



OHIO JUSTICE & POLICY CENTER

RECLAIMING LIVES • RENEWING COMMUNITIES • RESTORING JUSTICE

To: House Criminal Justice Committee
From: Kevin Werner, Policy Director
Date: November 19, 2020
Re: Proponent Testimony for Substitute Senate Bill 3

Chairman Lang, Vice Chair Plummer, Ranking Member Leland and members of the House Criminal Justice Committee, thank you for the opportunity to testify today in favor of Substitute Senate Bill 3. My name is Kevin Werner and I am the policy director at the Ohio Justice & Policy Center, a nonprofit law firm whose mission is to promote fair, intelligent, and redemptive criminal justice systems. OJPC strongly supports Senate Bill 3 for three reasons.

Addiction, as we understand today, is a medical issue. People who are addicted to drugs and alcohol cannot stop themselves from seeking the euphoric feeling their brain's reward center sends throughout their body. To a person addicted to drugs, jeopardizing family relationships, achieving financial ruin or inviting deadly health consequences is not a concern. People addicted to drugs don't exercise good judgement or make rational, measured decisions. Their brains are functioning in a very different way than people without addiction issues. Treatment, then, is the most appropriate way to confront and work through addiction. Senate Bill 3 brings Ohio closer to public policy that aligns the medical issue of addiction with a medical response of treatment.

OJPC also supports Senate Bill 3 because we recognize that our state's response to drug use and addiction for the past four decades has led to jails and prisons being dangerously overcrowded. It has become standard practice to incarcerate people for non-violent drug offenses, most commonly drug possession and drug trafficking. According to data provided by the Ohio Department of Rehabilitation and Correction, for FY2020 nearly 2,300 people were sent to Ohio prisons for drug possession offenses. In each of the last seven years the leading cause of incarceration in Ohio has been drug possession. Senate Bill 3 takes a different approach to this problem of filling jails and prisons with people who commit non-violent drug offenses. By sending people to treatment rather than jails and prisons, as Senate Bill 3 aims to do, Ohio will begin to alleviate overcrowding and better address the addiction epidemic coursing through our state. By adopting Senate Bill 3, Ohio is making short term improvements that will have positive long-term effects.

Another longer-term benefit Senate Bill 3 will bring to Ohio is stability and opportunity for individuals who conquer their addiction through treatment rather than be sentenced to a prison term. The collateral consequences of a felony conviction on a person's life are enormous, unrelenting and counterproductive. These sanctions make it more likely a person will fail in their recovery or be pushed back into the cycles that brought them to addiction. Our shared goal is that we want people who struggle with addiction to get well through treatment and become productive, valued members of our community. We want that transformation from a broken, addicted person to stable, employed and in long term recovery. As Senate Bill 3 changes some low-level drug offenses from felonies to unclassified misdemeanors, people will be able to avoid the most severe collateral sanctions that effect their lives for decades.



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Although OJPC strongly supports this bill, there are improvements that could be made to the bill. As time is limited, it may not be practical to alter the bill from its current form. Nonetheless, Senate Bill 3 would be vastly improved if it were retroactive. Without making the bill retroactive, we draw an arbitrary line in the sand and that doesn't serve those Ohioans who most need our help. There is no compelling argument for keeping the bill prospective in nature only.

Another improvement that we urge is for the expansion of the bill's eligibility. In its current form, Senate Bill 3 provides relief for individuals who are more likely to be first-time offenders. The provision in the bill that excludes anyone who has two or more offenses in the previous three years ignores what doctors and advocates know to be true about addiction—people will slip up, relapses will happen. They are part of recovery that do not diminish a person's worthiness to achieve sobriety. What matters more than a set-back in sobriety is how a person and the community supports respond to that relapse. It may take a person four, five or ten attempts to achieve recovery. Every person is different. The key is that we do not give up on that person who is working towards recovery. Capping eligibility as the bill does limits both its potential to be an aid to people trying to achieve recovery and its ability to stem overcrowding in prisons.

Finally, I want to share that addiction is not an issue I am unfamiliar with. I have a brother who has been in and out of prison because of his addiction issues. By my count this is his fifth time. He's in jail right now and we have no idea when he might get out. He has two daughters, 14 and 8 who are living with different relatives. Most of my family has written him off. "Tough love" is a phrase I hear a lot from my parents and siblings. One of the hardest conversations I've ever had with my wife a couple weeks ago was about coming to terms with the fact he probably won't live much longer.

I don't understand the mentality that there's nothing we can do for my brother. I fully acknowledge I've not experienced his addiction the same way the rest of my family has. He's much younger than I am. I went off to college long before he was through elementary school. My brother doesn't need to be locked up, he needs treatment. He doesn't need more fines and fees and collateral sanctions. He needs treatment. My brother's circumstances encapsulate what I think Senate Bill 3 is about: do we want address addiction as a health issue or a criminal issue?

The Ohio Justice & Policy Center urges the committee to pass Substitute Senate Bill 3. Thank you for the opportunity to testify and I am happy to answer any questions.

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