



Office of the Ohio Public Defender

Elizabeth R. Miller, *State Public Defender*

House Bill 5 Opponent Testimony

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House Judiciary Committee

April 2, 2025

Chair Thomas, Vice Chair Mathews, Ranking Member Isaacsohn, and members of the House Judiciary Committee:

On behalf of the Office of the Ohio Public Defender (OPD), thank you for the opportunity to submit opponent testimony on House Bill 5 (HB 5). As the provider of legal representation for indigent Ohioans accused crimes, we believe HB 5 will further complicate the sentencing process without any discernable impact on public safety.

First and foremost, the OPD recognizes the seriousness of the offenses targeted by HB 5 and we agree that public safety needs to be the priority when dealing with these types of offenses. However, Ohio law already provides multiple avenues for prosecutors and judges to enhance prison sentences for violent offenders. For example, the revisions to Ohio's criminal statutes under the Reagan Tokes Law,¹ allows courts to impose indefinite sentences for felonies of the first and second degree that do not carry life sentences. Under this sentencing scheme, a sentencing judge will impose a "minimum term" from within the currently established sentencing range and a "maximum term" of an additional fifty percent of the "minimum term" imposed. The Department of Rehabilitation and Correction may then extend a person's incarceration beyond their minimum term, up to the maximum sentence, if it determines the individual is not ready for release.

Regarding firearm specifications and enhancements for those accused of repeat offenses, Ohio law already allows for the imposition of consecutive sentences for individuals accused of repeat violent offenses involving firearm specifications and enhancements.² Additionally, Ohio law already mandates escalation of certain gun specifications for repeat violent offenses, thereby

¹ R.C. 2901.011

² See generally R.C. 2929.14, R.C. 2941.141, R.C. 2941.144, R.C. 2941.145, R.C. 2941.146, and R.C. 2941.1412.



requiring courts to impose these enhanced sentences. By adding a repeat offender classification, HB 5 unnecessarily further complicates an already complex criminal code. Under the most extreme circumstances, a hypothetical 40-year minimum sentence imposed for a conviction of aggravated robbery, felonious assault, and kidnapping with a firearm specification is generally increased by five years under HB 5. We question the deterrent effect, if any, the additional five years would have on potential robbers. In addition to these provisions being unnecessary for public safety, the added complexities of HB 5 will contribute to the ever-increasing public costs of prosecuting, defending, sentencing, and imposing the penalties under these enhanced classifications.

Research indicates that increasing lengthy prison terms becomes counterproductive for promoting safety after a certain point:

- Increased involvement in crime begins in the mid-teen years and rises sharply, but for a relatively short period of time. For most crimes, these rates of involvement begin declining by a person's early to mid-twenties and continue on a downward trajectory. For example, rates of robbery peak at age nineteen and, by their late twenties, have declined by more than half.
- Incarceration of individuals long past the time they have "aged out" of the increased involvement years, diverts resources from crime reduction initiatives.
- Keeping people in prison longer results in an aging prison population with increased healthcare needs leading to higher costs of incarceration. The annual cost of incarceration – generally estimated at about \$30,000 per prisoner – can easily double for elderly prisoners.³

Deterrence is primarily a function of the certainty of punishment, not its severity.⁴ For example, many people who commit crimes are teenagers seeking peer approval for their illegal behavior, individuals under the influence of alcohol or drugs at the time of the offense, or are motivated by economic challenges. These individuals generally do not consider the length of the prison sentence they may face at the time they are engaging in criminal conduct.

³ See The Sentencing Project, Long-Term Sentences: Time to Reconsider the Scale of Punishment, <https://www.sentencingproject.org/reports/long-term-sentences-time-to-reconsider-the-scale-of-punishment/> (Last accessed 3/31/2025); See also The Sentencing Project, Counting Down: Paths to a 20-Year Maximum Prison Sentence, <https://www.sentencingproject.org/press-releases/new-report-from-the-sentencing-project-provides-roadmap-to-cap-all-prison-sentences-at-20-years/> (Last accessed 3/31/2025).

⁴ U.S. Department of Justice, National Institute of Justice, "Five Things About Deterrence" <https://nij.ojp.gov/topics/articles/five-things-about-deterrence> (Last accessed 3/31/2025).



Again, the OPD recognizes the General Assembly's duty to protect the public's safety, and we welcome further discussion on how to effectively target the most serious repeat offenders in a manner that provides a realized deterrent effect and positively impacts public safety. However, HB 5 does not accomplish this goal. Instead of deterring criminal conduct, HB 5 adds more complexity to Ohio's already exorbitant criminal statutes, requiring costly public resources to implement its provisions without a realistic return on investment in terms of public safety. For these reasons, we oppose HB 5.

Sincerely,



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