Testimony in Opposition of SB55
Drug Crime Near Addiction Services
Sponsor Senator Gavarone

Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary 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 SB55.

As this committee knows, SB55 creates an enhanced penalty when drug trafficking occurs within a 1000 feet of community addiction service provider. It has been suggested that SB55 is needed to deter trafficking near these locations. Yet, there is no evidence that longer prison sentences deter drug offenses. The fact that the War on Drugs has been such an abysmal failure is evidence that longer prison sentences do not deter crime.1 Among other researchers, the National Institute of Justice found that “severity of punishment does little to deter crime.” Further, the idea that Ohio will solve the drug crisis if we incarcerate all of the drug traffickers is not realistic. Targeting the suppliers of drugs is ineffective “because of the demand and the money that can be made, other people will step in.”2

Despite research and data that longer prison sentences do not deter drug activity, if we assume that a penalty enhancement may deter drug trafficking, then the standard must be that

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1 2015 Pew Research Survey found that harsher federal sentencing laws for drug offenses did not lead to reductions in drug use; 2014 research by Peter Reuter at the University of Maryland and Harold Pollack at the University of Chicago found that heavy police enforcement and extended prison sentences do not effectively stop the flow of drugs and drug use; Economist at Columbia and the University of Michigan found that the threat of longer prison sentences does not reduce crime
2 Leo Beletsky, Drug Policy Expert and Northeastern University Law Professor
the individual “knowingly” trafficked near an addiction service provider. As this committee
knows, the bill only requires that the individual acted “recklessly” as to whether they were
trafficking near an addition service provider. The bill defines an addiction service provider as
“an organization that provides alcohol and drug addiction services certified by the Department
of Mental Health and Addiction Services, gambling addiction services, or recovery supports
related to those services.” This could include organizations like Narcotics Anonymous who
meet in places like churches or VFW halls. SB55 must require that the individual acted
“knowingly” so that individuals do not receive penalty enhancements for trafficking near a VFW
hall that happens to hosts a NA meeting. An individual cannot be deterred from doing
something they don’t know they are doing.

The Ohio Criminal Justice Recodification Committee recommended the elimination of
sentencing enhancements from the Ohio Revised Code like those proposed in SB55. This is
because these enhancements can result in absurd outcomes. When the bill specifies that the
offense must occur within 1000 feet of the community addiction servicer provider, the bill means
1000 feet “as the crow flies.” “As the crow flies” is a term that means the facility is within a
1000-foot straight line from the individual in any direction, even if there is a sky scraper or a
river between the facility and the individual. An individual could stand 1001 feet away from a
community addiction service provider and purposely target individuals in recovery, and that
individual would not face an enhanced penalty despite the fact that individual is exactly who
this bill is trying to target. However, an individual could share drugs with his friend 999 feet
across a river from a facility, and that individual will face an enhanced penalty. This result is
illogical and will do nothing to combat Ohio’s opioid crisis.

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3 Legislative Service Commission Analysis
250 E. Broad Street, Suite 1400 ● Columbus, Ohio 43215
614.466.5394 ● 800.686.1573 ● TTY 800.750.0750 ● www.opd.ohio.gov
The penalty enhancements contemplated in SB55 are also bad public policy because they disproportionately impact minority populations. In densely populated urban areas, an individual is more likely to be within 1000 feet of community addiction service provider compared to someone in a rural area where the population and buildings are more spread out. Addiction service providers are also more likely to be located in urban areas. Since minority populations tend to be greater in urban areas, minorities disproportionately suffer the consequences of these types of enhancements.4

SB55 is exactly the type of bill Ohio needs to avoid passing if we are serious about criminal justice reform and reducing overcrowding in our prisons. Thank you for the opportunity to testify today before your committee. I am happy to answer questions at this time.

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