



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Nicholas A. Keller

### **Am. H.B. 4**

132nd General Assembly  
(As Passed by the House)

**Reps.** Cupp and Rogers, Becker, Butler, Carfagna, Dever, Faber, Gavarone, Ginter, Goodman, Hambley, Hill, G. Johnson, Riedel, Schaffer, Scherer, Slaby, Stein, Young, Manning, Rezabek, Conditt, Anielski, Antani, Antonio, Arndt, Ashford, Barnes, Blessing, Boyd, Brenner, Dean, DeVitis, Edwards, Fedor, Green, Greenspan, Hagan, Henne, Holmes, Householder, Huffman, Hughes, Ingram, T. Johnson, Koehler, Landis, Lanese, LaTourette, Leland, Lepore-Hagan, Lipps, McColley, Miller, O'Brien, Patterson, Patton, Pelanda, Perales, Reineke, Romanchuk, Ryan, Schuring, Seitz, R. Smith, Sprague, Sweeney, Thompson, West, Wiggam, Rosenberger

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## **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 Laws<sup>1</sup> 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.<sup>2</sup> However, for sentencing purposes, the amount of the drug involved is stated in

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<sup>1</sup> R.C. 2925.03 and 2925.11.

<sup>2</sup> R.C. 2925.03(C)(4) and 2925.11(C)(4).

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.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

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## HISTORY

ACTION	DATE
Introduced	02-01-17
Reported, H. Criminal Justice	02-14-17
Passed House (97-0)	02-15-17

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<sup>3</sup> R.C. 2925.03(C)(4)(c) through (g) and 2925.11(C)(4)(b) through (f).

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

<sup>5</sup> Sections 3 and 5 of the bill.

