

Kevin Bacon

3rd Ohio Senate District



Committees:

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Finance-Higher Ed Subcommittee

Financial Institutions

Public Utilities

Transportation, Commerce and Labor

**Sponsor Testimony
Senate Bill 227
November 29, 2016
Senator Kevin Bacon
House State Government Committee**

Chairman Maag, Vice-Chair Hambley, Ranking Member Boccieri, and members of the House State Government Committee, thank you for the opportunity to provide sponsor testimony on Senate Bill 227. The purpose of this proposal is to make the legislative changes requested by the Ohio Attorney General. These changes include the Bureau of Criminal Investigation (BCI), Collections Enforcement, Consumer Protection section, Crime Victim's Services, Environmental Enforcement, the Healthcare Fraud Unit, and the Antitrust section. The provisions of Senate Bill 227 are the result of the Attorney General's office performing a self-assessment of its day-to-day operations. The bill represents a comprehensive update to existing law.

One change requested by BCI requires the Superintendent of the Bureau of Criminal Investigations, upon request of the county coroner, to assist the coroner in the identification of a deceased individual through the use of fingerprint impressions. In a

case where a John Doe cannot be identified, the proposed language permits a coroner to utilize fingerprints within the Bureau's system. This provision has been approved by the Ohio State Coroners Association.

Additionally, Senate Bill 227 allows a court to order a person's fingerprints taken at the time of sentencing or adjudication if fingerprinting was required but not completed previously. This change allows courts to utilize "LiveScan" technology in order to timely report fingerprinting requests.

BCI also requested that they receive a portion of the proceeds from sales of forfeited property. The funds are only to be used in accordance with an internal control policy written by the Attorney General, for specified law enforcement purposes, or other law enforcement purposes determined appropriate by the Attorney General. The prohibitions that apply to all other agencies who receive these proceeds from the sale of forfeited property will also apply to the Attorney General's Office.

One provision in Senate Bill 227 pertains to the sealing of criminal conviction records. The change permits the inspection of a sealed record by a law enforcement agency if a person with a sealed record is applying for a position as a law enforcement or corrections officer within the law enforcement agency. This provision of the bill will ensure that our law enforcement agencies are able to fully vet all applicants.

Senate Bill 227 will make two changes to the Organized Crime Investigations Commission. The first will exempt the Attorney General from the obligation to pay a

financial institution the cost of providing a customer's financial records in connection with a criminal investigation. This exemption is already provided to prosecutors and defense attorneys who are seeking financial records in the course of an investigation. The second provision relative to the Organized Crime Investigations Commission requires the Commission to establish a law enforcement trust fund for receiving reimbursement of expenses incurred in investigating criminal activity through a task force.

The Collections Enforcement section requested two clarifications. First, Senate Bill 227 clarifies that the Attorney General has the discretion to charge collection costs authorized under RC 109.08 and RC 109.081 to the debtor rather than the state or local agency. Second, the legislation permits the AG the discretion to decide whether or not to provide AG letterhead stationery to special counsel appointed to represent the state in connection with current taxes. Current law requires the AG to provide AG letterhead stationery to special counsel, and removing this language will allow the AG's office to be consistent with regard to the collection practices of special counsel.

The Consumer Protection Section also requested changes under Senate Bill 227. The bill specifies that certain prohibited activities, such as encouraging a consumer to default on a mortgage or loan agreement, constitute an unconscionable act in connection with a consumer transaction. Furthermore, the proposed language revises

the Consumer Sales Practice Act to clarify that certain provisions only apply to the origination of a mortgage.

This legislation will also modify current statute regarding reporting requirements to the Department of Commerce concerning all enforcement actions taken against loan officers, mortgage brokers, and nonbank mortgage lenders, and related judgments. Instead of reporting quarterly, the Attorney General will now be required to notify the Department of Commerce of all such enforcement actions and judgments as they occur. This change is requested because these types of enforcement actions have declined significantly in recent years.

Senate Bill 227 also updates sections of the Homes Solicitation Sales Act and Prepaid Entertainment Contracts Act (PECA). The proposed language authorizes a consumer to give notice of cancellation of a home solicitation or prepaid entertainment contract by email, fax, certified mail, manual delivery, or personal delivery. The language also makes conforming changes to the statutory notice-of-cancellation forms. Amending these sections updates current law, which was drafted before the advent of modern technology.

Language in Senate Bill 227 pertaining to the Crime Victim Services section addresses the needs of victims in Ohio. The bill authorizes minor as well as adult victims of criminally injurious conduct to file an application for an award of reparations at any time after the criminally injurious conduct occurred. The existing statute of

limitation puts juveniles at a disadvantage, disallowing some claims. For example, if an adult does not file on behalf of a child who is victimized, the statute of limitations may expire before the victim can file a claim. While there is no statute of limitations for adults, an amendment was accepted from Senator Skindell that would raise the amount of time by which a claimant may file a supplemental claim to six years.

Senate Bill 227 also requires that child pornography offered as evidence or that comes into custody of the prosecutor or the court remain in the custody of the prosecutor or the court. The proposed bill also requires a court in a criminal proceeding to deny a defendant's request to reproduce any child pornography if the defendant, the defendant's attorney, and any individual the defendant seeks to qualify as an expert witness receives ample opportunity to examine the child pornography where it is being held by the prosecutor or the court. The language in this section mirrors federal law, where the defense is permitted to inspect the material, but is not provided a copy.

Additionally, this legislation will ensure that the interest accrued on the money in the Reparations Fund is credited to the Fund.

During the hearing process in the Senate, an amendment was added to S.B. 227 creating the Study Committee on Restructuring Gaming Enforcement. That committee shall evaluate the current gaming enforcement structure in Ohio and shall consider alternative structures for gaming enforcement, in cooperation with the Ohio Attorney General.

In the section of the proposed bill pertaining to Medicaid fraud, a change is made to the definition of “offense of violence” by adding the offense of patient abuse against a resident of a “care facility” when the abuse was by a person who owns, operates, or administers a care facility or who is an agent or employee of the facility. This provision will also include a current or former offense of any jurisdiction substantially equivalent to patient abuse, or a conspiracy or attempt to commit or complicity in committing patient abuse.

Senate Bill 227 amends sections of Ohio’s antitrust laws. The bill provides that materials submitted to a public office in response to a competitive solicitation become public records when the public office announces the award of a contract, or 180 days after the public office opened the bids, or the request for the proposal period expires. This change prevents potential bid-riggers from gaining valuable information that could harm the competitive bidding process.

Finally, the proposed bill includes language prohibiting the Attorney General from publicly disclosing facts in an antitrust investigation unless the matter has become public through enforcement proceedings, public hearings, or the person from whom the information has been obtained consents to public disclosure.

Thank you for your consideration. I am happy to answer any questions you may have at this time. I also have attorneys and government affairs representatives from the Attorney General’s office available to answer questions as well.