



# Office of the Ohio Public Defender

---

*Timothy Young, State Public Defender*

**Testimony in Opposition of HB296  
Drug Crime Near Addiction Services  
Sponsor Representative Gavarone**

Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze and members of the House Criminal Justice Committee. My name is Niki Clum, and I'm the Legislative Liaison for the Office of the Ohio Public Defender. Thank you for the opportunity to testify in opposition of HB296.

As this committee knows, HB296 creates an enhanced penalty when one of the delineated drug offenses occurs within a 1000 feet of community addiction service provider. HB296 is similar to Ohio's current law that enhances penalties for some drug offenses that occur within 1000 feet of a school. The Ohio Public Defender agrees with the testimony provided by the ACLU on March 13, 2018. For the sake of brevity, I will not repeat the points they made. I do want to discuss some additional concerns OPD has with HB296. Specifically, penalty enhancements like those in HB296 result in absurd outcomes and disproportionately disadvantage minority communities.

When the bill specifies that the offense must occur within 1000 feet of the community addiction service provider, the bill means 1000 feet "as the crow flies." "As the crow flies" is a term that means the facility is within a 1000-foot straight line from the individual in any direction, even there is a sky scraper or a river between the facility and the individual. An individual could stand 1001 feet away from a community addiction service provider and purposely target individuals in recovery, and that individual would not face an enhance penalty despite the fact that individual is exactly who this bill is trying to target. However, an individual could share a painkiller with his friend 999 feet across a river

from a facility, and that individual will face an enhanced penalty. This result is illogical and will do nothing to combat Ohio's opioid crisis.

In densely populated urban areas, an individual is more likely to be within 1000 feet of community addiction service provider compared to someone in a rural area where the population and buildings are more spread out. Not to mention community addiction service providers are more likely to be located in urban areas. Since minority populations also tend to be located in urban areas, minorities disproportionately suffer the consequences of these types of enhancements.<sup>1</sup>

These are some of the reasons the Ohio Recodification Committee recommended removing these types of penalty enhancements from the Ohio Revised Code. Thank you for the opportunity to testify today before your committee. I am happy to answer questions at this time.

---

<sup>1</sup> *Disparity by Design: How drug-free zones impact racial disparity – and fail to protect youth*, Justice Strategies, March 24, 2006, <https://www.justicestrategies.org/publications/2006/disparity-design-how-drug-free-zone-laws-impact-racial-disparity-and-fail-protect->.

