

HB 88's Sweeping Drug Penalty Changes Would Undermine Public Safety

HB 88 is too broad.

- HB 88 is not a focused effort to combat fentanyl in Ohio. HB 88 is a sweeping bill that would make the most dramatic changes to drug law in the last decade.¹
- HB 88 would impose drastic departures from the current drug felony classification structure – including jumping up several felony categories for some weight categories and drug types – that are economically reckless and do not bring a public safety return.
- We estimate that these penalty changes would impact sentences for a substantial portion, and possibly the majority, of people entering prison for drug trafficking offenses.²

Ohio can't afford HB 88's nearly \$60 million per year price tag.³

- The Department of Rehabilitation and Correction (DRC) is already struggling to staff its facilities in the face of modest predicted prison population growth.⁴
- HB 88 alone would more than double the anticipated prison population increase, necessitating at least 1,500 additional beds on top of the 1,000 beds already projected.
- HB 88's increases alone could cost taxpayers almost \$60 million every year, require additional prison capacity, and significantly worsen the DRC's staffing crisis.

Ohio already has penalties that specifically target fentanyl offenses on the books.

- The Ohio Legislature passed SB 1 in 2018 to increase penalties for fentanyl offenses. That bill increased both drug trafficking and possession sentences for fentanyl and any mixture of drugs that includes any amount of fentanyl, and also created a mandatory sentence specifically for fentanyl-related offenses.
- Ohio already has tough sentences for people who distribute controlled substances, including long sentences and required prison terms for trafficking across drug types.

Research shows that HB 88's drug policies do not work.

- Research shows that severe prison terms do not impact illegal drug activity. There is no relationship between aggressive drug sentencing penalties and drug use or arrests, and longer mandatory sentences do not increase public safety.⁵
- A growing number of states have replaced mandatory minimums and other ineffective drug penalties with smarter crime control policy.⁶ HB 88 would take Ohio backwards.

¹ Provisions of HB 88 include: Creating a new Felony 1 offense of "participating in an organization or operation for trafficking in persons," increasing the felony grading and quantity scale for trafficking of variety of types of drugs (cocaine, heroin, methamphetamine, and any mixture of drugs that includes any amount of fentanyl), removing the knowledge requirement for possession of a non-marijuana mixture of drugs that includes any amount of fentanyl, requiring death certificates to indicate when the cause of death was fentanyl-related, requiring K-12 schools to provide education on the dangers of fentanyl and designating a "Fentanyl Poisoning Awareness Week," requiring higher education institutions to provide education on the dangers of fentanyl, and naming August as "Fentanyl Poisoning Awareness Month."

² We assume that the majority of trafficking offenses involve cocaine, methamphetamine, heroin, or some mixture of drugs that involves fentanyl. According to the ODRC Commitment Report, as of FY 2023, nearly three in four commitments to prison for drug trafficking were Felony 2, 3, or 4 offenses – categories subject to one- to two-level felony class increases in HB 88.

³ Ohio Legislative Service Commission, [HB 88 Fiscal Note & Local Impact Statement](#).

⁴ Testimony of ODRC Director Annette Chambers-Smith before the House Finance Committee, February 6, 2025.

⁵ See, e.g., National Research Council (2014), *The Growth of Incarceration in the United States: Causes and Consequences*; FAMM (2024), *FAMM Policy Briefing: Mandatory Minimum Sentences*; Pew Charitable Trusts (2018), *More Imprisonment Does Not Reduce State Drug Problems*.

⁶ Pew Charitable Trusts (2018), *More Imprisonment Does Not Reduce State Drug Problems*.