



Ohio Judicial Conference

The Voice of Ohio Judges

House Criminal Justice Committee

House Bill 141, 132nd General Assembly

October 24, 2017

Interested Party testimony

Chair Manning, Vice Chair Rezabek, Ranking Member Celebrezze, and members of the committee:

Thank you for the opportunity to provide Interested Party testimony on House Bill 141. Revised Code section 105.91 creating the Ohio Judicial Conference directs the Conference to encourage uniformity in the application of the law, rules, and practice throughout the state, and to promote an exchange of experience and suggestion respecting the operation of the judicial system. The Criminal Law and Procedure Committee of the Ohio Judicial Conference has reviewed House Bill 141, and while the Committee acknowledges the intent behind the bill to hold accountable those who contribute to the death of another by distributing or providing a controlled substance, our members have concerns regarding the sentencing provisions in the bill.

Under existing law, involuntary manslaughter is, generally, a felony of the third degree. HB 141 expands the offense of involuntary manslaughter to include causing the death of another as a result of providing that person with drugs. Under the bill, this version of the offense would be an unclassified felony, subject to its own sentencing requirements separate from standard felony sentencing, requiring courts to impose a sentence of either a definite prison term, a fine, or a community control sanction.

As a general matter, judges do not favor the creation of "unclassified" felonies or misdemeanors. There has been a trend in legislation in recent years that new offenses should have their own individual sentencing requirements. Creating these piecemeal exceptions to felony sentencing guidelines defeats the purpose of having such a framework in the first place, and weakens the codification and classification of criminal offenses into levels of degree. Additionally, unclassified offenses give little guidance to sentencing courts as to how an offender should be sentenced, and can lead to widely disparate sanctions for similar factual scenarios. We would instead recommend the bill be amended so that the newly expanded involuntary-manslaughter offense is not an unclassified felony, but rather is given a felony classification, subject to the existing felony-sentencing guidelines.

If the separate sanctions for this new type of involuntary manslaughter are to remain in the bill, we would like to recommend several additional changes that would promote proportionality between other homicide offenses, and give judges greater discretion in imposing sanctions. First, under the bill, a person convicted of involuntary manslaughter faces a sentence of up to twenty years in prison. The minimum term for the offense of murder, however, is fifteen years. It is not proportionate that a person who commits *involuntary* manslaughter could be subject to a longer prison term than a person who *purposefully* causes the death of another. We would recommend decreasing the maximum sentence in HB 141 to a number of years less than the minimum for murder. Additionally, HB 141 allows courts to impose only prison, a fine, or community control sanctions, and does not allow for a combination of the

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welcome an amendment that gives them the authority to use a combination of the sentencing options established in the bill.

Thank you for considering the thoughts and feedback of the Ohio Judicial Conference. As always, we are happy to work with the committee and the sponsors of the bill to achieve the bill's intended goals, while maintaining consistency and simplicity in our felony sentencing structure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul", written in a cursive style.

Paul E. Pfeifer
Executive Director