



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Opposition of HB141 Involuntary Manslaughter-Controlled Substance Sponsors Dever and Wiggam

Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze and members of the House Criminal Justice Committee. My name is Niki Clum, and I'm the Legislative Liaison for the Office of the Ohio Public Defender. Thank you for the opportunity to testify in opposition of HB141.

Last week the Executive Director of the Ohio Prosecuting Attorneys Association, Lou Tobin, testified that this bill will make it easier to prosecute individuals for involuntary manslaughter. A finding that an individual is legally responsible for the death of another carries significant consequences. It is a decision that should be carefully weighed. It is supposed to be hard.

Under current law, prosecutors can pursue involuntary manslaughter charges against individuals that sell drugs if a death results. The problem with HB141 is that it will lead to involuntary manslaughter convictions anytime the seller of a drug can be identified, even if a conviction for involuntary manslaughter is not reasonable in that case. This is because the bill makes involuntary manslaughter, in these circumstances, a strict liability offense, and states that the actions of the victim are not a defense. The seller of a drug could be convicted even if the person ingesting the drug knew they had a heart condition, combined the drug with other drugs and alcohol, or took the substance with purpose of ending their own life.

The argument in favor of this bill is that anytime an individual sells a drug – they know there is a chance their client may die as result of ingesting that substance. However, the same can be said for the person that takes the drug. Anytime an illegal drug is ingested there is a chance the user will die. This committee should trust jurors to listen to the facts of each case and decide specific to each situation. If

prosecutors are not obtaining convictions in these cases it is because twelve independent jurors listened to the facts and determined that it was inappropriate to hold another party responsible for that user's decision to ingest that drug in that manner.

HB141 removes jurors' ability to weigh the facts surrounding a case. As I previously stated, HB141 makes this offense a strict liability offense. This means the jury can no longer consider what the defendant intended or what he or she knew or did not know about the victim or circumstances surrounding the ingestion. Additionally, HB141 prohibits jurors from considering the actions of the user, including their decision to ingest drugs, how much of that drug to ingest, and whether to mix that substance with other substances.

My heart goes out to everyone who suffers from addiction and to every family who has lost a loved one because of that addiction. However, this bill is not the answer. To hold an individual responsible for the death of another person is a significant determination. Under current law drug dealers can be convicted of involuntary manslaughter when it is warranted. That conviction is the result of jurors considering all the facts and circumstances of a case, including the seller's mental state and the user's actions. For these reasons, the current law is sufficient to address these cases

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

