



**STATEMENT OF THE OHIO STATE BAR ASSOCIATION
IN SUPPORT OF SENATE BILL 122**

Before the Senate Judiciary Committee
Senator Nathan Manning, Chair

Good afternoon Chair Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee: Thank you for the opportunity to provide comments regarding Senate Bill 122, which codifies Criminal Rule 46. My name is Mary Amos Augsburger, and I am the CEO of the Ohio State Bar Association. The Ohio Bar has been working in collaboration with Ohio Supreme Court Chief Justice Sharon L. Kennedy and representatives of the Ohio Judicial Conference, Ohio Prosecuting Attorneys Association, Ohio Association of Criminal Defense Lawyers, and Buckeye State Sheriffs Association. On behalf of our organizations, we encourage the General Assembly to codify Criminal Rule 46 to ensure uniform processes and procedures remain in place related to pre-trial release, detention, and bail.

As you are aware, the Ohio Supreme Court has the authority to prescribe rules governing practice and procedure in all courts of the state under the Ohio Constitution. The court must file proposed rules with the General Assembly no later than January 15 and amendments no later than May 1. Proposed rules will take effect on July 1, unless the General Assembly adopts a resolution of disapproval.

In the court rules package submitted to the legislature on May 1, the proposed rules repeal Criminal Rule 46, which governs pre-trial release, detention, and bail. Our understanding is that the removal of Criminal Rule 46 is not a reflection of the substance of the rule, but rather in response to the passage of Issue 1 in 2022. Since the Issue 1 reforms were made to Ohio's Constitution, there have been some questions about how authority over bail is divided between the judiciary and the legislature.

Decisions regarding bail are some of the most important in the criminal justice process. Criminal Rule 46 has been in use for decades and was vetted extensively by the Supreme Court Commission on the Rules of Practice and Procedure and by the Justices of the Supreme Court. It is the product of widespread input from diverse stakeholders across multiple public comment periods and establishes a framework for bail that works well. Without clear rules in place, the criminal justice system in Ohio will be left open to significant confusion and potentially poor outcomes.

By codifying Criminal Rule 46, the General Assembly avoids ambiguity and provides consistent, uniform treatment of pre-trial release, detention, and bail. As described above, with rule changes effective on July 1, prompt attention to this matter is essential. As representatives across the criminal justice system, we are united in our request.

Thank you for the opportunity to provide testimony. We are happy to answer any questions the committee may have.

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