



# Office of the Ohio Public Defender

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Timothy Young, State Public Defender

## **Testimony in Opposition of SB171 Protection Order Violation Sponsor Senator Hottinger**

Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to testify on behalf of the Ohio Public Defender in opposition of Amended Senate Bill 171.

Ohio has roughly 50,000 individuals that are currently incarcerated<sup>1</sup>, costing the State approximately \$1.8 billion annually.<sup>2</sup> Obviously, this is not new information to this committee, but it bears repeating because the Legislative Service Commission has estimated that SB171 could cost Ohio between \$1.6 million and \$2.1 million dollars annually. SB171 will increase Ohio's prison population, which is already housing approximately 12,000 more individuals than the prisons were designed to hold.<sup>3</sup>

The OPD recognizes that the amendments adopted today will likely reduce the number of individuals sentenced to prison under the bill. However, increasing the offense level for violations of protection orders not only increases the cost to DRC, which was the focus of the LSC analysis, but also the local counties. Individuals with higher level felony offenses often receive higher bonds and, as result, are more likely to be incarcerated pretrial. Additionally, the amended bill may encourage judges

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<sup>1</sup> The Canton Repository Editorial Board, *Re-entry Efforts Offer Pathway for Former Felons*, November 12, 2017, <http://www.cantonrep.com/opinion/20171112/editorial-re-entry-efforts-offer-pathway-for-former-felons>

<sup>2</sup> Ludlow, Randy, *Review of Ohio's Criminal Sentencing Seeks Balance Between Punishment, Rehabilitation*, The Columbus Dispatch, November 27, 2017, <http://www.dispatch.com/news/20171127/review-of-ohios-criminal-sentencing-seeks-balance-between-punishment-rehabilitation>

<sup>3</sup> Pelzer, Jeremy, *As Feds Release 5,800 Drug Offenders Early, Ohio Also Prepares to Move Inmates out of Prison*, Cleveland.com, November 2, 2015, [http://www.cleveland.com/open/index.ssf/2015/11/as\\_feds\\_release\\_5800\\_drug\\_offe.html](http://www.cleveland.com/open/index.ssf/2015/11/as_feds_release_5800_drug_offe.html)

to sentence first time protection order violators to six months in jail, to ensure that a future offense will carry the potential of prison time, when normally the judge would have imposed a lesser term of incarceration. The money spent pursuant to this bill would be better spent addressing the root causes that lead to the protection order in the first place.

Increasing offense levels in hopes of reducing recidivism fails to recognize the complex relationships that are frequently the backdrop for many protection orders. Many individuals under a protection order have relationships with the protected party - they are married, they own property together, or they have children together. For this reason, it is not uncommon for a protected party to initiate the contact, despite a protection order, so the two can discuss personal and familial matters. There is no penalty for a protected party who violates a protection order. However, the individual under the protection order can be sent to prison for simply responding to a text.

It cost Ohioans \$72 a day to house an individual in prison<sup>4</sup> and \$64.45 a day to house an individual in jail.<sup>5</sup> If Ohio is serious about reducing recidivism rates, reducing the prison population, and keeping its citizens safe, then Ohio should spend that money on services that address the underlying issues that led to the protection order. That money could be used to require these individuals to participate in anger management, substance abuse counseling, behavioral counseling, and family counseling – to give just a few examples. Reductions in the number of protection order violations will be achieved by assisting individuals with the concerns that caused the protection order. Increasing the offense level will just cost Ohioans more money.

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<sup>4</sup> Warner, Kelsey, *These States have the Highest Cost per Prisoner*, TheTimesNews.com, May 3, 2016, <http://www.thetimesnews.com/news/20160503/state-by-state-how-much-does-it-cost-to-keep-someone-in-prison>

<sup>5</sup> Legislative Service Commission Fiscal Analysis for House Bill 439



Thank you for the opportunity to speak today before your committee. I am happy to answer questions at this time.

