



## Corrections

### Testimony on SB 3 before the Senate Judiciary Committee

Piet van Lier

Good morning Chair Eklund, Vice Chair Manning, Ranking Member Thomas and members of the committee. My name is Piet van Lier, and I am a research consultant for Policy Matters Ohio, a nonprofit, nonpartisan research institute with the mission of creating a more prosperous, equitable, sustainable and inclusive Ohio. Thank you for the opportunity to testify.

Thank you also for your work on Senate Bill 3, which calls for reclassifying some low-level drug offenses from felonies to misdemeanors so some Ohioans get treatment instead of incarceration when they are charged with possession of certain drugs. This is an important reform and a step forward for Ohio's criminal justice system.

As you know, Ohio spends more than \$1.8 billion a year to keep nearly 50,000 people in prison. Only 13 states have a higher share of people in prison and only two have a higher share on probation. Many people in prison struggle with substance-use disorder. Sometimes drug possession is their only crime. We also have the nation's second-highest overdose rate – 5,111 Ohioans died of drug overdoses in 2017. Focusing on punishment rather than treatment spends too much of our budget on a system that incarcerates too many Ohioans, leaves prisons overcrowded and unsafe for inmates and guards, and damages communities across the state.

Policy Matters released an analysis of SB 3 on Monday. We found that while the bill would provide treatment for some Ohioans who would otherwise face prison time, it stops well short of the kind of sentencing reform our state needs.

We know that the main goal of SB 3 sponsors on this committee is to provide treatment rather than incarceration, not to reduce the prison population. This is an important goal and one we are glad members of this committee are embracing, but more can and should be done to update Ohio's approach to sentencing.

Exceptions in the bill, for example, would exclude many Ohioans who could benefit from the reforms it would put into law. It would not apply to fentanyl, drugs laced with fentanyl, or listed drugs that can incapacitate a victim before sexual assault, and it excludes those convicted on low-level drug charges more than once in a three-year period, and second convictions for possession of marijuana. SB 3 also would continue to give local courts wide discretion on sentencing, allowing judges to still send people to prison in many cases. This goes against national guidelines for meaningful sentencing reform. Without better guidance for local courts, experts warn that we will still face high incarceration levels, high costs, and low reductions in addiction.

Deeper reform would allow treatment for more Ohioans, an approach that is more effective than locking people up, and will do more to heal our communities. Policy Matters estimates that a more comprehensive approach could redirect \$226 million from spending on incarceration and finds that SB 3 as introduced will save far less.

Our main concern is that the proposed legislation does not address Ohio's punitive approach to drug use. This is at the root of the huge increase in our prison population, which has more than tripled since 1980. Because it does not focus on reducing our state's prison population, SB 3 would redirect less public money to treatment, prisons are likely to remain

overcrowded and unsafe, and Ohio communities will likely continue to feel the devastating impact of over-incarceration.

In a letter to members of this committee in February, Policy Matters recommended five key principles for reform, which we call the “Five Rs.” Based on our research, as well as reviews of national research, it is clear that to meaningfully reform our state’s justice system, the General Assembly must craft legislation that will:

- Reclassify all low-level drug possession as a misdemeanor;
- Retroactively apply reclassification to include communities over-targeted by past drug wars;
- Reform the probation-to-prison pipeline for Ohioans who violate probation in ways that are not crimes;
- Reduce sentences for Ohioans who participate in educational, behavioral, and treatment programs; and
- Reemploy Ohioans by reducing job barriers for those who’ve served their time.

SB 3 makes some progress on technical violations of probation and record sealing, but for the most part the bill stops short of the principles outlined here. Most importantly, it contains too many exceptions to reclassification and does not reclassify low-level drug offenses retroactively, and therefore does not provide new opportunities for currently and previously incarcerated Ohioans who would benefit from reclassification.

A March 2019 report found that previous sentencing reform in Ohio may have helped slow growth in prison population but has not substantially reduced it. The disappointing results stem at least in part from the broad discretion given to local courts to interpret and implement new laws, according to the report, which also cited the need for stronger limits on incarceration for technical violations of probation.

A national report released last October shows that in five states where drug-law reforms have reduced prison populations and yielded significant savings, the reforms included three important policies:

- Drug possession is a misdemeanor (up to at least the third conviction);
- Those convicted of possession are ineligible to serve time in prison (up to at least the third conviction); and
- Weight limits for amounts of drugs are not specified, and possession is a misdemeanor for virtually all controlled substances.

The broad nature of the reforms in these states, designed to reach as many low-level drug offenders as possible, has led to significant reductions in prison population, provided more opportunities for treatment, and reduced the harm to communities from incarceration.

Policy Matters hopes Ohio can learn from what works and implement similar changes to provide treatment opportunities for more Ohioans, reduce our state’s prison population, and begin to undo the harmful impact of over-incarceration on Ohio communities.

We applaud the Ohio Senate for taking a first step with Senate Bill 3 and would support efforts to implement broader reforms.

Thank you for this opportunity to testify. I would be glad to take any questions you may have.