



OHIO

CRIMINAL SENTENCING COMMISSION

65 SOUTH FRONT STREET • 5TH FLOOR • COLUMBUS, OHIO 43215-3431 • TELEPHONE: 614.387.9305 • FAX: 614.387.9309

Juvenile Justice Committee

August 16th, 2018

Agenda

- I. **Call to Order & Approval of Meeting Notes of July 19, 2018 meeting**
 - II. **Old Business**
 - A. **CWRU Research Proposal**
Update on status of fundraising efforts for juvenile probation study.
 - B. **State Issue 1 – The Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment**
Update on the status of the ballot initiative now known as State Issue 1.
 - III. **New Business**
 - A. **School Safety Initiatives**
Erin Davies will lead the committee in discussion of school safety issues including pending legislation.
 - B. **Work Chart update**
Review and update of Committee work chart.
 - IV. **Legislative Update**
Scott will update the Committee on pending and recently enacted legislation.
 - V. **Adjourn**
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Upcoming Meetings

Juvenile Justice Committee

October 18, 2018
Ohio Judicial Center, Room 281

Ohio Criminal Sentencing Commission

September 27, 2018
Verne Riffe Center,
Conference Room South B&C

Juvenile Justice Committee Meeting Minutes
July 19, 2018

CALL TO ORDER AND APPROVAL OF MAY 17, 2018 MEETING NOTES

Chair Dobson opened the meeting and minutes of the May 17, 2018 meeting were reviewed and unanimously approved on motion.

Old Business:

Members of the commission were briefed on answers to the Committee's questions regarding the proposal from Case Western Reserve university researchers. The first question dealt with concerns about objectivity and assuming of effectiveness of programming. Scott Shumaker informed the committee of CWRU's answer that they would not be evaluating programs effectiveness, but rather collecting data and analyzing statistics. Chair Dobson noted that statistical analysis was what he felt the Committee was looking for.

With respect to the second question about the researcher's ability to capture complaints handled both formally and informally as well as misdemeanor and unruly charges, Mr. Shumaker informed the Committee that the Researchers felt they would be able to obtain data about all of those dispositions in several if not all the chosen locations. Members of the Committee were satisfied with this answer.

The third question deal with how the researchers chose the locations for the study and what cost would be associated with adding additional sites. Mr. Shumaker noted that CWRU suggested an additional 4 sites they could study at an estimated additional cost of \$5000. He will seek clarification from CWRU whether this meant \$5000 per additional county or \$5000 total.

Members then engaged in discussion led by Judge Delamatre of the goals of this study in comparison to the RFK proposal. Judge Delamatre asked if the committee was interested more in a study that recommended best practices like RFK or a statistical analysis of the situation around the state. Jim Cole and other members of the Committee discussed the availability of existing research on best practices, including an Annie E. Casey white paper recently released. Chair Dobson noted that a statistical analysis of the existing state of juvenile justice would provide solid data upon which the Committee could make recommendations about more effective approaches to juvenile justice in Ohio. Senator Thomas and his staff offered their assistance in moving forward legislation based on recommendations of the Committee, and noted that the proposed research study could be used to further legislative proposals in the next budget cycle and beyond.

Committee members then discussed the counties selected for the research proposal. It was noted that seven of the eight proposed counties were in the top 30 counties by population size, and debated the desire to include counties from the bottom third of the population ranking. Mr. Shumaker will inquire with CWRU about any additional small counties that could be included.

Erin Davies then moved that the Committee move forward in seeking funding for the CWRU research proposal. Jill Beeler-Andrews seconded and the motion was approved. Ms. Davies also volunteered to help a workgroup to seek funding sources for the proposal. Jill Beeler, James Cole, Paul Dobson agreed, and members from DYS indicated they would speak with Kate Foulke about her participation. Mr. Shumaker will send a group email to get that workgroup started.

