



# Judicial Impact Statement

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## TCAP (Targeted Community Alternatives to Prison) Review

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#### 129 HB 49 Bill Information

The Targeted Community Alternatives to Prison (TCAP) program introduced in the biennial budget of the 132nd General Assembly (HB 49) needs to be reviewed and altered. The TCAP program was created by the Ohio Department of Rehabilitations and Corrections as part of the ODRC budget and it was designed with the aim of reducing prison bed use and saving money.

#### Background and Judicial Impact

First, TCAP has not achieved its purported goal of reducing prison population. It was designed for a population of people - F4 and F5 offenders - that have already been steadily diverted from prison since the reforms of 129 HB 86. Available county-specific data shows that the majority of F4 and F5 offenders do not go to prison and that those that do are prison-bound because of specific aggravating circumstances (e.g. repeated violations). A judge is in the best position to make the decisions that advance the interests of justice in criminal sentencing. In the end, TCAP severely restricts judicial discretion with no significant change to prison population.

Worse yet, TCAP was accompanied in HB 49 with changes in RC 2929.15 to the ability of judges to revoke probation for F4 and F5 offenders who do not go to prison but then subsequently violate their community control sanctions, sometimes repeatedly. These changes completely undermine probation and create a perverse incentive for offenders to violate – by violating a community control sanction that has a strict cap on incarceration, the offender can actually reduce a sentence and avoid having to comply with court orders to, say get treatment or avoid a victim.

Second, the way TCAP was drafted has proven to be difficult to implement - from MOUs across various county offices to dependence on funding that is not guaranteed. If TCAP is expected to function, it must be made easier to implement.

#### What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

**Conclusion**

The Ohio Judicial Conference supports the repeal of TCAP and the repeal of 132 HB 49's changes to RC 2929.15. In the alternative of a complete repeal of TCAP, the OJC recommends streamlining or removing the TCAP MOU process; focusing on a "Foster" fix (i.e. focusing on the fact that intake is not driving prison population numbers nearly as much as length-of-stay is); designing funding structures to award money based on use of community control sanctions without specifically prohibiting judges from making decisions as they see fit.