



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Opposition of SB55 Drug Crime Near Addiction Services Sponsor Senator Gavarone

Chairman Lang, Vice Chair Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee. My name is Niki Clum, and I'm the Legislative Liaison for the Office of the Ohio Public Defender. Thank you for the opportunity to testify in opposition of SB55.

As this committee knows, SB55 creates an enhanced penalty when drug trafficking occurs within a 1000 feet of community addiction service provider. It has been suggested that SB55 is needed to deter trafficking near these locations. Yet, there is no evidence that longer prison sentences deter drug offenses. The fact that the War on Drugs has been such an abysmal failure is evidence that longer prison sentences do not deter crime.¹ Among other researchers, the National Institute of Justice found that "severity of punishment does little to deter crime." Further, the idea that Ohio will solve the drug crisis if we incarcerate all of the drug traffickers is not realistic. Targeting the suppliers of drugs is ineffective "because of the demand and the money that can be made, other people will step in."²

Despite research and data that longer prison sentences do not deter drug activity, if we assume that a penalty enhancement may deter drug trafficking, then the standard must be that

¹ 2015 Pew Research Survey found that harsher federal sentencing laws for drug offenses did not led to reductions in drug use; 2014 research by Peter Reuter at the University of Maryland and Harold Pollack at the University of Chicago found that heavy police enforcement and extended prison sentences do not effectively stop the flow of drugs and drug use; Economist at Columbia and the University of Michigan found that the threat of longer prison sentences does not reduce crime.

² Leo Beletsky, Drug Policy Expert and Northeastern University Law Professor

the individual “knowingly” trafficked near an addiction service provider. As this committee knows, the bill only requires that the individual acted “recklessly” as to whether they were trafficking near an addiction service provider. The stated purpose of this bill is to deter people from selling drugs to addicted individuals who are in treatment. A person must know they are trafficking near an addiction service provider for this bill to be in anyway effective. An individual cannot be deterred from doing something they don’t know they are doing.

The Ohio Criminal Justice Recodification Committee recommended the elimination of sentencing enhancements from the Ohio Revised Code like those proposed in SB55. This is because these enhancements can result in absurd outcomes. When the bill specifies that the offense must occur within 1000 feet of the community addiction service provider, the bill means 1000 feet “as the crow flies.” “As the crow flies” is a term that means the facility is within a 1000-foot straight line from the individual in any direction, even if there is a sky scraper or a river between the facility and the individual. An individual could stand 1001 feet away from a community addiction service provider and purposely target individuals in recovery, and that individual would not face an enhanced penalty despite the fact that individual is exactly who this bill is trying to target. However, an individual could share drugs with his friend 999 feet across a river from a facility, and that individual will face an enhanced penalty. This result is illogical and will do nothing to combat Ohio’s opioid crisis.

The penalty enhancements contemplated in SB55 are also bad public policy because they disproportionately impact minority populations. In densely populated urban areas, an individual is more likely to be within 1000 feet of community addiction service provider compared to someone in a rural area where the population and buildings are more spread out. Addiction service providers are also more likely to be located in urban areas. Since minority



populations tend to be greater in urban areas, minorities disproportionately suffer the consequences of these types of enhancements.³

SB55 is exactly the type of bill Ohio needs to avoid passing if we are serious about criminal justice reform and reducing overcrowding in our prisons. Thank you for the opportunity to testify today before your committee. I am happy to answer questions at this time.

³ *Disparity by Design: How drug-free zones impact racial disparity – and fail to protect youth*, Justice Strategies, March 24, 2006, <https://www.justicestrategies.org/publications/2006/disparity-design-how-drug-free-zone-laws-impact-racial-disparity-and-fail-protect->.