New Business:

Mr. Shumaker discussed the work chart and solicited new subjects of discussion for the Committee. Ms. Davies offered to discuss School Safety issues at the next meeting of the Committee including pending legislation on the subject. Senator Thomas and Judge Delamatre led a discussion of some issues surrounding School Resource Officers being placed in schools and their effects on juvenile justice. Chair Dobson noted that any work from the Committee on the subject should be limited to the impact on the juvenile justice system.

Committee members were also briefed on the status of the Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment's ballot initiative as well as pending legislation. Of note were the passage of HB355 out of the house as well as HB461 involving human trafficking and the stall suffered by the juvenile omnibus bill HB394.

Adjourn:

A motion to adjourn was made and seconded and the meeting was called to a close.

TO: Sentencing and Criminal Justice Committee Members

FROM: Judge Ken Spanagel, Chair

DATE: August 7, 2018

RE: Issue 1 – The Neighborhood Safety, Drug Treatment, and Rehabilitation Am.

Members of the Sentencing and Criminal Justice Committee –

As discussed at our July meeting, the *proposed* Neighborhood Safety, Drug Treatment, and Rehabilitation *constitutional amendment* has collected a sufficient amount of signatures and has been formally certified by the Secretary of State for the November ballot as Issue 1.

Given the relatively short time frame before the election, the Sentencing and Criminal Justice Committee must take up consideration of any potential response at the next meeting on August 16, 2018 in order to present that response *and any potential recommendations* to the full Commission at the September meeting. To that end, we ask that the members of this Committee come prepared to discuss the amendment and potential response next week.

You will find the full text of the amendment attached, as well as a summary sheet prepared by commission staff. These were included as part of the meeting materials for the July meeting as well.

Issue 1 is well funded, organized, and poised to have a dramatic effect on Ohio's criminal justice system. It is important that this Committee be prepared to inform the full Commission of the potential impact and to make recommendations as to any position the Commission may choose to take on the ballot initiative.

The Neighborhood Safety, Drug Treatment, and Rehabilitation Act

a.k.a.

State Issue 1

<p>Summary of Proposal</p>	<p>The Neighborhood Safety, Drug Treatment, and Rehabilitation Act is a ballot initiative led by a coalition of Ohio agencies aimed at “reduc[ing] the prison population while increasing community health and safety.”</p> <p>Provisions:</p> <ol style="list-style-type: none"> 1) Reclassify all F4 and F5 drug possession charges as misdemeanors punishable only by probation on the first 2 offenses in 2 years. Retroactive application for those who have not completed their sentence on an applicable offense, and allows for those who have completed their sentence to petition for reclassification. 2) Prohibit a prison sentence for probation violations that are not new felonies or misdemeanors. 3) Earned credit against a prison sentence of up to 25% for successful participation in programming at the institution 4) Establishes criteria for measuring savings from these pro and mandates that 70% of savings from the amendment go to substance abuse treatment programs; 15% to trauma recovery services for victims; 15% goes to existing criminal justice system to implement provisions of the amendment.
<p>Supporters</p>	<p>The Ohio Safe and Healthy Communities Campaign The Ohio Organizing Collaborative Ohio Justice & Policy Center The Ohio Transformation Fund Alliance for Safety and Justice Open Society Policy Center The Chan Zuckerberg Initiative</p>



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	The Open Philanthropy Project Action Fund
Opponents	OPAA
Submission to Secretary of State	Signatures certified by Secretary of State on July 23 rd , 2018. The amendment had 351,095 valid signatures of the 730,031 collected.
Next Action	Signatures have been verified by Secretary of State. Will appear on November 2018 ballot as State Issue 1.
Passage Requirements	If approved by a majority of voters the amendment becomes effective 30 days after the election.
Commission Analysis	Further discussion of amendment at Sentencing and Criminal Justice committee meeting 8/16/18. Consider any potential recommendations for full Commission meeting 9/27/18.

