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On Behalf Of: retired elected DA - Clatsop County
Committee: Joint Committee On Addiction and Community Safety Response
Measure: HB4002

Measure 110 has been an almost biblical curse on Oregon. The 1500% increase in overdose deaths lies directly at the feet of the Drug Policy Alliance and all the millions of blood money happily gobbled up by many of the individuals and organizations who have submitted testimony to this committee. One need not be a lawyer to know to "always follow the money."

It is rearranging the deck chairs on the TITANIC to fiddle with whether or not to make Possession of Fentanyl, heroin or methamphetamine a Class C or Class B misdemeanor. Neither is likely to have a real effect on the problem.

When the Oregon Criminal Code was overhauled in 1971 the drafters classified crimes into felonies and misdemeanors, and each category into A, B, and C level crimes, with A being most serious and C the least. Infractions, mostly speeding and traffic offenses were placed into a distinctly non-criminal category called "infractions" that carried neither the risk of jail or probation. They also carried no guarantee of appointed lawyers, a right Oregon - unlike the federal system and most states - gives to anyone facing even as much as 10 minutes in jail. Oregon has chosen to massively expand the right to appointed counsel far beyond that of criminal defendants, to juvenile proceedings, civil commitment and now even to some eviction cases.

The classification of possession of fentanyl into a class C or even class B misdemeanor is a direct message that this just isn't very important. Class C misdemeanors rarely merit police enforcement and have almost never been filed by Oregon's district attorneys. Class B misdemeanors include harassment - spitting in someone's face - disorderly conduct and resisting arrest. Is that REALLY the level of seriousness we wish to attach to fentanyl?

I have spent 42 years practicing law in Oregon, almost exclusively as a prosecutor, the last quarter century as an elected DA. I have seen what can happen and what has happened as a result of the catastrophic Measure 110.

Drug Courts were at least marginally successful, but that success was rooted in a combination of positive reinforcement and negative consequences. Nobody expected addicts to stay clean on day 1 or even day 60, but the idea was to reward success and hold negative consequences over failure. If the defendant completed the program, often after half a dozen or more stumbles, the charge (the FELONY charge) was dismissed. The incentive was that if you really messed up, and blew all the

chances the judge and probation officer gave you, the worst outcome was a felony conviction which would NOT result in a prison sentence, or likely more than a week in jail, but had consequences that the addict would try hard to avoid - losing their right to own a gun, losing their ability to get a hunting license, losing their state license to practice a trade or profession.

You reduce the worst possible consequence to a misdemeanor - ANY misdemeanor - and these potential negative outcomes vanish.

But even worse the proposals on the table scrub ANY fines, costs, fees of any kind. You are attempting to make breaking the yoke of addiction "trouble free." That is impossible and ill advised.

Repeal Measure 110 or if you don't have the political courage to do that, then simply refer it back to voters in one of the two 2024 elections.

What will you tell the NEXT 1000 overdose victims' families?