

## Justice Reform

### Testimony on SB 3 before the House Criminal Justice Committee Piet van Lier

Good morning Chair Lang, Vice Chair Plummer, Ranking Member Leland and members of the House Criminal Justice committee. My name is Piet van Lier, and I am the justice researcher for Policy Matters Ohio, a nonprofit, nonpartisan research institute with the mission of creating a more prosperous, equitable, sustainable and inclusive Ohio. Thank you for the opportunity to submit written testimony.

I first testified on Senate Bill 3 in May of 2019, and believe now as I did then that the bill is a small but important step forward for justice reform in Ohio. We applaud you for prioritizing hearings on this bill, which calls for reclassifying low-level drug offenses from felonies to misdemeanors so some Ohioans can get treatment instead of incarceration when they are charged with possession of certain drugs.

First and foremost, I want to draw your attention to a [report released by Policy Matters Ohio in June that analyzed the impact on Ohioans' health](#) of SB 3 and a complementary bill, HB 1. With this testimony I respectfully submit a brief summary of our findings and, as an attachment, a copy of the full report.

Our review of health-related research suggests this legislation would likely have positive impacts on the health of Ohio residents because it would:

- Decrease drug use and reduce prison populations. There is strong evidence that treatment, intervention in lieu of conviction and drug courts are more effective than incarceration in helping people overcome addiction.
- Reduce the “collateral consequences” of incarceration and a felony record, which create barriers to employment, housing and public assistance. The inability to meet these basic needs is linked to poor physical and mental health outcomes for formerly incarcerated individuals and their families.
- Prevent further collateral consequences arising from felony convictions by expanding opportunities for the permanent sealing of criminal records.
- Reduce overcrowding in jails and prisons, a condition that promotes disease transmission and has contributed to the wider COVID-19 pandemic.

Our health note was produced using a methodology developed by the Health Impact Project at The Pew Charitable Trusts and is part of a pilot program to test the use of health notes to inform policymaking at state and local levels. Policy decisions made outside the public health and health care sectors can affect health and well-being. Health notes are intended to provide objective, nonpartisan information to help legislators understand the connections between these sectors and health.

After Policy Matters released the health note in June, the Ohio Senate took steps to amend SB 18 into SB 3. As written, SB 18 would prohibit law enforcement, court or corrections officials from knowingly restraining or confining an incarcerated woman or child during pregnancy or postpartum recovery. Research shows that shackling during pregnancy and childbirth exacerbates pain, gets in the way of proper diagnosis and medical care, and limits movement, especially during the birthing process. As a result, including this ban on shackling in SB 3 would likely increase the positive impact of the legislation on the health and well-being of Ohioans. It would also put Ohio among the majority of states that have policies banning or limiting the shackling of incarcerated women during pregnancy and childbirth.

Understanding the health impact of a bill like SB3 is important, because we know that the main goal of SB3's sponsors is to provide treatment rather than incarceration: At its heart, this bill is about improving the health of Ohioans.

That said, it is important to recognize the incarceration crisis in which Ohio finds itself. Our state spends more than \$1.9 billion a year on its prison system. Despite a drop in the prison population since the start of the pandemic, our state prisons are still at 120% capacity.

This is relevant because in fiscal year 2020, nearly 3,000 people were sent to an Ohio prison for drug possession, more than half of them for the lowest-level felony offense. SB 3 would do more to keep these Ohioans out of prison and get them into treatment, where they can get more effective help to overcome their addictions without the additional trauma of incarceration.

SB 3 is by no means perfect. Among its more troubling provisions, it applies primarily to people charged with first-time drug-possession offenses, echoing the "three-strikes" laws that have helped fuel over-incarceration across the United States, and excludes those in knowing possession of an illegal drug that contains fentanyl. These exclusions weaken the bill unnecessarily.

Perhaps most concerning are all the Ohioans who won't benefit from this effort at sentencing reform because they have already served their sentences for low-level drug possession or are currently serving time. In either case, if the bill passes into law, these formerly and currently incarcerated Ohioans will not see their felonies reduced to misdemeanors, and as a result will continue to face barriers as they return to their communities. This is concerning for a number of reasons, not least the missed opportunity to begin to remedy the negative and ongoing impact on Black and brown communities of the failed war on drugs.

Nevertheless, this bill will help move our state in the right direction and should be passed into law before the end of this General Assembly.

Thank you for your work on Senate Bill 3. I would be happy to answer any questions you may have regarding our findings about the health impact of SB 3 and HB 1 or any other aspects of justice reform within my area of expertise. You may reach me at [pvanlier@policymattersohio.org](mailto:pvanlier@policymattersohio.org) or 216-832-2102.