

Senate Bill 3 Drug Sentencing Reform Supports Drug Courts' Success

Senate Bill 3 changes low-level felony drug possession to an unclassified misdemeanor. States that have reclassified simple possession continue to have thriving drug courts, and some states have expanded their drug court programs.

Alaska opened two new drug courts following reclassification, Utah's 25 drug courts saw an overall 20 percent increase in admissions since reclassifying first and second-time possession convictions to misdemeanors, and Oklahoma's 58 drug courts remained full in 2018 after its 2016 reclassification ballot initiative.

SENATE BILL 3 WORKS WITH OHIO COURTS NOT AGAINST THEM

- » **Senate Bill 3's authors recognized the importance of Ohio's drug courts and designed the legislation to ensure that it does not disrupt Ohio's drug court system.**
- » **The legislation makes clear that local prosecuting attorneys will have the authority to decide, on a case-by-case basis, whether a possession case is to proceed in a municipal court, county court, or court of common pleas. In some parts of the state, municipal courts already operate or will operate drug courts. In some parts of the state, the only drug court is at the court of common pleas.**
- » **This flexibility allows drug possession cases to 'follow the drug court' whenever local prosecutors and judges believe that is the correct option. Put another way, there is nothing in Senate Bill 3 that prevents prosecuting attorneys and judges from continuing to use drug court in these cases.**

MISDEAMEANOR DRUGS COURTS WORK OHIO AND THE RESEARCH

- » **Some claim that people facing low-level drug possession charges will not agree to participate in drug court, or will not take it seriously, if the possession charge is a misdemeanor. Evidence shows this is not true.**
- » **Ohio's own history of drug court development and implementation shows that this is not the case. Misdemeanor drug courts in Ohio were some of the first, and are now some of the oldest and most successful drug courts in the state.**
- » **Additionally, it is critical to keep in mind that Senate Bill 3 reclassifies possession as an unclassified misdemeanor carrying up to 364 days in a local jail. This is essentially the same sentence as a Class 5 felony that carries a sentence of one year in prison. It just does not carry the proven negative economic and social consequences of a felony conviction ¹ that we know undermines recovery and rehabilitation.²**
- » **People will still choose drug court over time behind bars. In much of Ohio, a year in the county jail is more dangerous and worse than the same time in state prison, even more of a reason for a person to choose drug court when charged with a misdemeanor than the current year in state prison designated by a felony conviction.**
- » **The reality is that misdemeanor drug courts produce meaningful reductions in recidivism.³ Research shows that graduation rates for participants of misdemeanor drug courts are the same as felony drug courts, indicating that participants didn't need the threat of a felony to remain in the program.⁴**

Senate Bill 3 provides local justice system officials with the tools to collaboratively determine the jurisdiction where cases will be assigned.

Judges will make the final decision whether a case is assigned to drug court, and can determine the best drug court to meet a person's needs.

Drug court criteria has been updated and expanded to increase effectiveness, as laws related to simple drug possession have changed in other states.

Ohio can do the same.

STATES HAVE

- » **Employed strategies to adapt to changes consistent with best practices;**
- » **Expanded eligibility to misdemeanors in courts that previously served felony possession cases;**
- » **Expanded eligible offenses to include other felonies where an assessment shows substance use was an underlying cause;**
- » **Shifted their focus to risk and need rather than just offense in determining drug court eligibility.**

¹ See https://niccc.csgjusticecenter.org/database/results/?jurisdiction=201&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1

² See http://www.wsipp.wa.gov/ReportFile/1396/Wsipp_Prison-Police-and-Programs-Evidence-Based-Options-that-Reduce-Crime-and-Save-Money_Full-Report.pdf

³ See https://www.courtinnovation.org/sites/default/files/Queens_Impact_Evaluation.pdf

⁴ See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3082148>