a history of harmful behaviors to find ways to succeed in life without harming others. That “without harming other” element addresses potential future crime – recidivism. Education is one of the strongest predictors of reduced recidivism. Other studies have noted the impact of certain programming on reducing recidivism risk, as well.

While not every person who is incarcerated will self-identify their need for further education and programming, we can agree that encouraging them to engage with impactful programming reduces the risk to all Ohioans by reducing future crime and preventing people and organizations from becoming victims. Expanding earned credit promotes engagement with education and programming that leads to behavior change.

It has been said that the best apology is changed behavior. Expansion of earned credit will help motivate people to engage in the changes that are critical to making amends for prior transgression and moving forward successfully.

### Prison Behavioral Management

Because ODRC can remove earned credit when a person has conduct issues within the prison system, credit, once earned, provides a strong motivation to follow the rules and maintain good conduct while incarcerated. The greater the amount of credit, the greater the incentive.

Expanding earned credit will provide ODRC with greater leverage to help maintain safe and orderly institutions. That creates an environment that makes Ohio prisons safer places for both prison staff and incarcerated people. That, in turn, improves ODRC staff retention and satisfaction, while simultaneously creating an environment better suited to rehabilitation for incarcerated people.

### Target Incarceration

Incarceration is expensive for Ohio, the people incarcerated, and their local communities. Expanded earned credit targets the people most prepared for successful reentry and allows them to reenter society sooner. This policy helps assure that our correctional spending is focused on the people whose actual behaviors poses the greatest risk.

I wholeheartedly endorse this core change to increase earned credit.

### Good Samaritan

The opioid crisis continues in our state. Our most recent data show that, due largely to the ongoing impact of Fentanyl, 2020 surpassed prior records for the most overdose deaths at just over 5,000 Ohioans.<sup>1</sup> It is a sad fact that many people on supervision have and do struggle with drug addiction. Supervision conditions related to drug recovery services, testing, and abstinence are common. Unfortunately, the course of recovery is often marked by relapse into use before a person reaches the point of successfully being able to maintain abstinence. Relapse and recovery are an expected part of the recovery cycle.

Many people use drugs socially with friend, family, or simply other users present. The Good Samaritan provisions of this bill allow safe harbor for other people actively suffering from addiction to contact emergency medical services (EMS) in the case of an overdose without fear that they will be prosecuted. People are currently often afraid of

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<sup>1</sup> 2020 Ohio Drug Overdose Data: General Findings, Ohio Department of Health  
(<https://odh.ohio.gov/know-our-programs/violence-injury-prevention-program/drug-overdose/>)

criminal prosecution if they call for EMS in suspected overdose situation. Research by the U.S. Government Accounting Office has similarly indicated that, in comparing areas where Good Samaritan provision exist to those without, a lower rate of overdose deaths are seen.<sup>2</sup> Similarly, they also noted that the impact increases with increased community awareness of the changes. Many Ohio harm reduction groups and attorneys stand ready to help spread the word once these provisions become law.

These changes will save lives and help mitigate the ongoing impact of our opiate crisis.

### Conclusion

Please support this important bill to expand earned credit and offer good Samaritan protections to encourage EMS intervention in overdose cases. These provisions will better incentivize incarcerated people in doing the work necessary to make our state safer and save the lives of our friends, family, and neighbors impacted by the ongoing opiate crisis. Thank you for your time and attention to this impactful area.

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<sup>2</sup> Drug Misuse: Most State Have Good Samaritan Laws and Research Indicates They May Have Positive Effects, March 29, 2021 (<https://www.gao.gov/products/gao-21-248>)