

**Ryan J. Kail**

**Ohio Resident & Former Drug Offender**

**Senate Bill 3**

**Proponent Testimony**

**March 13, 2019**

My name is Ryan Kail, I have twice been convicted of non-violent crimes solely involving drugs, both sentencing me to prison without the chance of parole, earlier release, and mind you I have never been on probation upon release from prison in either instance. I have spent a total of 9 years incarcerated for drug-related crimes. I am here today to express my support for Senate Bill 3: The Intent to Reform Drug Sentencing Laws. I want to thank the Primary Sponsors & Co-Sponsors of this Bill: Mr. John Eklund of District 18, Mr. Sean O'Brian of District 32, and Senator Larry Obhof. Significant changes are critically needed to our current sentencing laws and I am grateful for the opportunity to speak on this important subject.

The first question you must ask yourselves is... since we send drug users, abusers, and addicts to prison, and also send to prison those who are involved in the black market, does this result in safer communities and rehabilitated citizens?

To be more clear- someone has a problem with drugs and we send them to a drug-infested prison. *Yes- drugs are easier to obtain in prison than on the street, and its not the 'visitors' bringing them in, if you know what I mean.* Also, someone is a distributor of drugs on the street- we send them to the Drug Distribution University (Prison) with a green belt, and they are released with a black belt.

In all seriousness, do I need to cite recidivism rates, opioid epidemic statistics, and crime rates since the war on drugs began? Or can I assume you are aware and we all pretty much agree that people are **more likely** to return to prison (than not), Ohio is a leader in the **entire nation** on opioid deaths & overdoses, and the police have become the **enemy in communities**. Meanwhile the large amount of drug arrests and convictions has relatively zero impact on violent crime rates and have further eroded trust amongst law enforcement and its citizens.

When you consider the human impact of our current sentencing laws, and drug laws in general, it would appear the problem we have with these laws seem to greatly outweigh the impact they are making on peoples lives, not to mention in their families and communities. It is time we start treating this issue with some humanity and reality-based perspective.

Have we not realized that as long as time has been recorded... humans like to do drugs. Yes. They do. People like to do drugs. More often than not, people still live productive lives. I'd be willing to say many of you in this room have tried *something* at some point in your lifetime. Admit it. Most of you probably know someone who currently uses drugs one way or another. And then there's the people who will do drugs and you or me will NEVER know that about them.

We've learned about humans using drugs in ancient cultures & modern cultures. First world countries & third world countries. Rich people like to do drugs & poor people like to do drugs. We are never going

to stop it by making it a crime (we've been trying and its STILL not working). It is a vice, a habit, a sometimes an addiction. We have forced it into the black market, and thus created a never-ending cycle of crime & punishment for something that people will always find a way to do and will always want to do, regardless of the potential consequences.

The truth is, for the average drug user, the scariest and most dangerous thing that could happen to you is you get caught by the police and go to prison for a lengthy period of time. The next scariest thing is entering back into your community as an outcast. Then comes the continued harassment and targeting by police, eager to return to the same system that already put you back at square one. When it comes to drug crime & punishment, there seems to be no regard to new heights of human suffering it causes people over and above the original drug use itself. Let's be honest, our current sentencing laws around drugs cause more suffering and damage to a person than they likely would have originally endured just doing drugs and functioning in society however they do, and never been charged with a crime in the first place. This is how a victimless crime produces a victim. And how a system produces a seemingly endless supply of victims, compliments of the Ohio taxpayer.

**Sentencing Reform Should Include, but not limited to:**

**MANDATORY MINIMUMS** need to be eliminated for **any and all** non-violent drug crimes. These individuals have zero incentive to complete programs, exhibit good behavior, because there is no way for them to be released earlier. This also does not allow for transitional housing (halfway house) upon release for drug offenders, they serve their minimum sentence (or more) and are simply released into the world with some sweatpants and a brown paper bag of their belongings. As another unforeseen side effect of Mandatory Minimums, the power and discretion are taken away from the judge, and inadvertently given to a Prosecutor, who have figured out they can use charges with lengthy mandatory minimums as leverage and use it in other tactics that force people to fold to their favor. We know mandatory minimums have more adverse effects than positive gains. End mandatory minimums for all drug charges. They are unnecessary and unjust. That would be a **start**.

**RUNNING SENTENCES CONSECUTIVELY:** Judges must not be permitted to run drug-related sentences consecutively back-to-back. This is a terrible equation where someone being charged with multiple crimes with normally 1-2 year sentences or less becomes in total 6-8 year sentences or more. *More time spent in prison means the person is more likely to not offend?* No, we know that isn't true either.

**DRIVER LICENSE SUSPENSION** after release from prison is another unnecessary barrier for drug offenders that must be removed. You could rob a bank and not have your license suspended after prison. We should be setting these individuals up for success, not for failure. Driver's License Suspension after prison only sets people up for failure. They should be given every opportunity to succeed after released.

