

TO: House Homeland Security Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
DATE: October 25, 2023
RE: House Bill 230 – Opponent testimony

To Chairman Ghanbari, Vice Chair Plummer, Ranking Member Thomas, and members of the House Homeland Security Committee, thank you for this opportunity to provide opponent testimony on House Bill 230.



AMERICAN CIVIL LIBERTIES UNION

Ohio

4506 Chester Avenue
Cleveland, OH 44103
P: (614) 586-1959
F: (216) 472-2210

1108 City Park Avenue
Suite 203
Columbus, OH 43206
P: (614) 586-1959
F: (614) 586-1974

acluohio.org
contact@acluohio.org

Dr. Ebony Speakes-Hall, LISW-S
President

J. Bennett Guess
Executive Director

As you know, HB 230 is a bill to dramatically increase drug trafficking penalties in Ohio. HB 230 also contains human trafficking provisions, but my remarks today address the former.

Ohio is deeply embroiled in an ongoing drug addiction crisis. Its causes and its solutions are complex. Its effects are widespread. It touches us all, regardless of location, income, age, gender, race, or religion. This committee and this bill's sponsors are right to be concerned and searching for answers. Indeed, there is no single cause and no single answer.

For half a century, the overwhelming government response to substance abuse problems has been punishment and incarceration. In recent memory, some states have opted for different, bipartisan approaches and experienced significant drops in prison and jail population, with no demonstrable negative impact on public safety, and with better metrics than Ohio in such crucial areas as addiction and overdose rates.

In Ohio, punishment and incarceration remain the preferred approaches of the General Assembly. According to the Department of Rehabilitation and Correction (DRC), for the past eight years, the number one reason a person entered an Ohio prison is for drug possession. During that same time frame, the number two reason is drug trafficking.

Five years ago, almost to the day (Oct 31, 2018), Senate Bill 1 went into effect. SB 1 significantly raised penalties for fentanyl and related substances. At that time, Ohioans were told how badly SB 1 was needed and its certain, positive impact against drug traffickers and addiction problems. If those are the metrics to judge SB 1, it has clearly failed. As have numerous other bills of its type over the years, in Ohio and elsewhere.

Some claim the reason stiffer penalties for drug offenses have not worked is because the punishment is not harsh enough. This has been their position for some, or all of, the past fifty years. Can we identify another collection of laws and policies still in use that have been so counterproductive, and failed so badly, and so often, to reach the intended goals? By any objective measure, the War on Drugs has been a miserable failure.

Among its 114 pages, HB 230 increases trafficking penalties at least 29 times. Felony levels are repeatedly raised above current law, anywhere from one to three levels, depending on the substance and weight. Given the rate we currently imprison drug traffickers, it will certainly expand our overcrowded prison system. After all, HB 230 is designed to do exactly that.

Which brings me to the second consideration I urge this committee to keep in mind in its consideration of this bill – the financial costs of HB 230 and the source(s) of this additional funding.

Former DRC director Gary Mohr once remarked to build, staff, and maintain one prison costs \$1 billion over 20 years. That figure has surely increased as it has been several years since he was director.

But what has remained almost entirely unaddressed in previous hearings are details and answers for these fundamental questions about passage of HB 230 – 1) How many more prisons will need built; 2) how soon; 3) how much will they cost and; 4) how will they be funded?

With HB 230 going into effect 90 days after its passage, are allocations planned via the coming capital budget bill? Because with the number of drug traffickers we already incarcerate, combined with our currently over capacity prison system, the spigot of HB 230 will soon start flowing and quickly necessitate hundreds of millions of dollars in new spending.

Meanwhile, all this time, energy, and money devoted to HB 230 distracts from what we know works with regard to drug addiction. That is, properly addressing the demand side of this equation. You can pass whatever laws you want. You can imprison every drug trafficker arrested. You can seal the southern, northern, eastern, and western borders with impenetrable walls. But you still will not keep people from manufacturing and selling drugs to others so long as there is sufficient demand and lots of money to be made. And, tragically, there is lots and lots of demand in Ohio and across the United States.

The billions HB 230 will cost over time could be better spent providing physical and mental health care to those who lost their jobs or whose jobs provide zero healthcare. That money could be allocated to effective and relevant job training and education, expanding opportunities and reducing stress for vulnerable Ohioans who turn to drugs when those opportunities shrink and cease to exist. The funding could offset the astronomical increases in real estate, rent, and child care prices that make every day living a source of great anxiety to so many.

These are only a few ways the General Assembly can address demand instead of using the tired, old, ineffective approach of cops, courts, and cages. And this money could be redirected to ensure people do not have to travel to other counties across the state to seek effective drug treatment, assuming they can afford it if they find it, or assuming the treatment location has the capacity to help yet another person. These are all long-identified problems with drug treatment in Ohio that remain unsolved.

None of this is easy. But after 50 years, it is crystal clear what does not work. Government and society cannot incarcerate its way out of drug problems. It has been tried and failed, year after year, decade after decade, generation after generation, for at least a half century. All the while, other states and other countries take different approaches, chart different paths, and see improvements across the board in addressing addiction and reducing mass incarceration.

The ACLU of Ohio believes everyone here is sincere about minimizing the horrific effects of addiction in our state. But House Bill 230 offers more of the failed status quo. Pass this bill and we will all be back in another year or two for the latest bill, addressing the newest substance, to pack even more people in prison and jail, with claims the fresh, new legislation will be the one to finally turn the tide. Only it will not, if the past 50 years and our current state of affairs are any clue.

The ACLU of Ohio remains ready, willing, and able to work with all members of the General Assembly to find effective solutions. But we urge this committee to reject House Bill 230 for all the reasons mentioned and more.