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Honorable Steve Buehrer
State Senator
Room #134, First Floor
Columbus, Ohio 43215

RE: Sentencing Proposals, H.B. 1 and S.B. 22

Dear Senator Buehrer:

As I speak my county is experiencing record levels of adult felony criminals and juvenile delinquencies. In regards to our current multi-county jail facility we have exceeded our allotted bed count for the last six months. Now as a criminal prosecutor I am confronted with the proposed legislation changes contained on H.B. 1 and S. B. 22. As the prosecutor of Hardin County, Ohio, I write today to express my extreme opposition to several of these proposed changes to Ohio's sentencing scheme under consideration in the current budget bill (H.B. 1 and S.B. 22). As I understand them, these changes would further reduce prison terms for certain prisoners at the discretion of the Department of Corrections and outright prevent imprisonment for felony level non-support offenders. Moreover, the proposed changes would preclude a prosecution for escape when an offender on post-release control absconds from supervision. These proposed changes represent an alarming threat to public safety and I oppose them.

I am greatly disappointed that such sweeping changes to Ohio's criminal law would be lumped into a budget bill at all. These potential changes to Ohio's sentencing scheme have serious implications for Ohio's criminal justice system, not to mention public welfare and safety. Ohio's citizens deserve a more comprehensive review of the proposed changes than is possible when they are considered within the context of a "budget bill." Such criminal law proposals should be separately considered by the Criminal Justice Committee. The procedure being used to push forward this legislative agenda also appears to violate the "single purpose" rule, with resultant problems.

That said, it is evident that these proposals are a misguided attempt to address the overcrowding of Ohio's prisons. However, the prison population issue was already addressed in 1996 with S.B. 2, the "truth in sentencing" legislation. S.B. 2 significantly changed the structure of felony sentencing law in Ohio, it provided for definite sentences while eliminating "good time credit," parole releases, and caps on consecutive terms for those sentenced under it. Generally, the time sentenced was the time served. S.B. 2 already included "earned credit" in the sentencing

structure by reducing minimum sentences. The proposed concept of an expanded “earned credit” undermines the “truth in sentencing” supposedly accomplished under S.B. 2. And under this proposal, the credit earned will be determined by a clerk at the Department of Corrections - free from the auspices of the sentencing judge. In short, the expanded “earned credit” concept is a huge step backwards. It will reinforce an offenders’ contempt for our law. It will erode not only the transparency of our sentencing structure but also public confidence in the criminal justice system.

Elimination of prison as a potential consequence for chronic felony-level non-support defendants is just plain foolish. The system is already skewed overwhelmingly in favor of these offenders - and against custodial parents. These are the type of offenders who consistently lie, hide and delay in their never-ending attempt to dodge their obligation to pay court-ordered child support. For these most incorrigible, irresponsible offenders, the threat of incarceration is the only leverage the system has left. To deny the courts this last-resort tool of enforcement is to send a message to all such repeat offenders: “Okay, okay - you outlasted us - we didn’t really mean it - you don’t have to support your children.” And not to mention, the message it sends to marginal offenders - those that may have paid eventually. Under this new proposal, they have no incentive to even try to pay. Ohio should not save money on prison beds at the expense of its children.

Lastly, precluding prosecution of post-release control escapees is dumbfounding in its shortsightedness. Again, this proposal would reward those who have already shown themselves to be most dismissive of Ohio’s laws. It is an invitation to abscond - because law enforcement could not send the escapees back to prison. Moreover, such escapees would pose a dangerous threat to the community. If there is no punishment for absconding, why even have Post Release Control.

In sum, the legislature’s first responsibility should be to secure public safety - not to undermine it. Sufficient funding must be made available such that lawfully-imposed sentences determine prison bed requirements - not the reverse. The safety of our communities and the integrity of our justice system depend upon it. Fund more prisons to meet our needs - do not close them.

Sincerely,

Bradford W. Bailey
Hardin County Prosecuting Attorney

BWB/jp

cc: Hardin County Child Support Enforcement Agency
Hardin County Common Pleas Judge Hart
Hardin County Common Pleas Juvenile Judge Rapp
Hardin County Municipal Judge Grimslid