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To: Senate Judiciary Committee

From: Kevin Werner, Policy Director

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Re: SB 288 Testimony relevant to earned credit and judicial release

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Chairman Manning, Vice Chair McColley, Ranking Member Thomas and members of the Senate Judiciary Committee, thank you for the opportunity to provide testimony on two aspects of SB 288, provisions pertaining to earned credit and judicial release. I am Kevin Werner, policy director for the Ohio Justice & Policy Center (OJPC), a nonprofit law firm whose mission is to promote fair, intelligent, and redemptive criminal justice systems.

Improvements to earned credit and judicial release, which may be more aptly named earned release, have been part of ongoing criminal justice reform conversations for years, both in and outside Ohio. Just after Ohio began its *Justice Reinvestment 2.0* work—a project that was led by then-Senator John Eklund and Rep. Bill Seitz in September 2017—the Pew Charitable Trusts found that 21 states revised parole processes and 16 of those expanded earned credit time from 2007-2017.¹ The notable connection between the Justice Reinvestment 2.0 project work and ensuing reform policies, such as expanding earned credit, is that these policy reforms are research-backed concepts extensively vetted by criminal justice experts and practitioners. In other words, these are accepted best practices.

Under the earned credit expansion provisions of the bill, an individual can earn up to 15% off the total number of days in the prison term if a person participates in and completes certain programming designed for rehabilitation while maintaining a positive institutional record. When we look to answer the question why should Ohio increase its earned credit, its simple: Offering an incentive to complete programming while exemplifying good behavior rewards the transformation and rehabilitation process. Earned credit positively reinforces rehabilitation and provides hope for people to return sooner if they do the work and programming required.

¹ Edward E. Rhine, Kelly Lyn Mitchell, and Kevin R. Reitz, Robina Inst. of Crim. Law & Crim. Just., *Levers of Change in Parole Release and Revocation* (2018).



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The changes to judicial release in the bill are appropriate expansions of eligibility under certain circumstances. Creating a new category for state of emergency qualifying offender does not guarantee release under any circumstances, rather it allows people to petition the court under times of states of emergency. Ultimately, judges will make the determination whether to grant judicial release or not.

Another way judicial release would be improved under the bill is by enabling the department of rehabilitation and correction to recommend to the sentencing court a person be granted release. The department of rehabilitation and correction is required to submit to the court information about the individual's schooling, training, work, treatment, and other rehabilitative activities as well as any disciplinary action. In short, DRC is in a good position to recommend individuals for release based on their institutional record and the work they have done to transform their lives.

One improvement OJPC recommends be made to section 2929.20 is to expressly prohibit any negotiated plea from excluding a person from eligibility for earned or judicial release. During OJPC's work representing individuals seeking judicial release, we have seen instances where handwritten exclusions find their way onto the plea agreement, which suggests the exclusion was added at the last minute. It is an inappropriate foreclosure on incentivizing successful rehabilitation and programming.

Thank you for the opportunity to support earned credit and judicial release provisions in SB 288.

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