



**OHIO
JUSTICE
& POLICY
CENTER**

215 EAST 9TH STREET
SUITE 601
CINCINNATI, OHIO 45202
(T) 513-421-1108
(F) 513-562-3200

To: House Criminal Justice Committee
Fr: Kevin Werner, Policy Director
Re: Proponent testimony HB 44
May 2, 2023

341 SOUTH 3RD STREET
SUITE 11
COLUMBUS, OH 43215
(T) 614-362-1644
(F) 513-562-3200

contact@ohiojpc.org
www.ohiojpc.org

EXECUTIVE DIRECTOR
DAVID SINGLETON
Attorney at Law

FOUNDER
ALPHONSE GERHARDSTEIN

Chair Abrams, Vice-Chair Williams, Ranking Member Brown and members of the committee, thank you for the opportunity to offer proponent testimony on HB 44, a measure to require electronic recording of all parole board hearings conducted by the Ohio Parole Board. On behalf of the Ohio Justice & Policy Center, we are grateful to Representatives Stewart and Humphrey for introducing this important legislation. My name is Kevin Werner and I am the policy director at OJPC. We are a nonprofit law firm with offices in Cincinnati and Columbus, whose mission is to promote fair, intelligent, and redemptive criminal justice systems.

Quite simply, this bill changes two sections of the revised code, 149.43 and 5149.10. The first provision covers the availability of public records for inspection and copying and the second, 5149.10, covers the parole board. The bulk of the policy change the legislation contemplates is with respect to the parole board.

The additions are that recordings are made of full parole board hearings and other hearings, so this legislation covers the more common institutional hearings which are different from full board hearings. The second addition is that the electronic recording will be furnished upon request of any party, person, or entity making the request. And if the person, party or entity wants the recording transcribed, they are free to do so at their own expense. The legislation allows the person who is the subject of the hearing—the applicant for parole—to make the request. The third change the bill is doing is that it puts limits on what can be included in the request. The bill sponsors wisely ensured personally identifiable information relevant to a victim is not part of what may be given over to the requesting person, party or entity. That's the extent of the moving parts of the bill. The policy changes, though, are where we see the real impact of the legislation.

OJPC is supportive of the bill, and that comes from our experience representing hundreds of clients before the parole board over the years. I want to point out a couple things. First, ODRC director Annette Chambers-Smith has made vast improvements to the parole board and how that body operates. The Parole Board of 2010 and the Parole Board of 2023 are vastly different entities. We give Director Chambers-Smith and the DeWine administration much credit for making the process more transparent than it has been in the past. For certain, there is more to do, and this legislation is a reflection of additional needed changes. Second, just because the better policy is to record the hearings does not mean it should be put out into the world for any and all to have and see. In other words,



we think legislators should be careful making the entirety of recordings available to the public.

For example, we fully support recording institutional hearings, revocation hearings and other hearings. What we need to be careful around is what can later be part of the public record. Here's why: the institutional hearings are usually done with just the prisoner/applicant who is the subject of the parole hearing, members of the parole board, and the parole board liaison officer. During these hearings, board members may inquire about the prisoner's/applicant's health. Records are available to the Parole Board that indicate whether a prisoner is on any sort of long-term treatment. While a prisoner's health may be relevant to the Board's inquiry as related to release plans, that personal medical information should not be for public consumption. Even under the most permissive parole board hearing short of a full board hearing—the institutional hearing under SB256, the attorney is simply present for the interview but doesn't have an active role in the Board's questioning of their client. So it's good to record the hearing, but in its entirety it may not be appropriate for public consumption.

OJPC routinely represents individuals with complex medical issues and people who have experienced significant trauma. The HIV+ client may not want his status publicly disclosed, but that information will certainly be talked about at an institutional hearing. There are several similar topics that come up in parole hearings related to mental health, childhood sexual or physical abuse and sexual orientation that may not be appropriate for public disclosure.

Finally, we have represented clients who cooperated with internal DRC investigations. If that information were part of a hearing, its disclosure could jeopardize the investigation or put a cooperating person at risk. This information is relevant to a parole hearing but could be problematic if made public. There may be disclosures that come up in parole revocation hearings that should be exempt from disclosure such as a pending criminal investigation.

OJPC believes that electronic recordings should be made of Parole Board hearings. We also think some reasonable limitations would improve the good policy the bill will achieve. Thank you for considering our proponent testimony and I would be happy to attempt to answer any questions.