



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Hobday

Am. H.B. 4*

132nd General Assembly
(As Reported by H. Criminal Justice)

Reps. Cupp and Rogers, Becker, Butler, Carfagna, Dever, Faber, Gavarone, Ginter, Goodman, Hambley, Hill, G. Johnson, Riedel, Schaffer, Scherer, Slaby, Stein, Young

BILL SUMMARY

- Provides that the amount of cocaine involved in a drug trafficking or possession offense, as measured for sentencing purposes, includes a compound, mixture, preparation, or substance containing cocaine.
 - Declares an emergency.
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CONTENT AND OPERATION

The bill modifies the wording of the Drug Trafficking and Drug Possession Laws¹ in connection with the penalties for trafficking and possession of cocaine. Under current law, unchanged by the bill, a person is guilty of trafficking in cocaine if the drug involved is cocaine or a compound, mixture, preparation, or substance containing cocaine. The language describing the offense of possession of cocaine is essentially the same.² However, for sentencing purposes, the amount of the drug involved is stated in terms of grams "of cocaine." The bill removes the words "of cocaine" in connection with the amount involved throughout the drug trafficking and possession statutes.³

* This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ R.C. 2925.03 and 2925.11.

² R.C. 2925.03(C)(4) and 2925.11(C)(4).

³ R.C. 2925.03(C)(4)(c) through (g) and 2925.11(C)(4)(b) through (f).

In *State v. Gonzales*, the Ohio Supreme Court interpreted the current wording of the penalties for cocaine possession to mean that the state must prove the weight of pure cocaine, absent any filler, to determine the applicable penalty.⁴ By removing "of cocaine" from the penalty provisions for trafficking or possession of cocaine, the bill allows the measurement of the amount involved to include any compound, mixture, preparation, or substance containing cocaine.

The bill declares an emergency to ensure that the penalty structure that applied to trafficking and possession of cocaine before the Ohio Supreme Court's holding in *State v. Gonzales* will continue to be valid. The bill states that the General Assembly is aware of the *Gonzales* decision and that it did not intend to require the State, in prosecuting cocaine offenses involving mixed substances, to prove that the weight of cocaine meets the statutory threshold absent the weight of any filler materials.⁵

HISTORY

ACTION	DATE
Introduced	02-01-17
Reported, H. Criminal Justice	---

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⁴ *State v. Gonzales*, 2016-Ohio-8319 (decided December 23, 2016).

⁵ Sections 3 and 5 of the bill.

