

THE OHIO ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

SHAWN DOMINY, PRESIDENT

BLAISE KATTER, PUBLIC POLICY CHAIR

October 10, 2019

INTERESTED PARTY TESTIMONY SB 55

Chairman Lang, Vice-Chair Plummer, and Ranking Member Leland,

On behalf of the Ohio Association of Criminal Defense Lawyers, I wanted to offer our perspective on the proposed SB 55. Although the OACDL is supportive of the intent behind this bill, we believe that its aim could be better achieved through more narrowly-tailored language.

As an initial matter, we wish to say that we join Senator Gavarone in condemning persons who prey on addicts seeking professional help in overcoming their addictions. Trafficking drugs to those in recovery programs is deplorable behavior, and we at the OACDL would like to offer our expertise to help this committee target those offenders without casting too wide of a net that would ensnare others. To that end, we are proposing some modest changes to this bill which we believe would more fairly target those who are truly preying on the recovering addicts, versus those who would inadvertently be swept up in the language of this bill.

Geographic Distance Limitations Are the Least Effective Way to Target this Behavior

As a principle, geographic limitations are the least effective way to target this sort of predatory behavior. We feel that the 1000-foot restriction is inartful and overbroad and can be more effectively written.

As with any geographic limitation, the line has to be drawn somewhere, and that arbitrary geographic line would not, for example, apply to a trafficker selling to a recovering addict 1001 feet away from the addiction services provider. However, it could snare the individual trafficking to someone who is not a recovering addict within the 1000-foot radius.

Rather, a better approach would be to criminalize those who are physically present on the premise of a prohibited location (in this case, an addiction services provider) and to also criminalize any person who recklessly targets people who are traveling to or from the addiction provider, regardless of where that contact takes place.

Therefore, we would recommend that the prohibition be specifically tailored to the harm, and would propose that “in the vicinity of an addiction services provider” be changed to the following language:

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An offense is committed “in the vicinity of an addiction services provider” if either of the following applies:

- 1. The person is committing the specified drug trafficking offense on the property or premises of a community addiction service provider; or**
- 2. The person is recklessly targeting any other person who was present at, or is connected with, any program offered by a community addiction services provider, either while the program was occurring, or when the other person is traveling to or from the program.**

This proposed language specifically targets those who prey on addicts by either committing the offense at the location of the addiction services provider, or by recklessly targeting any person who is in any way associated with the program in the vicinity.

Further, this language would not be unduly difficult for prosecutors to prove, as the essential elements would either be the offender’s physical location (on the premise or property) or engaging in trafficking with a person who was associated with, or traveling to or from, the program. This modest change would go a long way to ensuring that these enhanced penalties will only apply to those offenders who actively prey on recovering addicts.

Thank you for your consideration.

Respectfully,

Blaise Katter

OACDL Public Policy Chair