**Judges, Prosecutors, Police, and Defense Attorneys should be required to visit a different prison each year and meet with offenders.** The awareness and connection they have to these people and places must be robust in order for the whole Criminal Justice system to work effectively together and be aligned. Prison should not be a place we just send person after person after person, from an armchair. There is no real-time understanding of it and what happens to people while they are there. No idea what is going on with any particular offender they sentenced. And not knowing (or caring) ***if the end***

*justifies the means.* “Prison” and “Rehabilitation” DO NOT belong in the same sentence for drug crimes. This is also something we know.

If we are going to continue down the path of keeping drugs a criminal offense, **at least require all counties in Ohio to have a Drug Court.** Where I come from in Wyandot County, Ohio we do not have a drug court. But we have a whole lot of people in court for drugs, that is for sure. The local law enforcement will tell you they don’t believe in drug courts. They go in to schools and present to students and teachers that they intend to “arrest” their way out of the ‘problem’. Our local newspaper, the Daily Chief Union, published the “Major Drug Crimes Unit” 2018 Statistics. In 365 days: 77 search warrants were enacted on people in Wyandot County. 111 felony indictments. That is a search warrant every 4 days, a felony indictment every 3 days. In a county of 22,000 people. Its small. Now mind you, the fruits of their labor mostly produced Marijuana confiscations and offenses. But it also produced them statistics, numbers, and continued funding to the Major Drug Crimes Unit. Have you already done the math on how much money and resources are being spent on this, just in a quiet little county like Wyandot? Have you done the math on how many peoples lives are de-humanized and thrown into the nightmare we call our criminal justice system as a result of these laws?

For a moment I want to talk about the kids. The children of people who get sent to prison for drugs. I have a daughter, who is now 18. I first went to prison when she was 3 years old. Released when she was 6. Incarcerated again when she was 7 until she was 13. Her academics suffered greatly, as did just about every part of her life. A year after my release I was awarded full custody of her after a long hard-fought battle. I consider my daughter and I to be one of the lucky ones. But my wife and I are still trying to help pick up the pieces of her life that she may never get back. I am asking the state to consider writing sentencing laws that do not take these vulnerable children away from their parents when the crimes are solely involving drugs. ***You see children in those prison visiting rooms, who you know need their parents at home, more than the state needs them in prison.*** If there is one reason, and one reason only, you make drastic and absolutely necessary changes to our drug sentencing laws, is that you do it for the kids who need their parents around. The kids who are bullied and ostracized by their peers, teachers, school administrators, and communities, because of their parent’s incarceration due to drugs. These kids ***who have to carry the heaviest burden of us all*** as a result of the STIGMA we have on drugs in our society. The kids who will likely walk the same path as their parent(s) right into a jail or prison for drugs, and that we also know, because the system is failing everyone.

### **I Need To Talk About Marijuana**

***De-Criminalize Marijuana.*** 90 miles from my house marijuana is 100% legal. Someone in Michigan can grow 12 plants, no big deal. Here in Ohio, you will get a search warrant enacted on your house. Police will use un-reasonable causes and know exactly how to manipulate and ‘check those boxes’ to get a rubber stamp from their judge. Dismantle any criminal consequences of marijuana possession and you will remove the **biggest waste** of resources tied to these so-called crimes. Do we need to cite the number of US states who have legalized Marijuana for recreational use? We already know Federal Legalization is coming. The question is, will Ohio be a leader in this movement, or will Ohio continue the cycle of unnecessary oppression, wasteful dollars, and needless human suffering at the hands of the state.

Because we know Marijuana business is coming to Ohio, and its going to be BIG business... wouldn’t it only be fair to those who have been sentenced & served prison time for Marijuana offenses to be given

legitimate opportunities to be a part of this new tax-dollar producing business? Would you consider that a form of Rehabilitation? Are we going to stop convicting people of Marijuana-related crimes now, or later?

To End

For serious drugs and serious drug issues, there is not adequate services for drug addiction in **any county** in this state. Prisons become the next best thing of course. *Prison drug programs?* Sure there are a few, and some are pretty good. Again, however, Prisons are drug-infested & dangerous waters. And there is nowhere to go, and quite literally, nothing to do most of the time.

The state should be coming together with drug users, recovered addicts, and treatment specialists to determine the best way to handle drugs as the public health issue it is. It is not a criminal matter and we know that.

Re-evaluate who we incarcerate and why. Understand what it is like in prison. Take in the amount of violence, amount of drugs readily available, and the murderers & rapists these non-violent drug offenders must now coexist with, and be expected to exit "Rehabilitated".

Remove rules from Expungement which does not allow one the option of expungement of their records when there are multiple felonies committed. We know the difficulties people face in simply finding a job if they have a felony. Chances are you will have to resort to making ends meet through the black market in which you learned so much more about while in Prison.

The average person in Ohio thinks their hard-earned tax dollars which fund Prisons to keep dangerous criminals off the street. Little do they know, they are paying for a bunch of grown men & women to be babysat by the state, while they watch Maury Povich and play dominos. There is absolutely no value being created in their lives and even less value created for society when they are released. There is absolutely no bang for those tax bucks, and even greater loss of human capital and potential.

I was a strong supporter of Issue 1 this past November and I will continue the support for reform of drug sentencing laws. Soon I hope the day comes that we start applying sensible policies that reflect reality and effectiveness on drug policies.

Thank you for your consideration,

Ryan J Kail