



Criminal Justice Reform

Testimony before the House Criminal Justice Subcommittee on Criminal Sentencing

Jasmine Ayres

Good afternoon Co-Chair Grendel, Co-Chair Galonski, and members of the Criminal Justice Subcommittee on Criminal Sentencing. My name is Jasmine Ayres and I am the policy liaison for Policy Matters Ohio, a nonprofit, nonpartisan research institute with the mission to create a more prosperous, equitable, sustainable and inclusive Ohio. Thank you for the opportunity to testify, thank you for your interest in reforming Ohio's criminal justice system, and thank you for your willingness to invest in Ohio families.

We are eager to work with you to create policies that make Ohio safer, simplify our justice system, reduce incarceration and racial disparities, shift resources from imprisonment to treatment, and assist formerly incarcerated Ohioans in contributing to Ohio's economy and their local communities.

We are deeply grateful that there is bipartisan support to take on this complex and often-heartbreaking problem. As you know, Ohio incarcerates some 50,000 people at a cost of more than \$1.8 billion annually. We lock up a larger share of our neighbors than all but 13 other states and only two states have a higher share of people on probation.

The number of incarcerated Ohioans has tripled since 1980, with prisons at 132% of capacity. Over-incarceration is making neither our prisons nor our communities safer. Ohio saw 5,111 of our children, siblings, parents and friends die of drug overdoses in 2017 – just one state had a higher rate that year, the most recent for which we have data. The pain of addiction is affecting families in every corner of our state. By reducing incarceration, especially for non-violent offenses, we can free up resources for crime prevention and drug treatment.

Locking up so many of our people hurts our economy. Labeling Ohioans with addiction as criminals reduces the long-term employment prospects of too many of our neighbors. High unemployment rates among formerly incarcerated people hurt not only those aspiring workers but their families and communities as well.

Based on our research, we have found that in order to make a meaningful difference in Ohio, criminal justice reform should include what we call the “five Rs.”

1. First, **reclassification of minor drug possession** from felonies to misdemeanors. Incarcerating Ohioans who struggle with addiction and saddling them with felony

convictions is an expensive drain on resources and does not make our communities safer. Drug trafficking is and can remain a felony. Current law ensures that those who sell drugs are charged with trafficking. By reclassifying small-quantity drug possession as a misdemeanor, SB 3 would enable those with addiction to access the treatment that can help them become healthy.

2. The next R is **retroactive application of that reclassification** to ensure that communities over-targeted by past drug prosecution benefit from the current wave of criminal justice reform. People previously incarcerated under these provisions should be resentenced or released to community programs. Ohioans who have already served time would benefit from no longer having a felony on their record, increasing their ability to find jobs and contribute to their communities. This is a racial equity issue too, because the drug wars of the past disproportionately targeted African Americans, while today a disproportionate share of users come from white communities. That's why retroactivity is crucial to reducing racial disparities and being fair to people currently or previously struggling with addiction. Reducing incarceration for both groups will make our criminal justice system more effective for all Ohioans, white, black or brown.
3. Next, it is important to **reform the probation-to-prison pipeline** for Ohioans who violate probation in ways that are not crimes. Nearly a quarter of those entering Ohio's prison system are incarcerated for minor probation violations, a practice that does not make our communities safer or stronger. This could be fixed by saving reincarceration for those who commit another crime and pose a threat.
4. The fourth R is **reduction of sentences for those who earn it** by participating in education, behavioral, and treatment programming while in prison. Incarcerated Ohioans would return to their communities better prepared to work and be part of society if they had more reason to participate in these programs while in prison. These kinds of programs reduce recidivism.
5. Finally, we must work to increase opportunities for **reemployment for Ohioans who've served their time** by modifying or eliminating statutes and administrative rules that erect major hurdles to job attainment for those with criminal records. When people with records are blocked from jobs, they struggle to support themselves, leaving them more vulnerable to recidivism. That's why reducing what are known as collateral sanctions associated with a felony conviction should be part of any effort to reform sentencing. Right now, more than 500 statutes and administrative rules create barriers to employment for Ohioans with drug-related felony convictions, and this can bar people from getting better jobs or getting a postsecondary certificate or college degree.

There are a number of bills currently being considered by the Ohio General Assembly, and together they hold promise. Among the most important, from our perspective, are House Bill 263, Senate Bill 3 and House Bill 1.

House Bill 263 would eliminate arbitrary barriers to obtaining an occupational license, while retaining those that keep our communities safer.

Senate Bill 3 would reclassify some low-level drug possession charges from felony to misdemeanor, ensure that people struggling with addiction receive treatment rather than

being incarcerated, and do a better job of distinguishing drug trafficking from simple possession than current law. As important as SB 3 is, it doesn't apply its reclassification measures retroactively. Amending the bill to do so would make it much more effective and impactful. If we admit our wrongs of the past, we must try to rectify them in the present.

As you know, House Bill 1 would increase opportunities for treatment in lieu of incarceration by requiring courts to hold hearings to consider whether individuals should receive treatment rather than be convicted and incarcerated. This bill, now before the Senate, would also strengthen record sealing for those with criminal records.

It's important to note that SB 3 is substantially different from HB 1, because some stakeholders are prioritizing HB 1 over SB 3 as the most important step to transform Ohio's justice system. In fact, the bills are complementary and take very different approaches to reform. Together they can be a strong first step for justice reform in Ohio. To address the challenges facing Ohio, both must be passed.

A recent story from Oklahoma shows us a path to reform for Ohio. In 2016, voters approved reclassification for low-level drug and theft offenses. This year, the legislature and the governor passed a bill with bipartisan support that applied the voter-approved sentencing reforms retroactively. On November 4, a special commutations process released 462 people who had served an average of three years for simple drug possession and minor property crimes. This is a powerful example of what can be done to improve lives and even save money that would otherwise be spent on keeping people in prison.

It is encouraging that multiple voices from across the political spectrum are coming forward in support of criminal justice reform. We urge you to that meaningful reform must substantially reduce our prison population, reduce racial disparities in incarceration, remove barriers to jobs and housing for those re-entering our communities, and free up resources for treatment. We join you in your goals of protecting the public, reforming our justice system, and helping people who need a second chance. Please consider adopting the five Rs to help make Ohio communities whole.