



# Office of the Ohio Public Defender

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*Timothy Young, State Public Defender*

## **Testimony in Support of HB205 Legal Immunity - Overdose Sponsor Representative Galonski**

Chairman Lang, Vice Chair Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to testify in support of HB205. I am Niki Clum, legislative liaison for the Office of the Ohio Public Defender.

Ohio has the second highest rate of opioid overdoses in the country.<sup>1</sup> In 2017, approximately 5111 people died of an overdose.<sup>2</sup> Those people were husbands, wives, daughters, sons, mothers, and fathers. They are members of our communities – our peers and our friends. This legislature has a moral imperative to take action to reduce the number of overdose deaths. HB205 is a good start.

When the first Good Samaritan law, that only addressed immunity for low-level drug possession, became effective I was working as a prosecutor. Upon learning about the law, I immediately noticed that drug paraphernalia and needles were not given immunity. That fact did not make sense to me then and it does not make sense to me now. The individuals seeking medical attention used the drugs. That is why they need medical attention - because someone is overdosing. It is only a rare instance where additional drugs are present. However, the drug paraphernalia will almost always be present. HB205 extends immunity to the paraphernalia

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<sup>1</sup> Bean, Mackenzie, 50 states ranked by opioid overdose death rates, Becker's Hospital Review, January 17, 2019, <https://www.beckershospitalreview.com/opioids/50-states-ranked-by-opioid-overdose-death-rates.html>

<sup>2</sup> Only one state saw more overdose deaths than Ohio last year, WCPO Cincinnati, November 29, 2018, <https://www.wcpo.com/news/state/state-ohio/only-one-state-saw-more-overdose-deaths-than-ohio-last-year>

officers are likely to encounter at an overdose, everything from needles to cotton balls to burnt spoons, etc.

I can speak from personal experience that HB205 is necessary to encourage individuals suffering from addiction to seek medical assistance when there is an overdose. As I previously mentioned, I was a prosecutor when this legislature passed Ohio's Good Samaritan law. I remember discussing the law in the halls among prosecutors and police officers. I noticed right away that paraphernalia and needles were not included in the law. When officers voiced objections to the law, I remember commenting, "When you respond to an overdose, look around. You are going to see needles or paraphernalia in plain view. Arrest them for that." While I did not want people to overdose, it never occurred to me that arresting these individuals for paraphernalia was defeating the purpose of the law. If these individuals are in fear that they will be arrested, they won't call for medical assistance. It does not matter that they will be facing misdemeanor charges for paraphernalia instead of a felony possession charge. The fear of getting arrested will prevent them from calling, and people will die. In fact, arresting them puts them in more danger as people are more likely to overdose after a period of incarceration. My advice to those officers was shameful.

Since that time, I left prosecution and started working for the Ohio Public Defender's Office. Now, I have a better understanding about some of the challenges of addiction. OPD would like to encourage this legislature to remove the requirement in HB205 and in Ohio's Good Samaritan law which requires individuals to get an assessment and referral for treatment within 30 days to qualify for immunity. I spoke to a trial attorney at OPD who stated that this requirement makes the Good Samaritan less effective. The only time this attorney saw people qualify was when they happened to already be in treatment. Many people cannot afford to have



an assessment done. Some people may not be in a place yet where they want to pursue treatment. Obviously, we want to encourage everyone suffering from addiction to get treatment, but we also want people overdosing to get medical assistance. The Good Samaritan law should not contain any hurdles that make it harder to get immunity. People must feel free to call for medical assistance. That is the only way we can save the lives of our fellow Ohioans.

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

