



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Support of SB122 Revise the law regarding bail. Sponsors Senators Manning & Hicks-Hudson

Chair Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee - I am State Public Defender Tim Young. Thank you for the opportunity to provide proponent testimony to codify Criminal Rule 46.

In 1987, Chief Justice Rehnquist, in *U.S. v Salerno* wrote, "In our society, liberty is the norm, and detention before trial or without trial is the carefully limited exception."¹ Criminal Rule 46 ensures that all those accused of a crime in Ohio's courts will be afforded uniform and clear procedures regarding pretrial detention, release, and in setting bail. The procedures afforded in Criminal Rule 46 serve not just the interests of those alleged to have committed a crime but also the victim and the state. Given the impending repeal of the rule, Ohio is best served by codifying these procedures.

As was often noted during the last General Assembly's debate on efforts to reform Ohio's cash bail system, the costs of pretrial detention to taxpayers and families are substantial.² The United States spends \$14 billion per year on pretrial detention.³ The high incarceration rate in the United States disproportionately impacts poor and minority communities, with significantly higher arrest, conviction, and incarceration probabilities for black and Hispanic

¹ *United States v Salerno*, 481 U.S. 739, 755 (1987)

² Ohio Could Save Big by Implementing Bail Reform: A Fiscal Impact Analysis, Addendum: Cash Bail's Influence on Sentencing Disparities and Case Outcomes, March 2021, https://www.acluohio.org/sites/default/files/fiscalimpactreport-addendum_2021-0312.pdf (last visited May 30, 2023).

³ Pretrial Justice Institute, available at <https://www.pretrial.org/why-pretrial-matters> (last visited May 30, 2023).

persons. Black citizens make up 13% of our population but 34% of jail populations and are often assigned higher bail amounts than similarly situated white individuals.⁴ Due to the documented relationship between race and wealth, the use of money bail reinforces racial disparities in incarceration rates.⁵ The impact of bail reaches far beyond our courtrooms and into our communities. Pretrial detention can destabilize a family for generations. Having an incarcerated parent impacts school performance, health issues, and increases poverty risks for the entire family.⁶

In conclusion, the OPD supports the codification of Criminal Rule 46. It will provide continuity and consistency across Ohio's courts. It will provide guidance to Ohio's judicial officers in setting bail. We also want to remind the Legislature of the critical importance that an individual's ability to afford bail has in the criminal justice system and in our State and the impact it can have on individuals, families, and entire neighborhoods. Thank you for the opportunity to testify in support of codifying Criminal Rule 46.

⁴ Pretrial Justice Institute, available at <https://www.pretrial.org/why-pretrial-matters> (last visited May 30, 2023)

⁵ Crim Just. Pol'y Prog. at Harv. L. Sch., *Moving Beyond Money — A Primer on Bail Reform 6* (2016), available at <https://www.prisonpolicy.org/scans/cjpp/FINAL-Primer-on-Bail-Reform.pdf> (last visited May 30, 2023).

⁶ Pretrial Justice Institute, available at <https://www.pretrial.org/why-pretrial-matters> (last visited May 30, 2023).

