

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

**TO THE CRIMINAL JUSTICE COMMITTEE
OHIO HOUSE OF REPRESENTATIVES**

IN SUPPORT OF H.B. 150

**March 25, 2021
11:00 a.m.**

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**Chairman LaRe
Vice-Chair Swearingen
Ranking Member Leland
Members of the Committee**

Thank you for the opportunity to provide this statement in support of H.B. 150, a bill that will help enable criminal defendants to receive legal representation from public defender's offices staffed by experienced attorneys. By providing some student loan reimbursement for assistant public defenders who commit to serving for at least three years in their respective public defender offices, H.B. 150 promotes the interests of justice in two ways:

- First, by enabling public defender's offices to attract a diverse pool of dedicated and talented attorney applicants who might otherwise be forced to forego this employment opportunity because of the press of student loan debt.
- Second, by enabling public defender's offices to retain attorneys for a sufficiently long tenure to reap the benefit of the considerable training and mentoring that must be invested to enable a young attorney to transition from being law school student to becoming an effective advocate. In a relatively short period of time, this new attorney must be ready to represent clients facing some of the most dire consequences available in our society, from loss of children to substantial periods of imprisonment.

In discussing these two benefits of HB 150, I am fortunate to draw on my experience as the Chief Public Defender for an office that has had the benefit of veteran assistant public defenders. As I will discuss, my concern is that, without HB 150, it will be harder for public defenders, particularly in smaller counties, to be able to provide the experienced legal representation often needed in defending against cases of increasing complexity.

Expanding the Applicant Pool

As a Public Defender, particularly in a large office, one of my most important responsibilities is to hire good people. No one seeks to become an assistant public defender for the money. Our attorneys are not big-firm rejects. Rather, they have chosen a path of public service dedicated to defending the indigent because they believe in helping others and in the equal protection of the law. They understand that they are not going to get rich in this job.

The problem is that, for some law graduates who desire to be public defenders for these noble reasons, the financial burden of paying more than ten thousand dollars per year in student loan debt is a fixed-cost burden that cannot be ameliorated by driving a less expensive car, living in a cheaper apartment or cutting back on other personal expenses. Some promising lawyers who could provide great assistance to this State as assistant public defenders simply cannot make ends meet because of the 800-pound gorilla that appears at the end of every month – the student loan bill. As a result, these young attorneys are unable to even apply for assistant public defender positions.

Sadly, those who find themselves in this scenario are more likely to come from middle- and lower class incomes, which is why they had to incur so much student loan debt in the first place. As a result, public defender's offices are off-limits to attorneys who could provide expanded diversity and, in some cases, provide many of our clients with the confidence that comes from having an attorney who understands the client's personal circumstances, who has walked the client's neighborhood and endured the client's hardships. It is an unfortunate state of affairs in Ohio and in the country at large that there are a disproportionate number of minority attorneys who find employment in a public defender's office a non-starter.

Retention

Even those attorneys who find a way to overcome the financial hurdles attendant to beginning their careers as assistant public defenders can still find themselves forced to leave a public defender's office against their desires because of rising costs after the first year or two in practice. For some, the exodus from school coincides with, or precipitates, a desire to start a family. Now the young assistant public defender and spouse confront added household costs, including the costs of child care for many families where both parents work outside the home. Once again, the student loan bill is a fixed cost that is oblivious to the financial strains of a growing family. And so young assistant public defenders have to look elsewhere.

What is particularly frustrating for a public defender's office is that these young emigrants from public defender's offices can be leaving after considerable time and expense has been devoted to getting them up to speed in a hurry in their development as criminal litigators. In an attorney's first year, considerable time needs to be devoted to developing basic litigation skills. While much is accomplished via learning by doing, supervisors and more seasoned attorneys spend considerable time, either formally or informally, in mentoring. In addition, many young assistant public defenders throughout the state participate at their office's expense in extended trial or appellate training seminars. This includes the National Defender Training Project's five-day trial training seminar at the University of Dayton that is attended by assistant public defenders throughout the State, with faculty that are brought in from around the country. This type of training is necessary if a young assistant public defender is going to go to court and represent parents in permanent custody cases, or persons charged with felonies, either in juvenile court or the court of common pleas. When those same attorneys are forced to make career changes because of the financial constraints brought about by an inability to pay their student

loan debt, the fruits of the first two or three years of mentoring and training are bestowed upon a private law firm which, frankly, does not need State-subsidized training for their laterally hired former public defender turned associate.

The Cuyahoga County Experience

Unlike many public defender offices throughout the State, the Cuyahoga County Public Defender's Office has been blessed to have a number of veteran attorneys among our ranks. There are several reasons for this. We are one of the fortunate county public defender' offices that have contractual parity with our county prosecutor. We are uniquely situated in Cleveland, where we can develop budding talent by employing law clerks from two different law schools during the school year. Coming to work for us as an assistant public defender oftentimes does not require relocation, particularly for new graduates of The Cleveland Marshall College of Law or the Case Law School. And because Cleveland is a larger metropolis, our new attorneys' spouses and significant others can more easily find employment if moving to the Cleveland area.

But many, if not most, of the other county public defender offices in Ohio do not have these contractual, demographic and geographic advantages. Moving to a small county, with a small salary, plus a large student loan debt is an equation that does not add up. Today, our colleagues in other counties are feeling the pinch of having to use less experienced attorneys on cases that demand a more seasoned hand.

And quality and experience matter. As a result of our ability to attract and retain quality personnel. Our appellate attorneys appear frequently in the Ohio Supreme Court. Our trial attorneys litigate aggressively and effectively, including in capital cases and other complex matters. These are the advantages of being able to attract and keep good people. But there is no guarantee that our veteran office would look at all the same if, in the 19980s and 1990s, our 20-

and 30- year veterans had been confronted with the cascading costs of higher education that have been foisted upon our younger attorneys. Moreover, we now confront the problem that, with rising student loan debt, our ability to retain a veteran office and attract a diverse pool of talented applicants is being tested.

HB 150 is Fiscally Responsible

By placing a priority on funding attorney shortage areas, HB 150 is providing needed funding in a cost-effective manner. The need for attracting and keeping good attorneys is most acute when attorneys are overworked. In our experience, a high-quality attorney with experience can handle a larger caseload more effectively than an inexperienced attorney can handle a smaller caseload. The learning curve begins to flatten after several years. It is for this reason that overworked offices cannot afford the cost of the revolving door.

Moreover, by placing the decision as to where to disburse funds to the State Public Defender, HB 150 ensures that money goes to those attorneys who need it the most. And the General Assembly, through its oversight of State agencies and its budget authority, can exercise sound stewardship over the State Public Defender's exercise of discretion.

In short, this is not a bill that simply throws money at a problem. This is a reasoned and targeted remedy to a serious issue.

Conclusion

On behalf of the dedicated attorneys of Cuyahoga County Public Defender's Office, on behalf of our brother and sister defenders throughout the State, and most importantly, on behalf of the thousands who depend upon our legal representation because they have nowhere else to turn, I ask that you pass HB 150. For when this State ensures justice for the poorest among us, it ensures justice for all. Thank you.