

Chairman Bacon, Ranking Minority Member Thomas, and Members of the Senate Judiciary Committee, I am testifying in opposition to Sub Senate Bill 250.

My name is Teresa Mills and I am a citizen of Ohio and live in Franklin County.

Given the broad language of Sub SB 250 I feel that its intention is to intimidate the exercise of free speech by being so broad that it will have a chilling effect. Also, the extreme penalties to common offenses involved is designed to scare people from expressing themselves. Citizens fear that the bill is aimed to monitor, punish, and chill free speech activities including protests.

Our right to lawful assembly and peaceful and orderly petition, picketing, or demonstration for the redress of grievances or to express ideas or views regarding legitimate matters of public interest must be protected and not make normal everyday citizens into felons. To imply that this bill makes our structures safer doesn't make sense. Those that would destroy our infrastructure would not care about the violations or fines, think about the twin towers.

Sub SB 250 also creates new civil liability for protesters on critical infrastructure property, as well as vicarious liability for any organization who supported them. The bill heightens potential penalties for protests around "critical infrastructure" by providing for the crime of "aggravated criminal trespass." Under the bill, it is a felony to trespass in a "critical infrastructure facility," which is broadly defined to include natural gas facilities and pipelines as well as cell phone towers, telephone poles, and railroad tracks that are fenced off or posted as no-entry areas.

The state's own fiscal analysis highlights the following:

"State Fiscal Highlights

- The bill may slightly increase the number of felony offenders being sentenced to prison for criminal mischief and aggravating trespass offenses. The corresponding annual increase in GRF institutional operating expenditures is likely to be small enough that the Department of Rehabilitation and Correction (DRC) will be able to absorb it into the daily cost of operating the state prison system.
- The bill will likely elevate certain misdemeanors to felonies, which could generate a small amount of additional annual state court cost revenue that is apportioned between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- The bill will likely elevate certain misdemeanors to felonies, resulting in a potential annual savings effect on municipal criminal justice system operating costs and a potential annual expenditure increase in county criminal justice system operating costs. In such circumstances, revenues in the form of court costs, fees, and fines, will also shift from the former to the latter.

The bill would make someone who trespasses on property containing a "critical infrastructure facility such as a utility, or pipeline" liable for any damages to persons or property, and any person or entity that "recruits, trains, aids, advises, hires, counsels, or conspires with them" vicariously liable for such damages.

Critical infrastructure facility" is expansively defined to encompass oil, gas, electric, water, telecommunications, and railroad facilities among many others. The bill also imposes fines on organizations found to be complicit in the trespass or mischief offenses, and imposes civil liability for damage caused by trespass on a critical infrastructure facility."

The bill targets protests around certain facilities by creating a new criminal offense for trespass onto property containing "critical infrastructure." The law's extensive list of "critical infrastructure" facilities ranges from a petroleum refinery to a telephone pole.

The Ohio definition of "critical infrastructure covers some 73 facilities which are already covered under the 16 critical infrastructure sectors under Homeland Security. How can Ohio change federal law?

United States

The USA has had a wide-reaching critical infrastructure protection program in place since 1996. Its Patriot Act of 2001 defined critical infrastructure as those "systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters."

In 2014 the NIST Cybersecurity Framework was published, and quickly became a popular set of guidelines, despite the significant costs of full compliance.^[2]

These have identified a number of critical infrastructures and responsible agencies:

1. Agriculture and food – Departments of Agriculture and Health and Human Services
2. Water – Environmental Protection Agency
3. Public Health – Department of Health and Human Services
4. Emergency Services – Department of Homeland Security
5. Government – Department of Homeland Security
6. Defense Industrial Base – Department of Defense
7. Information and Telecommunications – Department of Commerce
8. Energy – Department of Energy
9. Transportation and Shipping – Department of Transportation
10. Banking and Finance – Department of the Treasury
11. Chemical Industry and Hazardous Materials – Department of Homeland Security
12. Post – Department of Homeland Security
13. National Monuments and icons - Department of the Interior
14. Critical manufacturing - Department of Homeland Security (14th sector announced 03-Mar-2008; recorded 30-Apr-2008)

National Infrastructure Protection Plan

The National Infrastructure Protection Plan (NIPP) defines critical infrastructure sector in the US. Presidential Policy Directive 21 (PPD-21),^[3] issued in February, 2013 entitled Critical Infrastructure Security and Resilience mandated an update to the NIPP. This revision of the plan established the following 16 critical infrastructure sectors:

1. Chemical
2. Commercial facilities
3. Communications
4. Critical manufacturing
5. Dams
6. Defense industrial base
7. Emergency services
8. Energy
9. Financial services
10. Food and agriculture

11. Government facilities
12. Healthcare and public health
13. Information technology
14. Nuclear reactors, materials, and waste
15. Transportation systems
16. Water and wastewater systems

Teresa Mills