



Ohio Prosecuting Attorneys Association

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House Bill 88
Proponent Testimony
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Chairman Thomas, Vice-Chair Mathews, Ranking Member Isaacsohn and Members of the House Judiciary Committee:

Thank you for the opportunity to provide testimony in favor of House Bill 230 on behalf of Ohio's prosecutors. I am sure that it comes as no surprise to you that the poisons of cocaine, heroin, methamphetamine, and fentanyl – especially fentanyl – are destroying our communities. This is true in both the urban and rural areas of our state. I have been a prosecutor in Jefferson County for 20 years. As I stand before you today, I can tell you that these drugs are destroying more lives than they ever have.

Last year alone, the DEA says more than 70,000 Americans fatally overdosed on illegally made fentanyl. In Ohio in 2023, the total number of fentanyl-related opioid deaths was 3,579, according to the Ohio Attorney General.

Those 3,579 deaths represent 98% of the 3,651 overall opioid fatalities in Ohio last year — reinforcing the breadth of the state's challenge with illegal fentanyl.

And that is the most frightening part about fentanyl: it is everywhere. Virtually every other drug – cocaine, methamphetamine, heroin, and even marijuana – can be, and is, laced with it. There is no difference in taste or smell or appearance. The very moment you realize you have ingested fentanyl may be your very last moment.

Traffickers know this and use it to their benefit. There is no better way to ensure repeat business than to hook your clientele right off the bat. Drugs laced with fentanyl – and almost all of them are – increase the high, increase the length of the high and increase the rate of addiction and subsequent overdoses.

In Cuyahoga County, three or more cause of death drugs were identified in nearly 2/3 of opiate/opioid deaths. Cocaine/opioid mixtures led to four times as many African-American overdose deaths than two years ago. Fentanyl and its analogs were present in 90% of decedents.

According to the National Institute of Health, Ohio's age adjusted opioid overdose fatality rate is double the national average.

Ohio drug laws have not kept up with the death rates of these drugs. Under current law, a dealer could traffic 99 pills of a fentanyl compound, and there is only a presumption of prison time and a maximum sentence of no more than 36 months at that – even though just one of those pills could kill a user. That is no deterrent, and it is no real punishment, especially considering the profit that comes with trafficking in drugs. I believe it is one of the reasons that Ohio has ranked as high as third in opioid-related deaths. The profits are high here and the punishments are low. In 2017, Montgomery County was given the nickname “the overdose capital of the United States.” We cannot allow this to continue.

This bill also removes the requirement in our drug possession statute for Schedule III, IV or V drugs, that prosecutors prove that the offender knew that the drugs were laced with fentanyl in order to prosecute them for possession of fentanyl. In March 2023, Governor Devine authorized the emergency classification of xylazine, an animal tranquilizer, as a Schedule III drug in response to overdose deaths involving xylazine/fentanyl mixtures. An unintended consequence of this, due to language in our drug possession statute, was that it made it possible for a person who is in possession of a large amount of a xylazine/fentanyl mixture (up to 120 grams) to face as little as a first degree misdemeanor. This provision of the bill addresses the unintended consequence of having xylazine added as a Schedule III drug.

House Bill 230 will allow our prosecutors to seek mandatory prison terms for offenders who have already been convicted of two or more felony offenses. It enhances penalties for dealers who choose to sell these deadly drugs in the vicinity of children, schools, and rehabilitation centers. It arms us to do what is best for the people we serve. It serves as a deterrent in a way that the current law simply does not.

Finally, this bill provides prosecutors with a specification that allows us to seek an additional five year mandatory prison term when an offender is found guilty of a fentanyl related death in a case of involuntary manslaughter. It is time to hold these dealers responsible for the death and destruction that they are inflicting on our communities.

It is also important to know what this bill does not do. It does not punish addicts. It does not change penalties (except for fentanyl dealers) for low level offenders, who may be selling very small amounts to feed their own addictions. Those individuals will continue to have options such as drug court programs, probation monitoring, and other community control sanctions. This bill is aimed squarely at the drug traffickers who are killing our community members and profiting from it. I have read the concerns that this bill may result in more offenders in our prisons. But, I would suggest that our prisons are better locations for them than our streets.

Thank you and I would be happy to answer any questions.