



Senator Nathan Manning  
Senate Judiciary Committee Chairman  
1 Capitol Square  
Columbus, OH 43215

May 16, 2023

Senator Manning,

We write in support of Senate Bill 122 and the codification of Ohio Criminal Rule 46.

The Adams Project (TAP) is a 501(c)(4) organization whose mission is to promote conservative criminal justice policy and its champions. We are named for American founding father John Adams because of his dedication to justice and due process. We believe that sound criminal justice policy supports law enforcement, provides accountability for offenders, increases public safety, respects due process, and provides opportunities for redemption for those who seek it. We believe that codifying Ohio Criminal Rule 46 will promote public safety and due process.

In 2019, The Ohio Supreme Court commissioned a Task Force to Examine Ohio's Bail System. The task force was composed of judges, law enforcement, prosecutors, legislators, public defenders, and subject matter experts. Among the recommendations were some of the changes the Ohio Supreme Court adopted in current Criminal Rule 46. The Task Force's recommendations were meant to increase public safety and ensure fairness in the criminal justice system.

Current Criminal Rule 46 as amended at the recommendation of the task force requires judges to release people on "the least restrictive conditions that, in the discretion of the court, will reasonably assure the defendant's appearance in court, the protection or safety of any person or the community, and that the defendant will not obstruct the criminal justice process."

This is exactly the standard that the U.S. Supreme Court has placed on bail and pretrial detention. All who appear before a court are presumed innocent until proven guilty. It is unconstitutional to hold a person pretrial as punishment or as a form of accountability. The state may truly want to use pretrial detention to teach someone a lesson, but it's unconstitutional. And as those who believe in law and order, we know government must abide by its chartering document, the Constitution.

Pretrial detention is appropriate when it is used to further public safety and to ensure court appearances. By requiring courts to use the least restrictive conditions of release to further those two goals, the legislature can codify the restrictions required by the U.S. Supreme Court.

The recent Constitutional Amendment dealing with bail and pretrial release, passed by the Ohio electorate with overwhelming support, expressly charges the legislature the responsibility to set these types of standards.

Some may mistakenly compare what Ohio has done with bail reforms done in New York and elsewhere but such comparisons are apples and oranges. Unlike New York, the Ohio Constitution and Criminal Rule 46 explicitly allow courts to consider public safety. And unlike other states where the constitution makes all but capital offense defendants eligible for bail, the Ohio Constitution and Ohio law allows for prosecutors to request no bail hearings for dangerous people accused of felonies. That means, that regardless of whether a person could pay a \$1 million bond, or a \$1 billion bond they would not be let out and risk harm to their victims and the community.

There is always room for improvement, but passing this bill will ensure that Ohio stays on the right path toward providing public safety for our communities and due process for our citizens.

Sincerely,



Micah Derry  
President & CEO



Daniel Dew  
Policy Director