

THE OHIO SAFE & HEALTHY COMMUNITIES CAMPAIGN

Frequently Asked Questions

And the best answers

THE “BONES” OF THE AMENDMENT

Q: What charges would become misdemeanors?

A: The lowest level drug possession felonies -- these are fourth and fifth degree felonies (a.k.a. “F4s & F5s”) -- would become misdemeanors. Not trafficking charges, not violent crime. NOTE: opponents of the amendment were successful in getting a misleading statement about this put in the official summary that will appear on every voter’s paper ballot this fall. The summary will make it sound like *all* drug possession felonies will become misdemeanors. Not true. Only the 4th and 5th degree felony drug possessions will become misdemeanors.

Q: How would people benefit from this change?

A: Families in our community will stay intact while one family member navigates the criminal justice system and undergoes treatment for a drug addiction. That means children will grow up with both parents at or closer to home, instead of in a far away prison. Once our neighbors complete treatment, their job prospects will be more bountiful than they would be if a felony conviction remained on his or her criminal record.

(For more on this, see “Who is affected” section below)

Q: Does this pertain to the whole state?

A: Yes.

Q: Would this affect people charged with possession of any drug?

A: Yes, this isn’t limited to one type of drug. But only the fourth- and fifth-degree felony levels of possession, which is determined by quantity of the substance. Again, trafficking charges would not be affected.

Q: So, could someone be arrested repeatedly for possession and keep being sent to treatment? Would they eventually go to prison?

A: Someone could only be charged with a misdemeanor and sent to treatment and placed on probation two times. In other words, **on the third charge within 24 months, that person could be sent to local jail**, but not state prison.

Q: What is jail vs. prison?

A: Jail is a local, county facility (or, in some cases, a multi-county facility) for incarcerating people before trial and people convicted of lower-level crimes — generally, all misdemeanors and some felonies with sentences of less than 12 months. **Prisons are run by the state of Ohio.** There are 28 in the state: 24 male prisons; 4 female prisons. Two prisons are run by private companies. You can only be sentenced to prison if convicted of a felony.

Q: How will treatment be funded?

A: The way we’re currently funding our prisons would change. **Part of the money that we’ll save -- 70 percent -- would go towards treatment facilities, addiction services and mental health services.**

Q: Why are you putting this on the ballot? Why isn't this being done at the statehouse or in Washington?

A: Criminal justice reform has been slow-moving and partial in the Ohio General Assembly. There are a few state lawmakers who agree that this type of reform would be great for Ohio, but the vast majority are still afraid of being labeled "soft on crime." While we have won some significant reform to remove barriers for people coming home from prison, there haven't been any major reforms to significantly reduce the prison population and redirect prison-cost savings to more effective safety strategies.

And as for Washington, the issues we're dealing with are entirely state law issues. The federal government can't fix Ohio's mass incarceration problem. This effort is Ohioans redefining and reclaiming safety on our own terms.

Q: Why are you doing this now?

A: Ohio's prisons are bursting at the seams, with about 2,600 people in Ohio's prisons are there for nonviolent drug-possession charges. An additional 4,000 people are in prison for probation violations that relate to drug possession. Treating addiction criminally -- rather than medically, with treatment -- isn't working. Other states have made changes identical to this one and we think this could make a really positive difference in Ohio, as drug addiction continues to affect communities in all corners of the state.

Q: Has anyone else done this?

A: Yes. **Oklahoma, California and Connecticut** have all reclassified possession in their states.

Q: Is this the same as decriminalizing drugs?

A: No. Possession of drugs will still be a crime and people can and will be held criminally accountable — in the form of a misdemeanor instead of a felony.

Q: Who supports this amendment?

A: First, of course, are **the groups that created it — the Ohio Organizing Collaborative, the Ohio Justice & Policy Center, the Ohio Transformation Fund, and the Alliance for Safety & Justice** (a national advocacy group based in California). We also have formal endorsements from SEIU Local 1199 (the Ohio parole officers' union), the Ohio NAACP, and the Ohio ACLU. Several groups have informally endorsed the initiative and more are in the midst of considering it.

Q: Who is opposed to this amendment?

A: The Ohio Judicial Conference and the Ohio Prosecuting Attorneys Association

HOW THINGS ARE NOW

Q: Right now, what is the punishment for possession in Ohio?

A: F4 felonies are punishable by up to 18 months in prison; F5 felonies are punishable by up to 12 months in prison.

****However, drug classifications are different -- someone who is labeled a "major drug offender", can be charged with a first degree felony, which can mean a life in prison sentence. This classification can apply to someone who possesses any Schedule I or II drug, except for marijuana. Also, a person does not need to sell drugs to be labeled a major drug offender.

