

TO: Those Concerned

FROM: Sara Andrews, Director *Sara Andrews*

RE: Full Commission Meeting Sub. S.B. 3 discussion and vote summary

DATE: March 21, 2019

For purposes of discussion and vote, the Commission and Advisory Committee considered Sub. S.B. 3 provisions as separate and distinct. Represented below are the topics, the vote record and notes.

Provision: Jurisdiction for Drug Possession Offenses

The bill states municipal courts (Sec. 1901.20, at line 71) operating a drug court “shall hear all charges of any reclassified drug possession offense.” A parallel section exists for county courts (Sec. 1907.02, at line 124). If a municipal court or county court does not operate a drug court, the court of common pleas in that jurisdiction will hear the charges.

Question: Does the Commission support as written?

Vote: Unanimous opposition

Notes:

It was then moved that revision to Sub. S.B. 3 include all specialized dockets and the use of 132-HB354 as a model. A majority of those present voted in favor of the motion, with opposition noted by four members and one abstention. Additionally, concerns with funding and local capacity brought up. Agreement conceptually that courts should be able to share resources.

Provision: Threshold amounts

Sub. S.B. 3 generally has higher threshold amounts for subjecting a person to the penalties than those specified by current law.

Question: Does the Commission support changing the threshold amounts as written in Sub. S.B. 3?

Vote: Roll call vote (not a quorum) Commission: 8 in favor and 7 in opposition

Advisory Committee: 3 in favor; 6 in opposition; 2 abstain

Notes:

- Address the trace / personal use amounts without jeopardizing probable cause
- Concern expressed that drug trafficking penalties are weakened
- Recognition that traffickers can also be users – consider proposed Sub. S.B. 3 threshold amounts for first time offenders, but punish subsequent offenses under current threshold amounts – specify a time interval between arrests/offenses – 30-60 days?
- Consider including language to address possession of multiple drugs as indicative of trafficking behavior

Provision: Reclassification of Trafficking Offenses

Question: Does the Commission generally support trafficking statute revisions in Sub. S.B. 3 (absent threshold amounts)?

Vote: Tabled

Notes:

- Need to address “gift” situations of small drug amounts
- Difficult to discuss distinctions without considering threshold amounts

Provision: Unclassified Low Level Possession Offenses

Question: Does the Commission generally support reducing low level possession offenses to misdemeanors?

Vote: Roll call vote (not a quorum) Commission: 12 in favor and 3 in opposition

Advisory Committee: 4 in favor; 1 in opposition; 2 abstain

Notes:

- Include language or contemplate the use or expansion of Community Alternative Sentencing Centers
- Revise admission criteria for Community Based Correctional Facilities
- Address funding
- Noted enhancement of penalty after 3 convictions in 2 years – some opposition to enhancement to allow for relapse without penalty

Provision: Proceeding in Abeyance [§2925.111 p109 line 3159-3170 (H)]

Question: Does the Commission support provisions allowing courts to hold low level possession proceedings in abeyance?

Vote: Roll call vote (not a quorum) Commission: 7 in favor and 7 in opposition

Advisory Committee: 1 in favor; 4 in opposition; 2 abstain

Notes:

- Duplicative of prosecutorial diversion statute
- Concern that the Adult Parole Authority doesn't actively supervise misdemeanants
- Treatment is a medical service – there needs to be more collaboration between treatment and criminal justice communities to determine appropriate treatment/level of care based upon medical necessity.

Provision: Definition of Technical Violation (§Sec. 2929.15, starting at line 5369)

Question: Does the Commission support the Sub. S.B. 3 definition of Technical Violation?

Vote: Roll call vote (not a quorum) Commission: 4 in favor and 10 in opposition

Advisory Committee: 4 in favor and 1 in opposition

Notes:

- There is agreement a definition is needed for clarification
- The caps to probation violations should be revisited

Provision: Changes to Civil Commitment Procedure

Question: Does the Commission support increasing access to civil commitment?

Vote: Unanimous in favor

Question: Does the Commission support the funding mechanism, as written?

Vote: Unanimous opposition

Notes:

- Recognition process isn't working and adjustments need to be made
- Ability to pay should be further addressed