

**STATEMENT OF CULLEN SWEENEY  
CHIEF PUBLIC DEFENDER  
CUYAHOGA COUNTY, OHIO**

**TO THE JUDICIARY COMMITTEE  
OHIO SENATE**

**In Support of Am. Sub. S.B. 37**

**December, 13, 2023**

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**Chairman Manning  
Vice-Chair Reynolds  
Ranking Member Hicks-Hudson  
Members of the Committee:**

Thank you for the opportunity to offer this testimony on behalf of the Cuyahoga County Public Defender's Office in support of Am. Sub. S.B. 37.

If you were to ask the attorneys in my office "what single factor is most likely to curb recidivism" among our clients convicted of non-violent offenses at the misdemeanor and lower-level felony levels, chances are the most popular answers would include "meaningful employment." And if you were to ask those involved in trying to help the less privileged in our society, "what single factor is most likely to impede persons from finding meaningful employment[?]," chances are the most popular answers would include "personal transportation." Public transportation can be difficult to navigate when your shift starts at 6 a.m. or ends at midnight. Or when you live outside of an urban area.

So why have we in Ohio created so many avenues to suspend the driver's licenses of people who:

- (1) did not commit vehicular offenses,
- (2) have never been bad drivers, but
- (3) find themselves unable to pay fines and court costs in non-traffic cases?

There is no good answer. And Am Sub. S.B. 37 removes many of these impediments. Not because the bill wants us to be softer on persons who find themselves convicted of relatively minor offenses. But because the bill wants us to be smarter.

Currently, defendants in minor non-traffic cases often face a judge for sentencing. They are often given fines, costs and community control sanctions -- formerly known as probation -- and told that a condition of their supervision is to find employment. But, because they cannot afford to meet their financial obligations to the court, their driver's licenses end up being suspended. And with that suspension begins a downward spiral. Faced with the choice between maintain employment and driving with a suspended license, the person chooses work and drives despite having a suspended license. Eventually, they get caught driving and they are convicted of driving under suspension, which may be a higher level offense than their original conviction. New fines and costs are imposed; new, more expensive, insurance obligations are incurred. And now there are two cases where the defendant is on community control sanctions and is told to find and maintain employment. Are we really surprised when the next thing the defendant does is drive back to work? Frankly most of us would do the same.

What about the defendant who simply won't come to court, who fails to appear? SB 37 provides no safe haven for the defendant who fails to come to court unless the greatest offense committed is a minor misdemeanor, an offense that is only punishable by a fine. Otherwise, a license forfeiture can still be imposed for failing to appear. And even with minor misdemeanors, a defendant who actually appeared before the judge and who fails to return when their case was continued can be held in criminal contempt of court.

As for those behind on child support? If the person is willfully not paying those obligations, a court can enforce the child support order through contempt proceedings and sanctions up to and including jail. The one thing that does not make any sense is to

suspend a defendant's license and make it harder for them to meet their financial obligations. Smarter, not softer.

How about the truant teenage driver? Do we really think that suspending their driver's license makes it easier to attend class? Instead of suspending that license, let the juvenile court judge tether further driving to attending class as part of their community control sanctions. And avoid a system where a judge who is ready to loosen restrictions on driving doesn't have to wait for the young person to go through BMV to remove a license suspension before they can enjoy the judicial reward of non-restricted driving given because the former truant has turned things around and is attending school faithfully.

At the same time, there are some defendants for whom driving a motor vehicle is the means by which other crimes are committed. Imagine for example that a defendant who lives on the south side of their city has a history of drug possession and that the defendant always drives to the north side of town to buy the drugs. Judges still remain fully empowered to address these types of situations. Instead of suspending the defendant's driver's license, the judge can restrict driving to certain times and locations, or even prohibit driving altogether -- not via a license suspension but as a condition of community control. When the defendant demonstrates they can be trusted, the judge can remove that restriction or prohibition without the defendant having to pay reinstatement fees. And because community control sanctions that are violated can result in incarceration for the underlying offense, the defendant is still adequately deterred from driving in violation of those restrictions or prohibitions. Not softer -- smarter.

In other words, when it comes to non-traffic circumstances, let's leave BMV out of the equation and rely on the judges who are dealing with the underlying offense to restrict driving when it is appropriate, for as long as it is appropriate, and for no longer than it is appropriate. And let's not add financial burdens in the form of reinstatement fees for folks whose licenses were lost despite never having exceeded the speed limit, never having crossed a double yellow line or never having failed to come to a complete stop.

In the end, SB 37 recognizes that frequent, indiscriminate and costly suspensions are often counterproductive . It simply does not make sense to suspend driver's licenses when those license suspensions are impeding, not facilitating, a return to responsible behavior.

Thank you for your consideration.