

June 29, 2020

Chair Eklund, Vice Chair Manning and Members of the Senate Judiciary Committee.

I am Judge Lauren C. Moore of the Cleveland Municipal Court and the Greater Cleveland Drug Court. I write to urge you to pass SB3. As a former public defender, chief prosecutor, and assistant county prosecutor I have seen the various failed attempts to curb addiction with felony convictions. As a drug court judge, I can tell you that we must implement solutions that emphasize treatment over imprisonment.

I have seen how a felony conviction for minor drug possession ravages the lives of individuals, entire families and communities. Systemically, we must focus on getting people who suffer from addiction towards treatment so that they can live productive lives. Felony records undermine that goal.

Reclassifying minor drug possession to a misdemeanor means that treatment options are initiated quicker since they do not have to jump through all the hoops associated with a felony. The quicker people get treatment, the quicker they can get back on their feet. Also, keeping those in need of treatment out of felony drug courts whenever possible will give them a much better chance to participate in the program and succeed. That said, as a former prosecutor and judge, I also appreciate that the authors of Senate Bill 3 understand that not all parts of the state have misdemeanor drug courts yet and so have built in flexibility by giving local prosecutors and judges the authority to send those cases to courts of common pleas when appropriate on a case-by-case basis.

Under Senate Bill 3, judges will still have strong enforcement options so there is still a carrot and stick paradigm. People who fail to follow through with their treatment can still face almost a year of jail time. Beating addiction is difficult, but at the Greater Cleveland Drug Court we've had many success stories. Since the program began in 1998, over 1,000 people have graduated and we have other programs like our HEAT program, which helps address lifestyle issues to help prevent recidivism. As it relates to recidivism, having a felony conviction makes it much harder for people to stay on the right track because the collateral impact of felony convictions make life tremendously difficult. The 'scarlet-F' of a felony conviction makes it more difficult to find employment, education and housing which often will lead people to relapse. It's a cycle that must be addressed, and Senate Bill 3 would fix a key issue that is preventing people facing low-level offences from breaking that cycle.

SB3 also allows prosecutors substantial flexibility to charge trafficking when the circumstances suggest that possession is not for personal use. With SB3 law enforcement would be able to charge someone with the intent to traffic if they believe an individual is in possession of drugs for the purpose of trafficking. While the opposition to SB3 has been persistent, the truth is that people with many packages of small amounts of drugs will be charged with felony trafficking under this provision.

As indicated in pg. 77 of SB3

Sec. 2925.032. (A)(1)(a) Except as otherwise provided in division (C) of this section, **no person shall knowingly sell or offer to sell a controlled substance or controlled substance analog in an amount listed in division (A)(2) of this section.** (b) Except as otherwise provided in division (C) of this section, **no person shall obtain or possess, with purpose to distribute or sell, a controlled substance or controlled substance analog in an amount listed in division (A)(2) of this section.**

This means prosecutors will be able to charge felony trafficking if law enforcement has drugs so they can distribute them. Law enforcement will be better positioned to distinguish between someone who is engaged in trafficking behavior and someone who is merely in possession of drugs because they suffer from addiction. SB3 gives law enforcement the tools to respond accordingly. Furthermore, the drug court team is trained to weed out those who are suspected of participating in trafficking schemes even if the amount of their possession may suggest otherwise. No drug court wants traffickers to infiltrate their program and jeopardize its success. So the checks and balances don't just begin and end at the prosecution stage.

The idea that a person unworthy of the opportunity to have a misdemeanor (as opposed to a felony) should be a minor concern and is outweighed by the benefits to society that come from users/defendants returning to the community sober, reformed and ready to contribute. It seems law and policy should be based on the good that can happen and not on what could happen in a worst-case scenario.

Most defendants charged with possession cases are not sentenced to prison as a matter of course, so it is unclear how charging them with a felony will be more of an incentive to cooperate with any post-conviction conditions. This, coupled with the fact that they won't get the necessary intense treatment, makes mandatory drug court at the misdemeanor level much more sensible. And the courts are equipped to deal with any defendant who recidivates or was found to be unsuitable for misdemeanor drug court by committing new crimes; they can be terminated and charged accordingly. Therefore I am unable to see any legal or social downside to having SB3 enacted. A rejection of this well-thought-out legislation decreases the options available to courts during these challenging and evolving times.

Additionally, a felony conviction does not just have the legal implications we all are aware of, but it also takes an emotional toll on a person. We must look at incarceration and our justice system in terms of rehabilitation instead of punishment. Especially when it comes to addressing the addiction crisis that has so many of our friends, family members and neighbors suffering. Everyday I go to work, I am dealing with people who just want to get their lives back on track, get off drugs, and start working again, being better mothers and fathers. Right now, our court system is making it harder for them to do that and we've got to make a change. We must find ways to empower Ohioans who want to be better for themselves and their communities. Senate Bill 3 is a necessary step.

Thank you for giving me the opportunity to weigh in on this very important issue.

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