



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Support of HB150 Rural Practice Incentive Program Sponsors Representatives Hillyer and Leland

Chair Dolan, Vice Chair Gavarone, Ranking Member Sykes, and Senate Finance Committee members thank you for the opportunity to testify in support of HB150 on behalf of the Office of the Ohio Public Defender (OPD). I am Tim Young, the State Public Defender.

Public defenders and appointed counsel are vital to Ohio's criminal justice system. In Fiscal Year 2019 alone, public defenders in Ohio served as legal counsel in 259,167 cases and appointed counsel in approximately 160,000 cases. These individuals provide a constitutionally guaranteed service and represent some of the most vulnerable individuals in our state. HB150 will offer some relief to public defenders and appointed counsel whose wages are not commensurate with the significant investment they have undertaken in law school.

Public defenders and appointed counsel who take positions in areas of need, specifically counties with a ratio of attorneys to population equal to or less than one to seven hundred; and meet service thresholds will get help paying off their student loan debt. In addition to incentivizing talented attorneys to take these essential positions in critical areas of need, HB150 will also result in overall economic savings for the state. Simply put, skilled attorneys serving as public defenders and appointed counsel lead to better systemic 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 in 2020 was \$28,264 per year.¹ For private law schools, the average cost of a year of law school was almost \$50,000.²

It is crucial to keep in mind that these astonishing numbers only include tuition and not the additional costs of housing, food, books, and other necessary expenses. Most people cannot afford to pay these huge expenses out of pocket. As a result, law students must utilize student loans. In 2022, on average, law students leave school with a debt of \$145,500 - 77% higher than in 2000.³ However, it is common to have law school debt twice that amount.

While law school tuition costs continue to increase, the same cannot be said for wages of attorneys who provide indigent defense. In Ohio there are counties today that pay appointed counsel \$35 or \$40 an hour. In 2014, the average starting salary for prosecutors and public defenders in Ohio was \$48,025, below the average starting wage nationally for public defenders.⁴ Even today, the average starting salary for public defenders in Ohio is between

¹ Ilana Kowarski, *See the Price, Payoff of Law School Before Enrolling*, U.S. News and World Report, March 18, 2020, <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/law-school-cost-starting-salary>

² *Id.*

³ Beth Luthi, *Is Law School Worth It?*, October 27, 2020, <https://www.bankrate.com/loans/student-loans/going-to-law-school-worth-it/#:~:text=Average%20law%20school%20debt%20in,than%20it%20was%20in%202000.>

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

\$50,000 - \$65,000.⁵ Ohio's indigent defense system has been severely underfunded for over a decade. That said, during the two most recent budgets, the legislature has firmly committed to indigent defense by adding additional state money for county reimbursement. Because of that commitment to indigent defense, many counties increased their per hour rate for appointed counsel to \$75 an hour. However, significant questions remain about how indigent defense is structured and delivered in this state.

HB150 not only addresses the moral imperative of ensuring those in need without resources have a quality attorney, but, as I said above, it is also a fiscally responsible bill. Skilled defense attorneys can reduce societal costs and improve public safety. Many of those in our criminal justice system have an addiction and/or mental health issues. Children continue to live in poverty. Capable defense attorneys are crucial to guiding clients to services necessary for their well-being and the well-being of their families. But, as the data shows, experienced, talented attorneys continue to leave the defense practice because of the economic hardship of high debt and low wages. This results in increased costs to the criminal justice system, including increases resulting from growing jail and prison populations.⁶ A first-rate public defender can provide quality representation that will reduce these costs. Experienced public defenders engage in effective motion practice and take the time to communicate with clients to ensure they understand the proceedings and their options. All of this contributes to an effective and efficient criminal justice system and saves Ohio money in the long run.

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. Cases must be covered, trial preparation repeated, skills and knowledge are lost, and new attorneys need to be trained. This leads to delays that frustrates witnesses, victims, defendants, and the courts. Justice delayed is justice denied.⁸ While HB150 does not specifically address wages paid to public defenders and appointed counsel, it will help alleviate some of the economic burdens on these attorneys, allowing them to stay in the field instead of leaving public service for higher-paying private jobs.

Finally, I want to address the language in the bill that calls for a task force to study Ohio’s indigent defense system. The Ohio State Bar Association recently convened a task force to do just that - take a hard look at Ohio’s indigent defense system. The OSBA has

⁵ Indeed, *Public defender salary in Ohio*, <https://www.indeed.com/career/public-defender/salaries/OH>; Salary.com *Public Defender Salary in Columbus, Ohio*, <https://www.salary.com/research/salary/recruiting/public-defender-salary/columbus-oh>; talent.com, *Public Defender: Average Salary in Ohio in 2022*, <https://www.talent.com/salary?job=public+defender&location=ohio>.

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.

⁸ *Id.*



included partners representing all aspects of the indigent defense system, including judges, public defenders, and prosecutors. The task force has met on numerous occasions and soon expects to provide recommendations for improvements to Ohio's indigent criminal defense system. I want to note this current effort as you consider whether the task force to study Ohio's indigent defense system included in HB150 is necessary.

Public defenders and appointed counsel invested in their education and are using it to improve 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 in indigent defense. HB150 will remove some of the stress of student loan debt and make it easier for these attorneys to stay in their field. When talented attorneys serve as public defenders and appointed counsel, all Ohioans reap the benefits of a criminal justice system that is more efficient, effective, and has heart.

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