Q: How are policies like this helping other states?

A: The local jail populations are lower, the workload for police officers and corrections officers is more bearable, and while it's still too soon to see very graduated effects, the results are promising.

Q: Does this have to do with prison overcrowding?

A: Partially. **Ohio's prisons are very overcrowded**, and in other states, policies like this have decreased the jail and prison population.

Q: Can't judges already sentence people to treatment instead of prison?

A: Yes. But they're not doing it enough. This is why we have so many low-level, non-violent drug offenders in prison

Q: Do state-funded treatment facilities (where people charged with these misdemeanors will be sent) already exist?

A: Some counties have systems in place that allow for some people to spend time in a treatment facility in lieu of jail. Likewise, there are treatment centers already admitting patients based on referrals from the court -- these are cases ones like DUIs, etc.

“SAFETY” QUESTIONS

Q: How many people will be let out of prison if this passes?

A: This amendment would be applied retroactively, so people in prison could be released as a result of the change, and people with felony convictions for possession could have those convictions reclassified. **We think Ohio's prison population could drop by at least 10,000 people** if this amendment is passed, so that's our “ballpark” estimate of how many people could be freed.

Q. Will drug dealers be kept out of prison as a result of this amendment?

A: This amendment would not affect people who are charged with trafficking drugs; that remains a felony.

Q. Will people charged with violent crimes stay out of prison as a result of this?

A: No. This only impacts people who are charged with possession with one or no convictions in the past 24 months.

Q. How will prisons, corrections officers, jails, police and deputies benefit from this amendment?

A: **Jails and prisons will be safer**, less crowded and less chaotic. Overcrowding in county jails decreased in states where possession was reclassified (OK, CT, CA). **Police and sheriff's deputies can focus on stopping violent crime, like gun violence, in our communities** -- rather than being forced to play the role of an addictions counselor. Also, **police departments and local jails that provide addiction services can also apply for grants set aside for treatment**; these (and all money being allocated for treatment services) will need to be approved by the Ohio Department of Mental Health and Addiction Services.

Q: Isn't jail the safest place for someone who is addicted to drugs, in particular opioids?

A: Actually, no. The common misconception is that a “jail detox” will suffice in place of treatment. **In actuality, research strongly suggests that jailing an addicted person makes them 8-10**

times more likely to die of an overdose when they are released from jail (compared to the risk an addicted person faces every day using drugs on the street).

MEDICAL QUESTIONS

Q: What types of facilities would receive funding through this amendment?

A: **Licensed, accredited facilities approved by the Ohio Department of Mental Health and Addiction Services can apply to receive funds** that will now be set aside. Some counties have systems in place that allow for some people to spend time in a treatment facility in lieu of jail. Likewise, there are treatment centers already admitting patients based on referrals from the court -- these are cases like DUIs, etc.

Q. How will these facilities be vetted as legitimate?

A: The Ohio Department of Mental Health and Addiction Services will appropriately vet all possible grant recipients. (Also, police and sheriff's departments can apply for these grants.)

Q: Will mental health facilities also benefit from this amendment?

A: Yes, part of the funding currently going to our prisons -- which is the largest mental health care provider in the state, currently -- will go towards facilities and programs that will help people struggling with addiction and other mental health crises.

MONEY QUESTIONS

Q: How much extra money will Ohio taxpayers have to pay to make this happen?

A: Nothing. **We'll actually save an estimated \$100 million**, which will be used to reinvest in our communities.

Q: Explain again how funding prisons will change.

A: Ohio will save an estimated \$100 million on Department of Rehabilitation and Corrections spending when this amendment passes. **Of that money we save, 70 percent will be spent on drug treatment programs** and applicable local law enforcement agencies that provide addiction services; **15 percent will go to trauma-recovery for crime survivors**, through a grant program administered by the Ohio Attorney General; the last **15 percent will be "flexible,"** in the sense that it will be used to make the justice system more responsive in its efforts to meet the goals of the amendment (this money also could be used to fund new safety priorities and practices by local law-enforcement agencies).

Q: Will anyone working in corrections lose their job as a result?

A: There's no reason they should. **The incarcerated population will drop, but it will be closer to the intended capacity of our prisons and jails.** But if you're concerned about how this will affect Ohio's economy, know that many business owners in the state have been grappling with how to best deal with a workforce population that is whittling away due to drug use.

POLITICAL QUESTIONS

Q: Are just Democrats behind this initiative?

A: **This is truly a bipartisan effort.** Criminal justice reform typically is. Because in the end, we

all want safer communities, we all want. And now, most politicians see how detrimental the “War on Drugs” was, and bleak effects still linger.