Members of the Committee –

After close review of the possession offense provisions of Issue 1, I think it doesn't actually limit itself to F4 and F5 drug offenses, but affects possession charges at ALL levels as those charges were defined on January 1, 2018. I've attached the text of the proposed amendment for reference, but the relevant language is found below. The section reducing drug possession offenses to misdemeanors is section (D):

*(D) With respect to state laws that make possessing, obtaining, or using a drug or drug paraphernalia a criminal offense, in no case shall **any offense** be classified higher than a misdemeanor.[emphasis added]*

Section (F) deals with the retroactive application for people with prior ***convictions*** for drug possession. It allows people charged with possession offenses or who have been convicted of possession offenses to petition to have their convictions reclassified as misdemeanors, with resentencing where appropriate.

Now here's where we get into the legal weeds. Section (G) is the exclusionary section ostensibly intended to limit sections (D) and (F) to f4 and f5 possession offenses. This has been one of the central claims of Issue 1 – that it does not affect individuals charged with trafficking or with possession of large amounts of drugs. What's troubling is how section (G) is actually drafted:

*(G) Provisions Do Not Apply to **Convictions** for the Sale, Distribution, or Trafficking of Drugs. Divisions (D) and (F) of this Section do not apply to **convictions** for the sale, distribution, or trafficking of drugs or to **convictions** for any drug offense that, based on volume or weight, and as of **January 1, 2018**, was classified as a first, second, or third-degree felony offense.*

By using the term "conviction" in the exclusionary Section(G) rather than "offense" or "charge" they haven't actually excluded anything. Section (D) speaks specifically to drug "offense[s]" being reduced to misdemeanors. Terms like "offense" and "conviction" have very specific definitions and should not be interpreted as meaning the same thing. A person is not "convicted" until they have been found guilty by a judge or jury.

All of this is to say that there is at least an argument that Issue 1 reduces ALL possession offenses (kilos of fentanyl/heroin/cocaine etc.) to misdemeanors. The poor drafting of the exclusionary section leaves the amendment wide open to that interpretation. It is important to remember Ohio drug laws currently require either a sale or an offer to sell controlled substances to prove the offense of trafficking in drugs. Mere possession without any further evidence is charged as a possession offense rather than trafficking. Individuals who were found to be in possession of kilos of drugs and who were charged with possession offenses could file to have their cases either reclassified as misdemeanors or outright dismissed.

The language I've pasted in here is taken from the full text of the proposed amendment (attached). Unsurprisingly, it differs from the language in their amendment summary which uses the term "offense" as opposed to "conviction". Hopefully that's relatively clear. Let me know if any of you have questions or additional concerns.

Thank you
Scott

OHIO COMMON PLEAS JUDGES' ASSOCIATION

Judge Linda J. Jennings, President

Judge Jody M. Luebbers, President Elect

August 14, 2018

FOR IMMEDIATE RELEASE

Statement of the Ohio Common Pleas Judges' Association regarding Ohio Issue One

The Ohio Common Pleas Judges Association strongly opposes Ohio Issue One, The Neighborhood Safety, Drug Treatment, and Rehabilitation amendment to the Ohio Constitution. Ohio's judges prefer to rehabilitate rather than incarcerate, but will be left powerless to do either in most cases by the passage of Issue One.

Issue One masquerades as a more thoughtful approach regarding the sentencing of drug offenders. In reality, The Neighborhood Safety Act will make neighborhoods less safe as the ultimate ability to punish those who steal, cheat, and lie in order to obtain and use dangerous drugs will be eviscerated.

Issue One fails to provide adequate funding for its stated goal of rehabilitation. It also mistakenly assumes that an adequate infrastructure already exists, ready to handle the complex needs of repeat, dependent offenders. This proposed constitutional amendment does not provide adequate funding for treatment infrastructure nor treatment itself.

