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TO: Ohio Senate Judiciary Committee

FROM: Morris J. Murray, Defiance County Prosecuting Attorney, on behalf of OPAA

 RE: Summary of testimony on Am H.B. No. 4

 **TESTIMONTY AND COMMENTS TO THE SENATE JUDICARY COMMITTEE ON Am. H.B. 4**

Good Morning Members of the Committee, thank you for the opportunity to address issues of concern to Ohio’s Prosecuting Attorneys regarding Am H.B. 4. The Ohio Prosecuting Attorney’s Association supports this legislation and believes it to be an important clarification necessitated from the initial decision in State v Gongales, 2016- Ohio- 8319. As you may be aware, the Ohio Supreme Court granted a Motion for Reconsideration of that decision and a majority now appears to have corrected what we believe was an erroneous interpretation of how cocaine was defined.

We continue to support the clarifying provisions set forth in Am H.B. 4 and believe the way cocaine is being defined in this proposal is consistent with other similar sections of the R.C. defining controlled substances. Also, this definition is consistent with the reality of what cocaine is in “real life” as it is sold, possessed, and used on the streets of Ohio and elsewhere. Prosecutors and investigators know that cocaine is always “cut” with various other substances to allow the sellers to get more for the product at street level. Throughout the “chain” of distribution this is the standard practice. Applying a definition of purity as the first decision in Gonzales attempted to do, disregards that reality and had created a potential for prosecution of major drug traffickers to be limited based upon the “purity” issue. Additionally, requiring the State to determine purity was an unreasonable and expensive proposition. Cocaine has been correctly defined with the wording referring to “any compound, mixture, preparation or substance containing cocaine”. Given the continuing and growing problems created by illegal drugs in our communities, it is imperative that we continue to create, maintain and enforce laws that can lead to the conviction of serious offenders. Properly defining cocaine as it exists in the illegal drug trade, will help insure aggressive prosecution of those committing these crimes. OPAA supports Am H.B. 4.