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Today, the Senate Judiciary Committee meets to discuss another subcomponent of Senate Bill 288 ("SB288"). As discussed during the previous hearing which focused on the bill's shocking, and west-coast-inspired transfer of sentencing authority from the judicial branch to unelected pencil-pushers at the Ohio Department of Rehabilitation and Corrections ("ODRC"), this bill is fatally flawed and should be disregarded altogether. Those sentencing and recodification committee members most responsible for drafting the bill, albeit well-meaning, predominantly have experiences that are only representative of larger, urban areas that have experienced large scale failures in dealing with criminal justice issues.

Today, the committee reviews SB288's broad-based reconfiguration of judicial release eligibility.[1] This reconfiguration is multi-faceted. It contains the following: massive expansion of judicial release eligibility for the most dangerous, violent, repeat offenders; permission for the governor – at any time – to reduce almost all prison sentences by at least one-half; and the transfer of sentencing authority to ODRC bureaucrats to reduce sentences on all offenders by half. Once again, finding the Ohio Legislature to be seriously considering these jailbreak provisions is absolutely shocking.

Excepting the general executive-release provision which will be addressed later, the judicial release changes are two-fold and only understood from fully discussing both. The first, and most constitutionally abhorrent provision is the transfer of sentencing authority to a bureaucrat at the ODRC to, at his or her own whim, order the release of any prisoner who has served half, or less, of their sentence.[2] The only safeguard against the whimsy of a state employee whose sole administrative imperative is to reduce the prison head-count is to successfully investigate and respond to a manufactured crisis.

Specifically, despite the sentencing judge having applied the principles and purposes of sentencing at the time of sentence,[3] the second component requires that local law enforcement drop whatever they are doing and conduct a specific investigation on the inmate to be released. Local law enforcement must prove to a judge that one, and only one, of the purposes of sentencing is no longer served by incarceration. Specifically, they must prove clear and convincing evidence, that the inmate presents an imminent threat of violence upon release.

First, law enforcement does not have the time to read 23,000 jpays[4] per inmate to determine what plans they might have been stupid enough to put in recorded print. Naturally, a man who has slain his wife, upon consideration for release for involuntary manslaughter will argue that his wife is already dead, and

[1] Judicial release is a totally separate topic from transitional control, and constitutes a separate means of accomplishing a jailbreak opportunity for convicted felons, and a second opportunity to turn the sentence given the offender in front of his or her victim into a lie.
[2] Judicial release eligibility for most prisoners occurs either 180 days after arrival at the prison, or for those inmates sentenced to 5 years, at four years, or for those sentenced to 5-10 years at half the time remaining after five years, or for those sentenced to greater than ten years, upon serving half their sentence.
[3] These purposes are positively clarified in SB288, and are multi-faceted including punishment, incapacitation, public safety, specific and general deterrence.
[4] Those would be the emails, internet calls and internet video calls afforded to inmates while incarcerated.

therefore he is no longer a danger. The disrespectful terms of this provision denigrate a judge's previous decision that the person is not safe, denigrate the purposes of criminal justice related to punishment and the avoidance of self-help, and elevate the judgment of a warehouseman from ODRC above that of an elected judge. Finally, there is no provision for the consideration of the wishes of victims related to this jailbreak provision, in violation of the Ohio Constitution.

Given this understanding of the warden-led jailbreak procedure, one may then move on to understanding the sickening malice of the planned alterations of judicial release eligibility. The first broadening of eligibility for early release worthy of discussion is that for those offenders serving time as repeat violent offenders. The service of time for such offenders requires that, in addition to the requirement that they have been previously convicted of one or more aggravated felonies of the first or second degree, and that they are being sentenced on a new such felony, the court additionally finds that the maximum sentence for their crimes is insufficient and that they must therefore serve up to 10 additional years. One must assume that the inclusion of 'early release' for such persons must be a cartoonish provision included for the purpose of deletion, otherwise it is a demonstration of deep, deep disrespect for the role and actions of the judiciary. Absurdities of this type are distractions from the deep, systemic flaws which require the entire piece of legislation being rejected without amendment or negotiation.

Other provisions allow ODRC staff to mandate judges release: persons who have killed law enforcement officers while driving drunk, who use firearms to commit crimes, who use body armor to commit violent felonies, who commit drive-by shootings, who shoot guns at police officers, who are super-bulk narcotics traffickers, who commit felonies in furtherance of human trafficking, and other totally nonsensical releases. These provisions are inexplicable on their face, but a quick reference to those inmates who are serving the longest sentences (and therefore will receive the greatest sentence reductions by receiving 50% sentence reductions through this measure) would show that ODRC stands to benefit very substantially be being permitted to order courts to release these monsters back onto the streets among the peaceable public.

In 2011, when the Ohio Legislature began experimentation in what Rep., then Sen. Bill Seitz would refer to as 'enlightened' sentencing practices, there was a jailbreak similar to what will occur with these proposed provisions.[5] Unfortunately, the consequence of that massive prisoner dump was a substantial reversal of, at the time, two decades of reduced crime in society. Since that time crime has continuously crept higher and higher. Far from enlightened, these 'one time' prisoner cleanses[6] are budgetary parlor tricks perpetrated against the most vulnerable people in society.

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[5] HB86 changed judicial release eligibility and made judicial release available for inmates sentenced to longer than 10 years. Previously, the 10 year threshold was a watershed where a prosecutor, victim, and judge could know that the person could not be released early. The consequence was a prison flush of the worst offenders.

[6] Which is what happens when 20% of the prison population is made eligible for judicial release at once, and prison officials are permitted to choose to release anyone they want.

The consequences are far-reaching. Just last week the City of Columbus Police Department had a meeting where the Chief announced a cessation in law enforcement related to the following crimes: car theft, business burglaries, narcotics dealing, theft from the elderly, forgery, and similar crimes.[7] This is not a reduction in severity, it isn't even 'decriminalization,' it is a policy that effectively legalizes these particular crimes. It cannot be possible that members of this committee have decent, productive, law-abiding constituents who desire such changes, yet those are the policies that result from flights of fancy like SB288 and the entire idea that 'crime can be reduced while reducing costs.'[8]

The final, and equally absurd, provision of SB288 is the "emergency qualifying offender" which means any inmate housed at ODRC. Under this 'judicial release' provision, any time a governor declares an emergency for the State, all inmates become eligible for judicial release after serving half their sentence. Judges are permitted to release prisoners on motion and without victim notification. This provision codifies into law the moral hazard of reducing standards because times have become difficult, and smacks of ODRC's regret that the COVID panic could not be utilized more successfully to empty the prisons.

Moreover, this provision is bad governance. There is no reason to assume that the State's governor will always act in good faith or with proper motives. The provision swirls the powers of the executive and judicial branches, permitting release on mandatory sentences and turning judges into liars, and negotiated resolutions of cases into nonsense.

As discussed during testimony on the proposed changes to transitional control contained in this poisonous bill, SB288 is rotten to its core. Its flaws are not limited to the shinola on its surface. The main, and most disastrous provisions are obtuse and only show their face when the various components of the bill operate together. For those reasons it does not make sense to discuss the bill in 'components' as it is currently scheduled, and it is important to understand that the bill is a comprehensive, and corrosive attack on criminal justice for victims, public safety, and accountability.

[7] https://www.thesussireport.com/post/columbus-division-of-police-shaping-up-like-the-one-in-detroit

[8] Of course, as the public becomes aware of policy changes like CPD's, the poor no longer bother even reporting their cars stolen, their items stolen, drugs being dealt, etc. Then, in the future, we will be entreated to academics who report the public giving up on justice as a 'reduction in crime.'