



Judicial Impact Statement

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Josh Williams, Esq., Deputy Legislative Counsel

Elimination of requirement that sentencing judge prohibit offenders from using drugs while incarcerated

DRAFT

Looking for sponsor

Proposed Title Information

To amend R.C. 2929.19(B)(2)(f) to eliminate the mandate that a sentencing court require that offenders not use drugs, and submit to drug screening while incarcerated.

Background

Current law requires courts to hold a sentencing hearing before imposing a sentence on an offender who has been convicted of or pleaded guilty to a felony. R.C. 2929.19 (B) sets forth the procedures the judge must follow at this hearing, including requiring that the offender not use drugs and submit to random drug testing while incarcerated. R.C. 2929.19 (B)(2)(f).

Judicial Impact

The mandate that judges prohibit inmates from using drugs while incarcerated is duplicative and unnecessary, and adds one more step to the already lengthy sentencing-hearing process. Existing law already requires the Department of Rehabilitation and Correction to conduct random drug testing on inmates. R.C. 5120.63 (B). Additionally, courts generally do not have authority over offenders once they have been sentenced and placed under the control of DRC, rendering superfluous the requirement that courts prohibit an offender's use of drugs while in prison. Finally, R.C. 2929.19(B) creates a lengthy list of statements the court must make, and notifications the court must provide the offender, during the sentencing hearing. A failure of the court to inform an offender that he or she is not permitted to use drugs in prison could create grounds for the offender to appeal the sentence. While most courts of appeals have held that such a failure is harmless error, the appeal process nonetheless puts a strain on taxpayer dollars and court resources.

Conclusion

Because the Department of Rehabilitation and Correction is already required to conduct drug testing of inmates, and courts do not have authority over inmates under DRC control, the mandate in R.C. 2929.19 (B)(2)(f) that courts prohibit inmates from using drugs and require them to undergo drug testing is unnecessary and duplicative, and should be removed from the revised code.

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.