



# THE BUCKEYE INSTITUTE

## **Avoiding Disparate Outcomes in Pre-Trial Release & Detention**

Interested Party Testimony  
Ohio House Criminal Justice Committee  
Ohio Senate Bill 122

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As Prepared for Delivery

Thank you, Chair Abrams, Vice Chair Williams, Ranking Member Brown, and members of the Committee, for the opportunity to testify regarding Senate Bill 122.

My name is Greg R. Lawson, I am a research fellow at **The Buckeye Institute**, an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states.

After Issue 1’s constitutional amendment passed last year, the Ohio Supreme Court repealed Criminal Rule 46, which had guided lower courts in setting bail for defendants before trial and emphasized that defendants should be released under the least restrictive conditions necessary to assure their appearance in court. Without Rule 46’s guidance, Ohio risks returning to inconsistent pre-trial release and detention procedures and unjust, disparate outcomes.

With **Senate Bill 122**, the General Assembly will determine and set consistent bail conditions statewide and negate that risk—just as Issue 1 anticipated and authorized.

Two examples from Ohio’s recent pre-Rule 46 past highlight the importance of taking this action.

**Markcus Brown** spent nine days in jail after violating the Regional Transit Authority’s (RTA) dress code. Brown had been warned previously that his attire violated RTA policy but flaunted the dress code. After his arrest, the court set Brown’s bail at \$150, a relatively small sum, but one that Brown’s family could not afford. Brown sat in jail until his mother secured a car title loan nine days later. He pleaded guilty and was assessed \$111 in court costs.

**Edward Lee Wright IV**, failed to pay a \$375 traffic ticket and it cost him a week in jail. Police ticketed Wright for driving on a suspended license due to a lapse in car insurance. Wright could not afford the ticket, but the court agreed to accept \$50 per month until the ticket was paid in full. When Wright missed two monthly payments, the court issued a warrant for his arrest. Upon arrest he could either sit in jail or pay \$1,100 for bail. After sitting in jail for seven days, Wright pleaded no contest to a contempt of court charge.

These men posed no threat or danger to their communities and were only jailed because, like more than **60 percent** of defendants across the country, they lacked the financial means to post bail. Senate Bill 122, consistent with Rule 46, will help fix this injustice by statutorily establishing a presumption of release on personal recognizance when defendants appear pursuant to a court summons and present no clear and present danger to the community while awaiting trial.

Senate Bill 122 focuses on risk assessment, addresses wealth-based discrimination in criminal proceedings, and reduces pre-trial detention disparities. It makes Ohio’s pre-trial procedures more consistent with the Fourteenth Amendment’s due process protections and the Sixth Amendment’s guarantee of the right to a speedy trial. And the bill takes a necessary first step on the long road to **comprehensive bail reform**.

Senate Bill 122 should be passed and its policies implemented quickly to avoid returning to inequitable, inconsistent pre-trial bail procedures.

Thank you for your time and attention. I would be happy to answer any questions that the Committee might have.



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