The beneficiaries of Issue One's passage will be those who break the law. Issue One's passage will eliminate the court's ability to secure restitution for crime victims. Criminals will know that violating a court probation order to pay restitution will have no consequence. Why pay restitution when one can't go to prison? Why complete drug treatment, if one can't go to prison? Ohio's law abiding citizens will be further victimized. Loved ones of drug dependent individuals will lose their last chance to help their addict get clean in the criminal justice system.

Ohio's judges have been on the front line of the opioid epidemic in the nation's continual battle against drug dependency.

Few defendants upon arrest are dedicated to getting clean. Usually it is the threat of prison that helps to modify a dependent defendant's thinking. Issue One removes the threat of incarceration from our judges' sobriety toolkits.

Contact:

Judge Linda Jennings, OCPJA President: 419-213-4580

Judge David Matia, OCPJA Immediate Past President: 216-443-8695

State Issue 1: A Safe Harbor for Drug Traffickers and Violent Offenders

Proponents of State Issue 1 claim that the amendment promotes neighborhood safety and drug treatment. As professionals who deal with this issue every day, Ohio prosecutors believe that these assertions are based on a fundamentally flawed understanding of how the justice system treats drug addicted offenders and deals with the illegal drug trade.

1) Undermines Treatment

Claim: The amendment will cut off the “addiction-to-prison” and “probation-to-prison” pipelines allowing drug addicted offenders to receive treatment in their community.

Fact: Most drug addicted offenders already receive treatment in the community. Those who are sent to prison are typically individuals who have multiple convictions or multiple probation violations and for whom community treatment has not worked. For this population, a trip to prison can be beneficial. It can remove addicts from the stressors and triggers that lead to relapse behavior, shock them into complying with treatment, and potentially save lives. The amendment removes this essential tool from the tool belt of those in the justice system who are trying to help people recover. Research and experience clearly demonstrate that without court intervention, including possible incarceration, addicts are less likely to seek treatment. The amendment will cost some addicts their lives.

2) Hinders Prosecution of Drug Traffickers

Claim: The reclassification of drug-possession felonies down to misdemeanors does not apply to drug trafficking offenses.

Fact: The amendment will make it more difficult to prosecute drug traffickers. The proposal may limit the ability to prosecute individuals for possession with intent to distribute and prevent felony charges for traffickers who deliberately deal in small amounts so that they can assert simple possession as a defense. The amendment removes human judgment from decisions about who should receive treatment and who should go to prison. It replaces that judgment with a one-size-fits-all approach to an incredibly complex problem. It will result in misdemeanor convictions for many drug traffickers. Convicted drug traffickers will be eligible for a 25% sentence reduction.

3) Reduces Sentences for Violent Offenders

Claim: The amendment increases public safety by rewarding personal rehabilitation while in prison. It is the intent of the amendment to “ensure that state prison spending is focused on violent and serious offenses.”

Fact: The amendment will result in reduced sentences for violent and non-violent offenders alike. Individuals convicted of human trafficking, aggravated robbery, aggravated burglary, aggravated arson, kidnapping, felonious assault, and other violent offenses will be eligible to have their sentence reduced by as much as 25%. This puts the public’s safety at risk, undermines public confidence in the justice system, and is a disservice to the victims of violent crimes.

4) Overburdens Local Governments

Claim: The amendment will yield at least \$100 million in *annual* budget savings that will be reinvested in treatment.

Fact: The proposal is another shift of financial responsibility from the state to local government. It is not clear that the savings will be anything other than one-time savings. In year two, and thereafter, once the target population of non-violent drug possession offenders is out of prison, there are no savings to the State. Local governments, however, will remain responsible for the costs of treatment, probation, and jail. California, which adopted a similar proposal in 2014, has realized only a fraction of the savings that they projected there.

5) Shortsighted

Claim: The amendment increases healing.

