



TO: House Community & Family Advancement Committee

FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio

DATE: May 23, 2018

RE: Am. Sub. House Bill 427 – Opponent Testimony

To Chairman Ginter, Ranking Member Boyd, and members of the House Community & Family Advancement Committee, my name is Gary Daniels, chief lobbyist for the American Civil Liberties Union of Ohio (“ACLU of Ohio”) and I appear to present opponent testimony on Amended Substitute House Bill 427.

HB 427 appears to be borne out of frustration with, and a desire to do more to reverse, Ohio’s opioid epidemic. Indeed, we are all frustrated as overdoses and overdose deaths continue to climb in this state, among others, despite numerous endeavors by our state and local governments to address this crisis. Clearly, even with these current efforts, so much more is needed.

But even in these difficult times, we must adhere to the longstanding principles of the First Amendment. The Establishment Clause is intended to preserve religious freedom by ensuring taxpayers are not forced to support religious beliefs that are not their own. It also benefits houses of worship and religious entities by guaranteeing they do not become dependent on taxpayer funds, do not compete against each other for that funding, and ultimately shields them from government interference that typically accompanies government funding.

Yet, HB 427 does not just allow – it *requires* – Ohio government to fund explicitly religious materials and activities via three funding streams for 1) treatment facilities, 2) transportation to and from faith-based treatment, and 3) curricula materials. However, both scenarios – allowing or requiring such funding – unquestionably violate the Establishment Clause.

With this taxpayer funding comes other problems. Will these religious entities receiving taxpayer funding be permitted to withhold services from clients who do not share their religious beliefs? Will they be allowed to proselytize to their clients and require participation in religious practices?

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While the Establishment Clause also forbids these scenarios, HB 427 is silent on these matters. This is in stark contrast to the numerous local, state, and federal government entities who contract with and fund faith-based partners by distinguishing between impermissible religious activities that may not be funded and permissible non-religious ones that can.

HB 427 not only ignores the existing frameworks available for such partnerships it essentially scraps them by explicitly and unconstitutionally encouraging, via the bill's language, religious speech and practices with government funding.

I hope one thing we can all agree on is Ohio needs to do more. The overall amount and availability of treatment is inadequate. We should expand positive policies and efforts already underway, including medication-assisted treatment (MAT), syringe exchange, utilization of DARTs & QRTs to provide individualized services, drug education, and robust data collection and reporting requirements. This also includes ensuring the literal lifelines that expanded Medicaid coverage has provided to those needing treatment and services is not reduced or eliminated but is expanded.

The ACLU of Ohio continues to extend our involvement in opiate and drug-related policy issues beyond traditional civil liberties concerns, such as mass incarceration or, in this case, religious liberty. We look forward to continuing our work with any lawmakers, including those on this committee, who want to develop additional solutions and expand current best practices.

Government funding of religious practices and religious beliefs has been rejected for decades, across numerous federal and US Supreme Court cases, in a variety of situations like those presented by HB 427. House Bill 427 should be rejected by this committee.