



TO: Senate Judiciary Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
DATE: March 1, 2022
RE: Senate Bill 288 – Proponent Testimony

To Chairman Manning, Vice Chair McColley, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for this opportunity to provide the following proponent testimony for Senate Bill 288. With today’s hearing devoted to three, specific subject areas in SB 288, my remarks will be limited to the “Good Samaritan” overdose law changes found in this bill.

Generally speaking, “Good Samaritan” laws are laws that allow a person to avoid criminal penalties for some drug offenses if they do such things as contact or facilitate emergency services for themselves, or others, if they overdose, witness an overdose, or discover a suspected overdose.

The idea behind such laws is we do not want people who think they or others may be prosecuted for a minor drug offense refusing to, or delaying, a call for help when their own or other lives are at stake. This is why at least 47 states, including Ohio, have enacted some version of these laws.

In March 2021, the U.S. Government Accounting Office issued a report on the effectiveness of these laws (<https://www.gao.gov/products/gao-21-248>). The GAO reviewed data from the Office of National Drug Control Policy and conducted interviews with staff, reviewed state laws and their specific provisions, and conducted a literature review of studies from 2010-2020. Broadly speaking, the GAO found jurisdictions with these laws experience lower rates of overdose deaths than those without. In addition, people where such laws are in place are more likely to call emergency personnel. The GAO also notes the effectiveness of these laws increases with education efforts so people and law enforcement are aware they exist and how they operate.

In 2016, Ohio passed and enacted its own Good Samaritan overdose law as part of a larger bill (HB 110, 131st GA). However, what was passed then was, and remains, very limited. Perhaps the bare minimum when it comes to such laws.

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In Ohio, people can benefit from the immunity this law currently provides, but only twice. They are also disqualified from the immunity this law provides if they are on community control or post-release control, although current law requires courts and the parole board to consider the person's participation in drug treatment before levying penalties, if any. This section of current law also allows courts and the parole board to mandate drug treatment. Finally, to receive immunity, those who would otherwise benefit from this law are required to report to their local prosecuting attorney that they have received screening and are seeking drug treatment. In short, if we want to totally hamstring the effectiveness of a Good Samaritan overdose law, current Ohio law seems like a safe bet.

SB 288 improves current law, but only slightly; SB 288 adds drug paraphernalia and instruments to the list of criminal laws one might receive immunity from when contacting emergency services because of an overdose.

The ACLU of Ohio suggests three changes in order to make SB 288 and our Good Samaritan law much more effective – 1) Remove the limit that allows immunity only twice, 2) remove the requirement to report to prosecutors, and 3) allow it to apply to those on community control and/or post-release control sanctions.

Overdoses and overdose deaths are a gigantic problem in Ohio. Ohio is consistently at or very near to the top when compared to other states in this regard. For the past seven years, drug possession is the number one reason a person is sent to an Ohio prison. Drug treatment that is any combination of effective and affordable remains unavailable or sparsely available across Ohio in many regions.

Other states utilize better approaches and realize better results than us. If we want Ohio to experience the same, we must do the same. Improving current law and SB 288's Good Samaritan language would be a good start.

The ACLU of Ohio encourages such changes by this committee. As always, we are prepared to be helpful and part of the solution. We look forward to continued and ongoing dialogue on not only Good Samaritan law changes but also other parts of Senate Bill 288.