Fact: The amendment sends the wrong message to young adults about the seriousness of drug abuse. While the amendment is intended to address the current opiate scourge, voters should not lose sight of the fact that it makes possession of drugs like heroin, meth, LSD, cocaine, fentanyl, carfentanil, and the next drug that the illegal drug trade begins trafficking misdemeanors. It places these drugs on par with marijuana. The message to our next generation is that use of these drugs does not carry serious personal consequences. The amendment is a green light to drug abuse that will inevitably destroy more lives.

FULL TEXT OF PROPOSED AMENDMENT

Be it Resolved by the People of the State of Ohio that Article XV of the Ohio Constitution is hereby amended to add the following Section:

§12 Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment

(A) Findings and Declarations.

The People of the State of Ohio find and declare that drug addiction is a serious societal problem that presents issues of public health and safety and incarcerating users rather than by providing treatment poses a threat to public safety and is an inefficient use of criminal justice resources, and further find and declare that prison spending should be focused on violent and serious offenses and preparing individuals for release through rehabilitation while maximizing alternatives for non-serious non-violent crime.

(B) Purpose of this Section and Savings Achieved from Prison Population Reduction.

(1) In adopting this Section, it is the purpose and intent of the people of the State of Ohio to ensure that state prison spending is focused on violent and serious offenses and to invest future savings generated from this Section into substance abuse treatment programs, crime victim programs, and other purposes consistent with this Section.

(2)(a) To support substance abuse treatment programs, crime victim programs, and other purposes consistent with this Section, such as adult and juvenile probation department programs, graduated responses programs, and rehabilitation programs for people in the justice system, the general assembly shall include in the State biennial budget appropriations of funds from the savings to the State achieved as a result of the implementation of this Section. The funds disbursed pursuant to this Section are intended to supplement, not supplant, funding obligations of the state and local governments.

(b) Seventy percent of the funds to be disbursed under this Section shall be disbursed to the state department of mental health and addiction services, or its successor, for a grant program funding substance abuse treatment programs, services, and supports throughout Ohio. The state department of mental health and addiction services, or its successor, shall award the grants pursuant to an application program with an emphasis on the demonstrated need of the population to be served by the applicant, the applicant's proposed use for the funds, and the applicant's demonstrated ability to achieve successful results with effective programs. The state department of mental health and addiction services, or its successor, shall conduct a biennial evaluation of the efficiency and effectiveness of the substance abuse treatment programs and services funded under this Section.

(c) Thirty percent of the funds to be disbursed under this Section shall be disbursed for purposes that are consistent with the intent of this Section, such as crime victim programs, adult and juvenile probation department programs, graduated responses programs, and rehabilitation programs for people in the justice system. To reduce further victimization of underserved victims of violent crime, at least half of such funds shall be disbursed to the attorney general for a grant program funding victim trauma recovery services. The attorney general shall conduct a biennial evaluation of the efficiency and effectiveness of the trauma recovery services for crime victims funded under this Section.

(d) The general assembly may adjust the ratio of funds to be disbursed pursuant to this division for substance abuse treatment programs, services, and supports and for other purposes consistent with this Section after the first three biennial appropriations and every three biennial appropriations thereafter. Under any adjusted ratio of funds by the general assembly, no less than fifty percent of the total funds shall be disbursed for substance abuse treatment programs, services and supports, and no less than ten percent for crime victim trauma recovery services.

(e) The funds disbursed under this division may be used by the recipients without regard to the fiscal year for which the funds were appropriated or disbursed.

(C) Sentence Credits for Rehabilitation.

The Ohio Department of Rehabilitation and Correction, or its successor, shall grant to an incarcerated individual one half of one day of credit toward satisfaction of the individual's stated sentence for each day they participate in appropriate rehabilitative, work, or educational programming, up to a maximum of twenty-five percent of the individual's stated sentence. The Ohio Department of Rehabilitation and Correction may, at its discretion, grant up to thirty days of additional credit toward satisfaction of an individual's stated sentence for completion of appropriate rehabilitative, work, or educational programming. This division shall not apply to any individuals who are serving sentences of death or life without the possibility of parole, nor to individuals serving sentences for murder, rape, or child molestation.

