

TESTIMONY OF COLUMBUS CITY ATTORNEY ZACH KLEIN
ON SB 3
BEFORE THE OHIO HOUSE CRIMINAL JUSTICE COMMITTEE
NOVEMBER 19, 2020

Chair Lang, Vice-Chair Plummer, Ranking Member Leland, honorable members of the House Criminal Justice Committee, thank you for welcoming me here to provide proponent testimony in support of the criminal justice reforms envisioned in Senate Bill 3.

I'm Zach Klein, Columbus City Attorney. My office is responsible for prosecuting all criminal misdemeanors in the City of Columbus. That's approximately 21,000 cases per year. I appreciate the opportunity to be here today to discuss our bipartisan effort to make critical and necessary changes to improve Ohio's drug sentencing laws.

I think we are embarking on something special in our work here, and I want to applaud this legislative body for their bold leadership and desire to take action on the way we approach addiction and its intersection with the criminal justice system. Additionally, I'd like to recognize the important work that this legislative body has done in passing House Bill 1.

The reality is, the status quo – the way we are approaching and tackling the so-called War on Drugs – is not working for anyone. Too many people are dying every single day as the number of daily overdoses continues to rise, a situation that has not relented since COVID-19. Our prisons are overcrowded, and too many lives are being destroyed with excessive felony convictions. In fact, there are very few, if any, metrics one can highlight to show what we have been doing in the criminal justice space has been successful.

I want to be clear as we embark on this conversation that what we are proposing is helping those caught with low level drug possession—who are likely battling addiction—not the drug traffickers who prey on them. *Drug trafficking* is a separate conversation, and we must not confuse the two.

It is important to recognize that drug addiction is not new. In fact, addiction has plagued communities of color and rural America for decades and attention to this was largely ignored, with the exception of promoting felony convictions for those battling addiction and strengthening our laws to increase incarceration. It's time to move forward with a new, pragmatic and common-sense approach to how we address these issues.

We now have the chance to create a different path: one which enables us to come together as a state, and make our criminal justice system more just and effective. We have a renewed opportunity to promote real reforms that will ultimately get more folks into the addiction and mental health treatment that they desperately need. That's why I'm particular grateful to this body for considering the ideas being put forward by Senate Bill 3 as an improvement to Ohio's drug sentencing laws.

There are many important aspects of Senate Bill 3, but the one at its heart is **downgrading a felony low-level drug possession charge to a misdemeanor**. The science and facts show that addiction is a relapsing brain disease, and one can either accept or reject that fundamental understanding. But if you believe what addiction specialists and medical doctors are telling us, then we should be moving away from treating these folks like felons and move towards treating these individuals as someone afflicted with

addiction that needs help. And we can retool and improve the criminal justice system to be more effective in treating that addiction.

Moreover, over the past decades, we – as a country – have created a system that demonizes felony convictions, creating some unnecessary barriers to success once someone has served his or her time. In some ways, labeling someone a felon can be like giving that individual a life sentence, given the barriers – both legally and socially – we have put in place – barriers to safe housing and employment, for example. I have personally talked to employers who have said they cannot hire felons no matter how much the individual turned his or her life around. That doesn't make sense. It's like we are asking folks to pull themselves up by the bootstraps but we've taken away their boots.

I want this committee to know that by no means am I advocating for downgrading all crimes to be something less than a felony. There are heinous crimes and individuals who should be labeled as such. But what I am asking for consideration is how we treat and label those afflicted by addiction whose only crime is personal use drug possession.

I sincerely believe that what Franklin County Prosecutor Ron O'Brien and I are proposing, as well as some of the recodification efforts that experts and legislators across Ohio have embraced, is essential for real and effective reform. I also love and appreciate the fact that this is bipartisan effort involving state and local government. We must come together to solve these types of problems facing our state and our country, much like President Donald Trump and the Koch Brothers came together with Senator Cory Booker and the ACLU to pass a significant federal criminal justice reform measure – The First Step Act. We are seeing the same thing here with Prosecutor O'Brien and I, as we worked on this legislation with Senate President Obhof and Senators Eklund and O'Brien, as well as the meetings, input, and support I've received from the Ohio chapter of Americans for Prosperity and the Buckeye Institute. This is a team effort which has sincerely set political ideologies aside.

I also recognize that others have brought forth their ideas too, and I believe a spirited debate is necessary for us to bring about the best change. Moreover, I understand and respect that some advocates think what was ultimately voted on and passed in Senate Bill 3 was too far for some and not far enough for others. The important point, however, was the open mind that Senators Eklund and O'Brien kept throughout the process – one where original guiding principles and goals of Senate Bill 3 were kept but details were flexible up until the moment of passage. This is paramount as this body considers not only the merits of the bill, generally, but as the body dives into the details concerning drug amount thresholds for both possession and trafficking - determinations that I heard Senate leadership repeatedly seek input on in the hope of striking the right balance between user and trafficker and rehabilitation and punishment.

I want this committee to know that I stand ready to work with anyone who understands that change is needed, and that no one has a monopoly on good ideas. We all need to come together and take the best ideas, and I'm confident the ongoing process has, and will continue to, give us that opportunity. Additionally, I also think we have to be fair in our approach in criticizing the big and bold changes that may be necessary. Fear mongering from outside influencers will not help us find the best solution for our state. In that regard, it's important to recognize the great work this Chamber did in passing House Bill 1, which I believe is a strong step in the right direction to identify and fix many injustices in the criminal justice system. And ideally, House Bill 1 should be combined with Senate Bill 3 to create an even more comprehensive improvement to Ohio's criminal justice system. Both chambers should be applauded for their work on this issue.

We can be leaders on this issue – all of us working together in a bipartisan way to help our neighbors who are suffering. To give folks hope and a chance at success – a real opportunity to change their lives so they can be the father or mother, the son or daughter, the friend or neighbor, they truly want to be.

Thank you, and I'd be happy to entertain any questions.

Zach Klein