Q: Did any politicians I've heard of work directly on this amendment?

A: No, this is the work of a coalition of nonpartisan nonprofits, community organizations, faith-based groups, student groups, professional associations and volunteers who have a vested interest in bettering our criminal justice system.

WHO IS AFFECTED BY THE ADDICTION-TO-PRISON PIPELINE?

Very obviously, the people who are addicted are most affected, as well as their immediate family and friends. It also affects a litany of other community members who are touched daily by this epidemic:

- Businesses in our communities that can't keep a workforce staffed
- Children who are sent into the foster care system
- The foster care system itself, which is totally overwhelmed with drug-related cases
- Teachers and schools who have many children in their care who don't have food, proper clothing or parental supervision or support and stability at home
- Our police who are spending the vast majority of their day dealing with drug calls and busts and arrests
- Hospitals, nurses and doctors who now also have to play the role of therapist and/or social worker
- The actual therapists and social workers by trade, who are completely swamped and stuck working within the confines of a system that isn't yielding positive results
- People in search of mental health services who are put on a 3-month waiting list, at best, because psychologists are drowning in addiction cases
- Motorists on the road who risk interacting with a drugged driver
- **Thus, it likely affects every Ohioan, in one way or another. We can't afford to not care about this.**

BONUS INFORMATION/STATS

- Following reform, Oklahoma County Jail population falls below 2,000 inmates, lowest level in years:
<http://kfor.com/2017/09/09/oklahoma-county-jail-population-falls-below-2000-inmates-lowest-level-in-years>
- “Trends in the Criminal Justice System” (December 2017) in Connecticut following reform:
http://www.ct.gov/opm/lib/opm/cjppd/cjabout/december_presentation_12122017.pdf
- How the state government has “combated” drug use in Ohio (mostly by throwing money at the problem and more heavily restricting legal drug distribution). Reminder: overdose numbers have only gotten worse.
<http://mha.ohio.gov/Portals/0/assets/Initiatives/GCOAT/Combatting-the-Opiate-Crisis.pdf>

- Enquirer special (documentary and written piece) called “seven days of heroin.” It goes throughout the entire Tri-State and tells some very troubling stories about opioid addiction.
<https://www.cincinnati.com/pages/interactives/seven-days-of-heroin-epidemic-cincinnati/>
- Demographics report from Your Voice Ohio:
<https://yourvoiceohio.org/our-focus/opioids/data-library/>
- Vinton County and childcare/foster care system statistics:
https://www.washingtonpost.com/national/as-the-opioid-epidemic-rages-the-fight-against-addiction-moves-to-an-ohio-courtroom/2018/04/07/97b82b84-2636-11e8-874b-d517e912f125_story.html?utm_term=.465f83921d52
- Risk of overdose death following release from prison or jail:
https://bha.health.maryland.gov/OVERDOSE_PREVENTION/Documents/corrections%20Obrief_V3.pdf
- Interactive incarceration trends, Vera Institute: <http://trends.vera.org/incarceration-rates>
- Ohio Code: Current F4 and F5 sentences: <http://codes.ohio.gov/orc/2929.14v1>
- Major drug offender explanation: <http://codes.ohio.gov/orc/2941.1410>

How misdemeanor sentencing works:

| Deg. | Jail time range ^b | Fine range ^c | Residential sanctions ^d | Non-residential sanctions ^e |
|-----------------|------------------------------|-------------------------|---|---|
| M1 | 0–180 days | \$0–1000 | Instead of jail, <i>up to max. jail term</i> in halfway house, community-based correctional facility, or community alternative sentencing center. | Any combination of house arrest w/ electronic monitoring; day reporting; community service; curfew; monitored time; basic supervision; intensive supervision; req. to get a job; req. to get education or training; drug/alcohol testing; participation in victim-offender mediation; or... “...any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the over-riding purposes and principles of misdemeanor sentencing.” Any of the above can last up to 5 years + Drivers-license suspension <i>mandatory</i> for all drug offenses |
| M2 | 0–90 days | \$0–750 | | |
| M3 | 0–60 days | \$0–500 | | |
| M4 | 0–30 days | \$0–250 | | |
| MM ^a | - None - | \$0–150 | N/A | Community service |

a - Minor misdemeanors. Legally speaking, these are not considered “criminal” offenses.

b - [R.C. 2929.24\(A\)](#)

c - Does not include court costs, which are largely at the discretion of each local court. Financial sanctions under [R.C. 2929.28](#) are considered part of probation (aka community control).

d - [R.C. 2929.26](#); part of probation.

e - [R.C. 2929.27](#); part of probation.