(D) Reclassification of Certain Non-Serious, Non-Violent Drug Offenses.

With respect to state laws that make possessing, obtaining, or using a drug or drug paraphernalia a criminal offense, in no case shall any offense be classified higher than a misdemeanor. The misdemeanor classification may be a general classification or a special classification for the offense. The sanctions authorized may not exceed those of a first-degree misdemeanor, and, for an individual's first or second conviction within a twenty-four month period, the sanctions shall not exceed probation. If an individual has more than two convictions within a twenty-four month period, then sanctions may include jail time or probation in lieu of jail time.

(E) Graduated Responses for Non-Criminal Violations of Probation.

Within ninety days of the effective date of this Section, each trial court with jurisdiction to revoke an adult's or juvenile's probation for a non-criminal violation shall prepare and submit for approval to the Ohio Department of Rehabilitation and Correction, or its successor, guidelines for graduated responses that may be imposed for such violations. An individual who, on or after the effective date of this Section, is on probation for a felony offense shall not be sent to prison on a probation revocation for non-criminal violations of the terms of their probation. Non-criminal violations shall be dealt with in accordance with guidelines for graduated responses.

(F) Retroactive Application of this Section.

(1) Any individual who, prior to the effective date of this Section, was convicted under Ohio law of an offense of possessing, obtaining, or using a drug or drug paraphernalia, or was adjudicated a delinquent based on such an offense and who has not completed their sentence for such offense, may petition the court in which the conviction or adjudication occurred to have such charge changed to the respective class of offense as determined by the general assembly in accordance with this Section, and shall be re-sentenced and/or released, unless the

court makes a finding and sets forth a particularized factual basis that the individual presents a risk to the public and should not be re-sentenced and/or released.

(2) Any individual who, prior to the effective date of this Section, was convicted under Ohio law of an offense of possessing, obtaining, or using a drug or drug paraphernalia, or who was adjudicated a delinquent based on such offense, and who has completed their sentence for such offense, may petition the court in which the conviction or adjudication occurred to have such charge changed to the respective class of offense as determined by the general assembly in accordance with this Section.

(G) Provisions Do Not Apply to Convictions for the Sale, Distribution, or Trafficking of Drugs.

Divisions (D) and (F) of this Section do not apply to convictions for the sale, distribution, or trafficking of drugs or to convictions for any drug offense that, based on volume or weight, and as of January 1, 2018, was classified as a first, second, or third-degree felony offense.

(H) Provisions Do Not Apply to Convictions for Murder, Rape, or Child Molestation.

Nothing in this Section shall be construed as applying to, changing, or affecting laws or sentencing for the incarceration of individuals convicted of murder, rape, or child molestation.

(I) Calculation of Savings to the State.

(1) The general assembly shall include the appropriations set forth in Division (B) of this Section in each State biennial budget beginning with the budget commencing July 1, 2019, in a total amount equal to the projected savings in state costs that will result from the implementation of this Section during the biennium period.

(2) The projected savings in state costs shall be the sum of the following calculations:

(a) The State shall project the fewer number of days of incarceration that will be served in state prisons during the biennium as a result of Divisions (C), (D), and (F) of this Section and multiply the number by a per-diem amount of forty dollars.

(b) The State shall project the fewer number of days of incarceration that will be served in state prisons during the biennium as a result of Division (E) of this Section and multiply the number by a per-diem amount of thirty dollars.

(3) The general assembly shall enact a system to adjust appropriations under this Section at the close of the biennial budget period based upon true-ups of the projected savings.

(4) The per-diem figures used in this subdivision shall be adjusted each State biennial budget by the rate of inflation for the previous biennial budget period according to the consumer price index or its successor.

