



STATEMENT OF THE OHIO STATE BAR ASSOCIATION, OHIO JUDICIAL CONFERENCE, OHIO PROSECUTING ATTORNEYS ASSOCIATION, AND OHIO ASSOCIATION OF CRIMINAL DEFENSE LAWYERS REGARDING HOUSE BILL 33

Before the Senate Finance Committee
Senator Matt Dolan, Chair

Chair Dolan, Vice Chair Cirino, Ranking Member Sykes, and members of the Senate Finance Committee: Thank you for the opportunity to provide testimony regarding House Bill 33, particularly provisions related to the indigent defense system in Ohio. My name is Marisa Myers, and I am the Government Relations Manager at the Ohio State Bar Association.

The right to counsel is a constitutional mandate guaranteed by Sixth and Fourteenth Amendments of the US Constitution, and Ohio's indigent defense system is essential in upholding this right. Currently, there are five different delivery methods of indigent defense services in Ohio, determined at the county level. Funding for the system has historically been a partnership between the state and county governments. However, state funding has fluctuated significantly over the years. Recently, the state has increased resources to more fully fund indigent defense, but costs are difficult to predict because they vary based on the number and types of cases, decision-making by 88 counties, and necessary investments made to ensure competent counsel is provided.

Conversations around indigent defense funding have become a staple of the state budget process, and we know that the current model has become a frustration for lawmakers, local partners, and legal practitioners alike. With that in mind, the Ohio Bar has been working in collaboration with stakeholders on a full review of Ohio's indigent defense system for nearly a year through our Future of Indigent Defense Task Force. The Task Force includes public defenders (both the Office of the State Public Defender and individual county public defenders), prosecutors, appointed counsel, judges, and county commissioners. The Task Force has made great strides over the past few months in gathering recommendations we hope the General Assembly will eventually consider, with the goal of enhancing our current system to provide effective, efficient delivery of indigent defense services while maintaining local input.

In addition to the OSBA Task Force, House Bill 150 of the 134th General Assembly (also supported by the Ohio Bar) called for a study committee on this same topic that includes elected officials. This study committee is due to issue recommendations by April 3, 2024 (one year after the bill's effective date).

Substantial work is already underway on this topic. However, the House-passed version of House Bill 33 contains a provision regarding contracts for indigent defense service that we would like to address today.

House Bill 33 currently includes new language for counties that contract with the Ohio Public Defender (OPD) for indigent defense services. Under the bill, those counties that contract with OPD would be guaranteed 100 percent reimbursement and counties with an alternative delivery model (currently 78 counties) would then split the remainder of the funding as currently contemplated in law. It also allows OPD to collect up to 10 percent of contracted services for administrative support.

We have significant concerns over the financial and systemic impact of this change. While our understanding is that the original concept was to include additional funding so that all counties would be covered at 100 percent, our concerns remain regardless. This change could have significant unintended consequences and we believe it is premature. We respectfully ask the General Assembly to hold on any substantive changes to the system ahead of recommendations on this subject and until stakeholders are able to fully vet proposed changes.

Additionally, we must raise the importance of indigent defense funding in delivery of services. Regardless of the model, the indigent defense system in Ohio must have adequate resources to meet the need for these required services. We encourage the General Assembly to provide robust funding for indigent defense in this and future budgets.

Thank you for the opportunity to provide testimony. We look forward to discussing this important topic further and hope to present full recommendations in the near future. I am happy to answer any questions the committee may have.