



THE BUCKEYE INSTITUTE

Preventing Unnecessary Incarceration

Interested Party Testimony
Ohio House Public Safety Committee
Ohio House Bill 667

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June 2, 2026

As Prepared for Delivery

Chair Abrams, Vice Chair Miller, Ranking Member Thomas, and members of the Committee, thank you for the opportunity to testify regarding **Ohio House Bill 667**.

My name is Alex M. Certo, and I am a senior associate legal fellow at **The Buckeye Institute**, an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states.

Violent crime has tragic consequences. Those who commit such crimes must be held accountable and punished for the harms they inflict on our communities. But criminal laws must carefully distinguish between predatory perpetrators and non-violent offenders.

For more than a decade, Ohio has demonstrated its commitment to prudent, commonsense public safety policies and reforms. Unfortunately, House Bill 667 takes a step in the wrong direction.

The Buckeye Institute **supported legislative efforts** in 2017 to create the Targeted Community Alternatives to Prison (T-CAP) program, which was **designed** to divert low-level, non-violent offenders from state prisons to treatment and other community-based alternatives. In an effort to reduce prison populations, curb costs, and rehabilitate offenders, the program initially required those in designated counties sentenced to fifth-degree felonies with a prison term of 12 months or less to serve their sentence locally **unless**:

- The offense was an offense of violence, a sex offense, a trafficking offense, or other mandatory prison term;
- The offender has a prior conviction for a sex offense or felony offense of violence; or
- The sentence is to be served concurrently to a prison-eligible felony offense.

Six years later, the General Assembly expanded T-CAP to include fourth-degree felonies and the same exclusions applied.

T-CAP is not a get-out-of-jail-free card. Offenders **serve their term** in a county or municipal jail or workhouse, in a community alternative sentencing, or in a minimum security jail, rather than in state prisons.

House Bill 667 retreats from T-CAP's success unnecessarily. The bill prevents currently eligible non-violent offenders from serving their sentence in a specified local facility if:

- The person has previously been convicted of or pleaded guilty to two or more felony offenses that were *not* felony offenses of violence.
- The person previously was under a community control sanction for a felony offense that was *not* a felony offense of violence, and the person had the community control sanction for that felony offense unfavorably terminated.
- The person was under post-release control at the time the person committed the felony of the fourth or fifth degree.

Violent offenders are already ineligible for T-CAP, but House Bill 667 goes further—and it goes too far, failing to distinguish adequately between violent and non-violent offenders. Here's how:

Suppose a non-violent public official uses the influence of his office to illegally secure authorization for a public contract and pleads guilty to a fourth-degree felony violation of **R.C. 2921.42(A)(1)**. If he later, while on post-release control, helps his church hold a bingo night without first obtaining the requisite bingo license, that fourth-degree felony violation of **R.C. 2915.07(B)** would render him ineligible for T-CAP.

Or suppose a **mother** uses a family member's address—instead of her own—to enroll her children in a better school district. Her deception is uncovered, and she pleads guilty to **third-degree felony**. If she later has her community control terminated for even a minor technical violation, she would be ineligible for future T-CAP if she commits another non-violent fourth- or fifth-degree felony.

Some **argue** that House Bill 667 grants judges more discretion to send repeat and problem offenders back to prison. But in many cases the bill actually restricts judicial options and forces judges to send non-violent offenders to prison. As written, the bill risks overreach that could significantly affect Ohio's incarcerated population without really addressing the heart of the problem—violent criminal offenders.

The General Assembly should take a more nuanced approach that properly distinguishes between violent and non-violent offenses without undermining the successes of an effective program like T-CAP.

Thank you for your time and attention. I would be happy to answer any questions that the Committee might have.



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