



TO: Senate Government Oversight & Reform Committee
FROM: Lisa Wurm, Policy Manager, ACLU of Ohio
DATE: November 18, 2015
RE: Senate Bill 204

To Chairman Coley, Vice Chair Seitz, Ranking Minority Member Yuko, and members of the Senate Government Oversight & Reform Committee, my name is Lisa Wurm, policy manager for the American Civil Liberties Union of Ohio ("ACLU of Ohio") and I appear to present proponent testimony on Senate Bill 204.

Senate Bill 204 is a positive step to address flaws in existing law regarding how we deal with certain drug offenses. For too long, Ohio law has required a driver's license suspension of at least six months, and as long as five years, for a variety of drug-related crimes. That the offense may have never involved a vehicle is immaterial. Ohio law makes no such distinction.

Under SB 204, these suspensions would no longer be mandatory. Instead, judges would have discretion to impose suspensions up to five years.

This bill contains another important aspect that expands judicial discretion. Under current law, when someone's driver's license is suspended for the relevant offenses, judges may only grant driving privileges for primarily work, school, and medical reasons. SB 204 allows judges to grant additional privileges as they see fit. Related, juvenile driving privileges would also enjoy greater judicial discretion than allowed under current law.

An additional positive change SB 204 would bring is its retroactive application to driver's license suspensions that took place before the effective date of this bill. Those with suspended licenses for the offenses outlined in SB 204 would be permitted to petition the sentencing court to have those suspensions lifted. The two exceptions are: 1) unless a vehicle was used to commit the offense or 2) the person in question was also convicted of or plead guilty to an OVI offense arising from the related drug offense(s).

While these changes are modest with regard to changing the overall way lawmakers and courts address drug offenses, we should not underestimate the effect SB 204 would have on numerous Ohioans.

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For some, these driver's license suspensions are an inconvenience but are eventually overcome without serious ramifications. For many others, a driver's license suspension is another in a series of negative, long-term consequences.

Ask any law enforcement officer and they will tell you people with suspended driver's licenses simply do not stop driving. Transporting children to and from sitters, day care, or school, caring for family members, shopping for food and groceries, attending worship services, and a wide variety of other tasks and obligations are impacted by a suspended driver's license. In most areas of the state, available and reliable public transportation is also in short supply.

Those people risk being discovered and cited for driving with a suspended license and subjected to further penalty. For many with suspended licenses, paying reinstatement costs, combined with courts costs and fines, can mean required payment of hundreds of dollars many cannot afford. In these numerous cases, mandatory driver's license suspensions do not fix any problems but exacerbate many. In recognition of these realities, SB 204 provides welcome change.

The ACLU of Ohio would welcome even further change under SB 204. First, while judicial discretion over suspensions is preferable to mandatory suspensions, the legislature could also go a step further and mandate some offenses are subject to no suspension. If such a change is not ultimately made as part of SB 204, we hope the General Assembly closely follows the effects of SB 204 and how judges are using their newfound discretion and reacts appropriately, if necessary.

Second, under current law and SB 204, those with suspended licenses can petition the sentencing court to terminate their license suspensions for certain enumerated drug and drug-related offenses but not others. Among those offenses not subject to the petition ability are such low-level ones as permitting drug abuse and illegal use or possession of drug paraphernalia.

The ACLU of Ohio recommends changes be made to address both of these concerns so a good bill can be made even better.

Finally, and as always, we hope bills such as SB 204 are a sign lawmakers will continue to search for more ways to positively counter decades of failed laws, policies and practices with regard to drug use, abuse, and addiction. We have tried to incarcerate and punish our way out of this problem and that approach has been a failure. Less people going to jail and prison, significantly more funding for treatment, and rejecting one-size-fits-all approaches would all be most welcome as Ohio moves forward.