



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Oppositoin of HB161 Abuse of a Corpse Sponsors Representative Smith, R.

Chairman Lang, Vice Chair Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee. I am Niki Clum, the legislative liaison for the Office of the Ohio Public Defender. Thank you for the opportunity to submit opponent testimony regarding HB161.

HB161 increases the penalty for abuse of a corpse from a misdemeanor of the first degree or a felony of the fifth degree to a felony of third degree when the abuse involves dismembering or mutilation. It is important to note that abuse of a corpse that is “outrageous to reasonable community sensibilities,” like dismembering a body, is already a fifth-degree felony.

The data is conclusive that harsher penalties do not deter crime.¹ Therefore, HB161 will not have the deserved effect of deterring future offenses. Law violators do not research the Ohio Revised Code to see if the crime they are contemplating is a felony of the fifth degree or a felony of the third degree. For the most part, people just have a basic understanding that the behavior is illegal and punishable. Most people do not appreciate the difference between penalties for a fifth-degree felony and penalties for a third-degree felony. The decision to commit a crime does not hinge on the degree of the offense.

¹ *Five Things About Deterrence*, National Institute of Justice, Office of Justice Programs, <https://nij.gov/five-things/pages/deterrence.aspx>; citing Nagan, Daniel S., *Deterrence in the Twenty First Century*, 2013; Economist at Columbia and the University of Michigan found that the threat of longer prison sentences does not reduce crime. The National Institute of Justice found that “severity of punishment does little to deter crime.”

This is particularly true for the types of cases that inspired this legislation; cases where an individual commits this offense on the corpse of an acquaintance who has overdosed. The individuals that find themselves in this position are drug abusers who have just discovered their friend dead as a result of illegal drugs. These individuals panic. They feel desperate. They think if they call the police to report the overdose they will be severely punished for their illegal behavior. They feel they have no other choice but to take the drastic and disturbing step of abusing a corpse. It is not as though they first google the offense and only decide to commit it because it is categorized as a fifth-degree felony.

It is also important to know that individuals that commit this act may be charged with “tampering with evidence” in cases where it is factually appropriate. In fact, in the case of Richard Hurt, that was discussed by proponents, he was charged with “tampering with evidence.”² “Tampering with evidence” is already a felony of the third degree. Therefore, in the cases that this bill is trying to address, those individuals are likely already facing a third-degree felony.

Former Department of Rehabilitation and Corrections Director Gary Mohr used to express that Ohio needs stop incarcerating individuals at whom we are mad and focus on incarcerating individuals who make us afraid. While there is no doubt that abusing a corpse is disturbing behavior, the people this bill targets found themselves in a desperate situation and acted irrationally. They did not victimize another living person, and they did not have the intent to harm someone else. These are people we are mad at, not people we are afraid of. If Ohio

² Wright, Dean, *Sheriff, prosecutor support corpse abuse penalty increase*, Gallipolis Daily Tribune, <https://www.mydailytribune.com/news/38782/sheriff-prosecutor-support-corpse-abuse-penalty-increase>



is serious about criminal justice reform and reducing the population of our overcrowded prisons, we have got to stop enhancing the penalties for people we are just mad at.

Thank you for the opportunity to submit written testimony in opposition of HB161.

