

TO: Senate Judiciary Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
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RE: House Bill 504 – Opponent Testimony



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To Chairman Manning, Vice Chair McColley, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for this opportunity to provide opponent testimony on House Bill 504.

As you know, HB 504 increases penalties for the crime of Disturbing a Lawful Meeting when the intent of the disturbance is to interfere with or disrupt religious gatherings, whether in person or virtual. The current penalty for Disturbing a Lawful Meeting is a misdemeanor of the fourth degree. The penalty for violating provisions of HB 504 is a misdemeanor of the first degree.

Many times, the ACLU of Ohio opposes bills such as HB 504 as any mix of unnecessary, counterproductive, or, in some cases, harmful. While we maintain similar concerns about this legislation, our opposition to HB 504 is rooted in the First Amendment.

I am not here today to argue people have a First Amendment right to disturb meetings, whether they are religious-based or secular. I am here to, in part, caution HB 504 and the current law it builds upon contains such broad and vague language it will leave many wondering what is legal and protected by the First Amendment and what is not. Indeed, laws and legislation that impact speech require precision and detail. What I hope we all want to avoid is someone, or a group of people, not engaging in speech activities because the language of the law or bill is so confusing and uncertain it chills them into not speaking for fear of prosecution.

But that is precisely the problem with the current Disturbing a Lawful Meeting law. It not only criminalizes any obstruction or interference meant to disturb or prevent a meeting or gathering but also goes far beyond that to make illegal “any utterance, gesture, or display which outrages the sensibilities of the group.”

The ACLU of Ohio believes this language is so broad it could include speech otherwise protected by the First Amendment. For example, a person peacefully standing, with a sign or banner, on a sidewalk outside of a courtroom, a corporate board meeting, a football game, or even the Statehouse so long as all, some, or even one of the attendees have their “sensibilities outraged” and/or the gathering was “interrupted” by a display, with these terms defined by those who may interpret them as broadly as possible.

HB 504 doubles down so this will all apply to otherwise protected speech activities directed at a house of worship, clergy, or a particular religion or denomination, but with the increased penalties.

That creates a different First Amendment problem, this time involving the Establishment Clause and the mandate government wisely remain neutral with regard to religion by not advancing or infringing upon religious beliefs or even by favoring religion over non-religion.

HB 504 ignores this mandated neutrality by selecting one category of gatherings and meetings – religious ones – and bestowing upon them additional protections. By doing so, passage of HB 504 sends the unmistakable signal to everyone else religious gatherings and meetings are special, better than secular gatherings or meetings, and deserve more attention from government. Again, the ACLU of Ohio believes this violates the First Amendment.

That said, we do not recommend or wish for the General Assembly to simply increase the penalties for all gathering and meetings, religious or not. Too often, this body responds to an event, a controversy, or a trend by creating a new law when there are existing laws that suffice. Or, by enhancing the penalties and application of existing laws, as is the case with HB 504. We see this right now with legislation about “swatting,” “hooning,” assaults against referees, and school bullying, among others.

Instead, the ACLU of Ohio’s desire is for the language of existing Disturbing a Lawful Meeting law to be improved so it does not impact protected free speech and for penalties to remain as they currently are for all disturbances, religious-based or not. We hope members of this committee will agree and will reject House Bill 504.