Ohio Prosecuting Attorneys Association

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House Bill 296
Opponent Testimony
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Chairman Thomas, Vice-Chair Swearingen, Ranking Member Synenberg and members of the House Judiciary Committee, thank you for the opportunity to testify in opposition to House Bill 296 that delays the financial sanctions associated with a felony conviction for 180 days after release from prison or completion of transitional control. We are opposed to this legislation for several reasons.

First, while restitution to the victim is not delayed under this legislation, fines, costs and other financial sanctions are part of a criminal sentence that are an important part of enforcing the consequences of criminal conduct. While restitution is critical to victims, victims also care about accountability. They want to know that the person who did this to them will be held accountable. This legislation reduces that accountability. It offers offenders a break from the consequences of their crime when the victim might have suffered losses that they will never fully recover and that they had no choice in. This will weaken victims' trust in the criminal justice system and the ability of that system to impose consequences.

Second, courts already have tools available when dealing with offenders who are indigent or who would otherwise struggle to pay fines, costs, and other financial sanctions. Specifically:

- Most fines are wholly within the discretion of the court. R.C. 2929.18.
- Fines that are mandatory must be waived "If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable to pay the mandatory fine described in this division…" R.C. 2929.18(B)(1).
- A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it. R.C. 2929.18(E).
- A court that imposes a financial sanction may suspend any financial sanctions imposed under R.C. 2929.18 or R.C. 2929.32 if it finds that the offender has satisfactorily completed all other sanctions imposed and has paid all restitution. R.C. 2929.18(G).
- Courts retain jurisdiction to waive, suspend, or modify the assessment of court costs at the time of sentencing or at any time thereafter. R.C. 2303.23 and R.C. 2947.23(C).
- If a court determines that a defendant has failed to pay a judgment for court costs or failed to make timely payment towards that judgment under a payment schedule approved by the judge

> or magistrate, the judge or magistrate may order the offender to perform community service until the judgment is paid or they are in compliance with the payment schedule. R.C. 2947.23(B).

Third, House Bill 296 applies to individuals who are placed in transitional control, a program that allows ODRC to release offenders into the community during the final one hundred eighty days of their prison sentence in order to allow "prisoners to improve their education, vocational skills, or employability and to re-establish family ties and community support…" OAC 5120-12-01. House Bill 296 would provide an additional 6-months beyond this, for a total of almost 1 year, to begin paying fines, fees, and costs even though transitional control serves the same apparent purpose as the 6-month grace period in the bill – to give offenders leaving prison 6-months to adjust to living in the community.

Finally, House Bill 296 applies to everyone who leaves prison or completes transitional control regardless of their means, their living situation, or their employment status. It is not based on individualized need and an individualized determination by a judge in the way that current law is.

Ultimately, the legislation is just a further watering down of the consequences of crime. If people leaving prison or completing transitional control are struggling to pay their fines or costs, they can seek relief from the courts where there are plenty of tools to make sure that people accept personal responsibility for their crime but that they can do so in a way that does not create undue hardship.

I would be happy to answer any questions.