(5) In making the calculations required by this Section, the State shall use actual data or best available estimates where actual data is not available.

(J) Definitions.

As used in this Section:

(1) “Drug” means any controlled substance, compound, mixture, preparation, or analog intended to be injected, ingested, inhaled, or otherwise introduced into the human body as identified and regulated by the general assembly.

(2) “Possessing, obtaining, or using a drug” does not include possession of a drug for purposes of the sale, distribution, or trafficking of drugs

(3) “Drug paraphernalia” means any equipment, product, or material used or intended to be used in connection with the possession or use of a drug.

(4) “Possessing, obtaining, or using drug paraphernalia” does not include possession of drug paraphernalia for purposes of the sale, distribution, or trafficking of drugs.

(5) “Laws that make possessing, obtaining, or using a drug or drug paraphernalia a criminal offense” do not include laws that make it a criminal offense to possess a drug or drugs for purposes of the sale, distribution, or trafficking of drugs.

(6) “Graduated responses” means an accountability-based graduated series of sanctions and incentives designed to protect communities, hold people accountable, and prevent repeat offenses by providing appropriate responses for unlawful actions and by inducing and reinforcing law-abiding behavior. This schedule of responses may include, but is not limited to, drug treatment, community service, fines, electronic monitoring, detention other than in a county or municipal jail, detention in a county or municipal jail, but only upon the court making a finding and setting forth a particularized factual basis that the individual presents a risk to themselves or the public, and earned rewards, such as reduced sentences for compliant conduct as the trial court deems appropriate.

(7) “County or municipal jail” means a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse.

(8) A “non-criminal violation” of the terms of probation includes, but is not limited to, actions such as a drug use relapse, missing a curfew, missing or being late for a probation meeting, changing an address without permission, failing to timely pay a fine, or failing to perform required community service. An action that results in a criminal conviction is not a non-criminal violation under this Section.

(9) “Probation” includes community control sanctions.

(K) Liberal Construction.

This Section shall be liberally construed to effectuate its purpose.

(L) Conflicting laws.

This Section shall supersede any conflicting state and local laws, charters, and regulations or other provisions of this constitution.

INITIATIVE PETITION

To the Attorney General of Ohio: Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed Amendment to the Ohio Constitution and a summary of the same.

TITLE

The Neighborhood Safety, Drug Treatment, and Rehabilitation Amendment

SUMMARY

This Amendment would add a new section 12 to Article XV of the Ohio Constitution to reduce the number of people in state prison for low-level, nonviolent drug possession or drug use offenses or for non-criminal probation violations and by providing sentence credits for participation in rehabilitative programs and to direct the savings achieved by such reductions in incarceration to drug treatment programs and other purposes. More specifically, in addition to other provisions, the amendment would:

