Office of the Ohio Public Defender

Elizabeth R. Miller, *State Public Defender*

House Bill 487 Opponent Testimony

Zachary Miller, Legislative Officer

House Judiciary Committee

February 25, 2026

Chair Thomas, Vice Chair Swearingen, Ranking Member Synenberg, and members of the House Judiciary Committee:

Thank you for the opportunity to submit opponent testimony on House Bill 487 (HB 487). On behalf of the Office of the Ohio Public Defender (OPD), we have major concerns on this bill's negative effect on Ohio's criminal justice system. While we share the General Assembly's commitment to protecting Ohio communities from the harms of illicit drugs, HB 487 relies on a flawed, counterproductive approach. By establishing a rigid "repeat drug offender" specification, this bill will exacerbate mass incarceration, strip judges of their essential discretion, impose staggering fiscal liabilities on the state, and fail to meaningfully address the root causes of addiction.

HB 487 introduces a "repeat drug offender" classification that would trigger extreme, mandatory sentences. If a prosecutor chooses to include this specification in an indictment, and the defendant has two or more prior felony convictions for specific drug trafficking offenses, the sentencing judge's hands are completely tied. The court must impose the absolute longest prison term authorized for the underlying offense, and then add an additional, mandatory prison term of one to 10 years to be served consecutively.

One of the most concerning aspects of this bill is the complete absence of a temporal limitation, or a "look-back" period. As an example, a defendant who sustained two low-level, fifth-degree felony convictions for selling small amounts of illicit drugs 30 years ago would permanently be classified as a repeat drug offender under this bill if they faced a new charge today. This boundless approach entirely ignores decades of potential rehabilitation, employment, and lawful behavior. Furthermore, this bill standardizes all felony degrees, treating a person with addiction who occasionally sold drugs to support their habit identically to a predatory kingpin operating a vast distribution network.

A bedrock tenet of our justice system is the individualized assessment of culpability by a neutral court. HB 487 strips judges of this duty, completely preventing them from considering profound mitigating factors, such as severe substance use disorders, childhood trauma, economic deprivation, or a minor

role in a larger offense. Instead, this bill transfers immense, unchecked sentencing power directly to prosecutors. The mandatory maximum sentence, plus the consecutive 1-to-10-year term, rests entirely on the prosecutor's discretion to include the specification in the charging document. This dynamic empowers the "trial penalty," coercing indigent defendants into accepting plea bargains to avoid the mathematically certain prospect of a catastrophic, multi-decade mandatory sentence.[1]

Ohio's criminal code already provides judges and prosecutors with powerful tools to severely punish high-level and repeat drug offenders. For instance, trafficking in highly dangerous substances like fentanyl, cocaine, or heroin in significant quantities already triggers first- and second-degree felony classifications carrying mandatory prison terms.[2] Additionally, Ohio law contains the Major Drug Offender (MDO) specification, which mandates additional consecutive prison terms ranging from three to eight years for trafficking in exceptionally large, statutorily defined thresholds of narcotics.[3] The MDO specification properly targets cartel operatives and high-level traffickers based on the objective quantity of the drugs involved. Conversely, HB 487's specification is triggered merely by historical prior convictions, circumventing these carefully calibrated quantity thresholds and disproportionately punishing low-level, habitual sellers experiencing substance abuse addiction.

HB 487 also poses a fiscal threat to the state. The Ohio Legislative Service Commission (LSC) explicitly acknowledges this bill will result in an "indeterminate increase in incarceration costs" for the Department of Rehabilitation and Correction (DRC).[4] Ohio's prison population currently sits at approximately 46,500 individuals.[5] The LSC fiscal note estimates the marginal cost of incarcerating a person at about $4,900 per year, meaning the 1-to-10-year enhancement alone will cost between $4,900 and $49,000 per person; that would be entirely exclusive of the massive additional costs from mandating the maximum sentence for the underlying felony.[6] When factoring in the institutional cost of incarcerating a person, which averages $40,000 per year, the financial liabilities become astronomical.[7] Holding people convicted of low-level offenses who then age in prison long past the point where they pose a statistical threat to society is an unfunded mandate that diverts crucial resources away from community crime reduction initiatives and public health.

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[1] How Mandatory Minimums Perpetuate Mass Incarceration and What, accessed Feb. 20, 2026, https://www.sentencingproject.org/fact-sheet/how-mandatory-minimums-perpetuate-mass-incarceration-and-what-to-do-about-it/

[2] Drug Offense Quick Reference Guide – Supreme Court of Ohio, accessed Feb. 20, 2026, https://www.supremecourt.ohio.gov/docs/Boards/Sentencing/resources/judPractitioner/drugQuickRef.pdf

[3] R.C. 2941.1410.

[4] House Bill 487 Fiscal Note & Local Impact Statement, Ohio Legislative Service Commission.

[5] How many people are in prisons in Ohio? – USAFacts, accessed Feb. 20, 2026, https://usafacts.org/answers/how-many-people-are-in-prisons-in-the-us/state/ohio/.

[6] House Bill 487 Fiscal Note & Local Impact Statement, Ohio Legislative Service Commission.

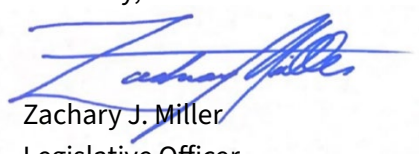
[7] *Id*.

Decades of research comprehensively refute the notion that severe mandatory minimums deter drug offenses or permanently reduce drug availability.[8] Extensive studies demonstrate no statistically significant relationship between a state's drug imprisonment rates and its rates of drug use or overdose deaths.[9] When a street-level dealer is incarcerated, the inelastic demand of the illicit market ensures they are immediately replaced by another vulnerable individual.

OPD encourages the General Assembly to instead invest in evidence-based alternatives. Programs like the Ohio Department of Rehabilitation and Correction's Targeted Community Alternatives to Prison (TCAP) provide block grants to manage non-violent offenders safely within the community, offering intensive substance abuse treatment while allowing them to maintain employment. Similarly, Ohio's 255 certified specialized dockets, such as drug courts, successfully graduate 57% to 59% of their participants, guiding high-need individuals toward sobriety and stability.[10] By mandating decades of incarceration, HB 487 explicitly precludes individuals from accessing these highly effective rehabilitative programs.

HB 487 is redundant, excessively punitive, and fundamentally counterproductive to the genuine goals of public safety. It prioritizes costly, long-term incarceration of Ohioans over proven treatment; strips our judiciary of its constitutional role; and disproportionately harms the most vulnerable, indigent citizens of Ohio. For these reasons, the Office of the Ohio Public Defender respectfully opposes House Bill 487.

Sincerely,



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[8] More Imprisonment Does Not Reduce State Drug Problems, accessed Feb. 20, 2026, https://www.pew.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf
[9] *Id*.
[10] Monitoring Sentencing Reform Supplemental Report, accessed Feb. 20, 2026, https://www.supremecourt.ohio.gov/docs/Boards/Sentencing/Materials/2025/March/MonitoringReportSupplementDraft_030325.pdf