



Office of the Ohio Public Defender

Elizabeth R. Miller, *State Public Defender*

House Bill 88 Opponent Testimony

Zachary Miller, Legislative Policy Manager

House Judiciary Committee

March 26, 2025

Chair Thomas, Vice Chair Mathews, Ranking Member Isaacsohn, and members of the House Judiciary Committee:

On behalf of the Office of the Ohio Public Defender (OPD), thank you for the opportunity to submit opponent testimony on House Bill 88 (HB 88). As the provider of legal representation for indigent Ohioans accused crimes, we believe certain provisions of HB 88 will inadvertently target victims of human trafficking, alongside its intended focus on the human traffickers. We also have concerns about the bill's removal of the knowledge requirement for the offense of possession of fentanyl-related compounds.

The OPD understands the bill's sponsors' intent to target large scale, organized human trafficking within the state. However, the bill's broad language risks large scale incarceration of human trafficking *victims* in its efforts to target their traffickers with first-degree felonies. Under the current language, HB 88 creates the offense of "knowingly ... participating in ... an organization or operation for trafficking in persons..."¹ The bill otherwise does not provide for an exception or affirmative defense for those that are victims of the trafficking operation. The unfortunate truth is that the organized nature of trafficking rings often involves traffickers using threats of violence and forceful victimization by appointing some of their victims to serve as "leads" or "bottoms" to help in recruitment and management of the trafficking operation.² Under HB 88, the victims in these roles, who often operate under the constant threat of death or sexual violence, along with the other victims who engage in sex work on behalf of the trafficking ring, could be charged with first degree felonies. The bill's failure to include any

¹ R.C. 2905.321 (A)(B).

² See Sarah Crocker, *Stripping Agency From Top to Bottom: The Need For A Sentencing Guideline Safety Valve For Bottoms Prosecuted Under The Federal Sex Trafficking Statutes*, 111 NW. U. L. REV. 3, (2017), <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1274&context=nulr> (Last accessed 3/21/2025).



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exceptions or affirmative defenses for these individuals disregards their rights as victims and could lead to severe convictions that create significant barriers to their recovery and ability to move forward. We urge this committee to carefully reexamine the bill's language and pursue a more narrowly tailored approach to combating human trafficking.

Additionally, the OPD appreciates the bill's sponsors' commitment to combat drug trafficking in Ohio. However, the OPD has concerns relating to the bill's removal of the knowledge requirement for the offense of possession of a fentanyl-related compound when the other drug involved is not cannabis.³ Under HB 88, the mandatory minimum five-year sentence for involuntary manslaughter risks incarcerating people for tragic accidents that lack any criminal intent.⁴ We urge this committee to consider real world situations, such as the tragic incident that occurred in 2022 when two Ohio State University students overdosed on fake Adderall pills that were unknowingly laced with fentanyl.⁵ Had the student who obtained and supplied the fake Adderall to her roommate survived, she would be subjected to a mandatory five-year sentence, despite her lack of knowledge of the fentanyl content. We question the deterrent effect, if any, this provision would have on public safety. The OPD urges this committee to consider changes to HB 88 to more effectively target drug traffickers, rather than penalize their victims.

Again, the OPD understands and appreciates the sponsors' intent behind HB 88. However, certain provisions of the bill will result in a costly rise in the incarceration of individuals who are not the intended targets of this legislation and will impose sentences that are highly disproportionate to the alleged criminal conduct, with little to no deterrent effect. For these reasons, we voice our opposition to HB 88.

Sincerely,



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³ R.C. 2925.11 (C)(9)(a) and (10).

⁴ R.C. 2929.14(B)(11)(b); R.C. 2941.1427.

⁵ Arya Sundaram, *Officials Warn of Fake Adderall Pills After Two College Students Die*. N.Y. TIMES (May 7, 2022), <https://www.nytimes.com/2022/05/07/us/adderall-fentanyl-osu-deaths.html>

