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**Senate Bill 3 – Opponent Testimony**  
**Ohio House Criminal Justice Committee**  
**November 19, 2020**

Chairman Lang, Vice-Chair Plummer, Ranking Member Leland and members of the House Criminal Justice Committee, my name is Jane Hanlin and I am the Prosecuting Attorney of Jefferson County, a member of both the Executive and Legislative Committees of the Ohio Prosecuting Attorneys Association, and an Officer of the Association. I want to thank you for the opportunity to talk to you today about why Ohio's prosecutors oppose Senate Bill 3 and how Jefferson County has been ravaged by illicit drugs, most often heroin, and how it has devastated our community.

We work diligently with defendants who are true victims of the opioid epidemic through programs such as the Drug Court started by the Honorable Michelle G. Miller and programs such as Intervention In Lieu of Conviction, which allow a path for a criminal charge to be dismissed if the offender agrees to the appropriate treatment and follows the rules of the Court. My primary concern with Senate Bill 3 is that it reduces penalties for drug *traffickers*, who have been preying upon the most vulnerable members of our community for years. There are times when a known trafficker will be convicted of drug possession and, under Senate Bill 3, we would have no other option but to place those traffickers on community control programs (commonly known as "probation"). This will do nothing to help pure addicts, but it will make it easier for traffickers to continue to peddle this poison throughout our county.

That is also the primary reason for my objection to the reclassification of many drug possession charges as misdemeanors instead of felonies. As stated above, first, those in possession are often, in reality, drug dealers; secondly, drug addicts often times need a strong incentive to seek recovery. The threat of a felony conviction and the possibility of prison does that. The threat of misdemeanor fines and local jail time, quite honestly, does not. The proponents of Senate Bill 3 often talk about how the bill turns "low-level" felonies into misdemeanors. But the quantities in the bill do not reflect what the typical drug user carries around for personal use – the SB 3 quantities are much larger than that and turning these offenses into misdemeanors will make it even more difficult to get dealers off of the streets of our communities.

Finally, Senate Bill 3 has been promoted as providing treatment over incarceration and eliminating the stigma of a felony conviction. Senate Bill 3 has no additional funding for drug

treatment. It instead rests on the assumption that misdemeanor drug possession will be enough to get and keep people sober. There are already multiple opportunities in Ohio to obtain treatment without a conviction. Think of immunity under the good Samaritan statute, prosecutor diversion, and intervention in lieu of conviction. All ideas that have been expanded in recent years to provide multiple treatment opportunities. Senate Bill 3 would add more layers of treatment to this despite the fact that the people who we really struggle with are the ones who have already failed or refused treatment multiple times. What is a community to do with someone who has had two opportunities to seek treatment under the good Samaritan statute, been offered prosecutor diversion, maybe multiple times, been offered ILC, maybe multiple times, and been offered probation with treatment as a condition, maybe multiple times after that. The solution of SB 3 is to provide two more treatment options – abeyance and a presumption for treatment – while reducing the incentive to comply by removing the felony.

On the back end, there are a number of ways for a previously-convicted individual to have his record sealed or expunged. Just two years ago, the legislature expanded our sealing statute to allow the sealing of up to five felony convictions. The OPAA currently supports House Bill 1 to expand our sealing statute even more. My office works closely with offenders in these situations and, when they have demonstrated that they have not had any further involvement with the criminal justice system and the conviction represents a portion of their past, we readily agree and allow those criminal records to be expunged and/or sealed. This is an appropriate remedy for someone who has demonstrated recovery. But I can tell you that for most employers, it is not the stigma of a felony that is the problem, it's the history of drug use itself or a person's inability to stay off of drugs. Misdemeanor possession will not solve this problem and in fact will make it more difficult to get people to stay off of drugs.

I support and Ohio prosecutors support policies that provide the right treatment options, that provide the right incentives to get people to comply with treatment, and that ensure reduced stigma afterward. This is why prosecutors have supported House Bill 1. We know that Senate Bill 3 is well intentioned. But we also know it is deeply flawed. There is danger to addicts, to their families, and to communities of oversimplifying this complex issue by presuming that misdemeanor possession is a cure-all. There is no one-size-fits-all solution. We elect judges, and prosecutors, and sheriffs, and train them to make the right decisions for their communities. We hope that as our partners in this fight you stand with us and take a different approach than that offered by Senate Bill 3.

Thank you.

Sincerely,



**JANE M. HANLIN, Prosecutor**  
**Jefferson County, Ohio**

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