- Appropriate state funds saved due to a reduction in the number of people in state prisons as a result of the Amendment's provisions to support drug treatment programs and other purposes consistent with the intent of the Amendment, which are intended to supplement, not supplant, funding obligations of the state and local governments. The general assembly shall include such appropriations in each State biennial budget beginning with the budget commencing July 1, 2019, in a total amount equal to the projected savings in state costs that would result from the implementation of this Amendment during the biennium period. The general assembly would determine the projected savings by multiplying the projected fewer number of days of incarceration that would be served in state prisons as a result of the provisions in the Amendment by certain per-diem rates, which would be biennially adjusted by the rate of inflation. The general assembly would also enact a system to adjust the appropriations at the close of the biennial budget period based upon true-ups of the projected savings. For the first three State biennial budgets after the adoption of this Amendment, the cost savings shall be reallocated as follows: 70% to the state department of mental health and addiction services, or its successor, for a grant program funding substance abuse treatment programs, services, and supports; and 30% for purposes consistent with the intent of this Amendment, such as crime victim programs, adult and juvenile probation programs, graduated responses programs, and rehabilitation programs for people in the justice system, at least half of which shall be distributed to the attorney general for a grant program funding trauma recovery services for crime victims. After three State biennial budgets, the general assembly could change the allocation percentages subject to certain minimum parameters. The funds disbursed may be used by the recipients without regard to the fiscal year for which the funds were appropriated or disbursed.
- Provide that the Ohio Department of Rehabilitation and Correction, or its successor, grant incarcerated individuals sentence credits of one half of one day for each day they participate in appropriate rehabilitative, work, or educational programming, up to a maximum of twenty-five percent of the individual's stated sentence, and, in the Department's discretion, grant up to thirty days of additional sentence credits for completion of such programming. These provisions would not apply to individuals serving sentences of death or life without parole or for murder, rape, or child molestation.
- Provide that offenses for obtaining, possessing, or using a drug or drug paraphernalia shall be classified no higher than a misdemeanor. The sanctions for such offenses may not exceed those of a first degree misdemeanor, and, for an individual's first or second conviction within a twenty-four month period, the sanctions shall not exceed probation. If an individual has more than two convictions within a twenty-four month period, sanctions may include jail time and probation in lieu of jail time.
- Require that graduated responses be imposed for non-criminal probation violations, and that individuals who are on probation for a felony offense and commit a non-criminal probation violation shall not be sent to prison on a probation revocation for such violation.
- Require each trial court with jurisdiction to revoke an adult's or juvenile's probation for a non-criminal violation to prepare guidelines, subject to approval by the Ohio Department of Rehabilitation and Correction, or its successor, for graduated responses that may be imposed for non-criminal probation violations.
- Provide that individuals who, prior to the effective date of this Amendment, were convicted of obtaining, possessing, or using a drug or drug paraphernalia, or were adjudicated delinquent based on such offense, may petition the court in which the conviction or adjudication occurred to have such charge changed to the respective

class of offense as determined by the general assembly in accordance with this Amendment. Individuals who have not completed their sentences for such offense as of the Amendment's effective date, and who petition the sentencing court, shall be re-sentenced and/or released, unless the court determines that the individual presents a risk to the public and should not be re-sentenced and/or released.

- Provide that the grants for substance abuse treatment programs, services, and supports be awarded pursuant to an application program with an emphasis on the demonstrated need of the population to be served by the applicant, the applicant's proposed use for the funds, and the applicant's demonstrated ability to achieve successful results with effective programs.
- Require biennial evaluations of the efficiency and effectiveness of the substance abuse treatment programs and services and the crime victim trauma recovery services funded under this Amendment.
- Not apply to offenses for the sale, distribution, or trafficking of drugs, nor to any drug offense that was classified as a first, second, or third degree felony as of January 1, 2018.
- Not apply to, change, or affect laws or sentencing for the incarceration of individuals convicted of murder, rape, or child molestation.
- Supersede any conflicting state and local laws, charters, and regulations or other provisions of the Constitution.

The Amendment contains certain declarations and findings that are relevant to the Amendment, and defines "drug," "possessing, obtaining, or using a drug," "drug paraphernalia," "possessing, obtaining, or using drug paraphernalia," "laws that make possessing, obtaining, or using a drug or drug paraphernalia a criminal offense," "graduated responses," "county or municipal jail," "non-criminal violations [of probation terms]," and "probation."

COMMITTEE TO REPRESENT THE PETITIONERS

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Shakyr Diaz	5780 Great Northern Blvd., G2, North Olmsted, OH 44070
Gary Williams	13612 Ardoon Ave., Cleveland, OH 44120
Stephen JohnsonGrove	3968 Lowry Ave., Cincinnati, OH 45229
Albert Rodenberg, Jr.	3622 Highland Green, Cincinnati, OH 45245
Margaret Nichelle Nicole Rosario	3584 Tivoli Ct., Gahanna, OH 43230