

TO: House Criminal Justice Committee  
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio  
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RE: Sub. Senate Bill 201 – Opponent Testimony



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To Chairman Manning, Vice Chair Lanese, Ranking Member Celebrezze, and members of the House Criminal Justice Committee, thank you for this opportunity to present opponent testimony on Substitute Senate Bill 201.

As this committee knows, the reason for SB 201's introduction (as well as SB 202 and HB 365) is to address a situation where a person was let out of prison and proceeded to rape and murder a young woman. The problem with SB 201 is it does almost nothing to prevent that situation from reoccurring. In addition, SB 201, in its current form, presents numerous problems for our prison system and those held in our prisons that have nothing to do with the situation leading to SB 201's creation.

With SB 201, Ohio's prison population will increase under even the best case scenario, according to the Legislative Service Commission. Under a more realistic scenario, SB 201 will dramatically increase our prison population by hundreds per year for the next several years.

While the legislature continually passes bills to increase prison numbers, please realize the negative effects of SB 201 will be unprecedented as compared to other laws passed in recent memory.

Generally, indefinite sentencing can have a positive effect on prison numbers. But, that is only if a careful balance is achieved that results in those considered low-risk having opportunities to spend less time locked up while continuing to imprison those who are truly high risk. SB 201 fails at achieving this balance because the provisions to ensure more people spend less time in prison will not work.

For example, SB 201 allows many Ohio prisoners to seek a reduction in their sentence if they display exceptional conduct while incarcerated. The idea with SB 201 is to incentivize such good behavior. Yet, SB 201 does nothing to accomplish this. The amount of positive programming available in our prisons is low. Many are not eligible for existing programming for a variety of reasons. SB 201 does nothing to change this.

Yet, when these same prisoners petition a court for an earlier release date they will be judged, in large part, on the amount of and types of programming in which they participated. It does these people little good if they will be evaluated on programming that does not exist or programming for which they are not eligible.

Likewise, the current mechanism for some to be released after serving 80% of their sentence is already very flawed, with almost no one being approved for it by our judges and courts. It is hard to imagine situations where courts will now reverse course because of the passage of SB 201, especially with new criteria added in this bill that can make these efforts even less successful than they are now.

SB 201 further stacks the deck by requiring those released early to be placed on post-release control where PRC can extend beyond their otherwise maximum prison term. SB 201 also allows people to be sent back to prison for a violation of their PRC restrictions, even if a violation is not a new crime but is only technical in nature. Such an expansion of post-release control, combined with opportunities to violate it even in minor ways, will, again, mean more people in prison.

There are a variety of other problems with SB 201. Suffice to say, it goes against several recommendations from the Ohio Criminal Justice Recodification Committee, the group formed to advise the legislature on these matters. It also ignores the other reform-minded efforts and discussions underway in Ohio, including the recent introduction of Senate Bill 341 and the ongoing work here of the Council of State Governments.

With all of this in mind, there is simply no reason why SB 201, a 400-page bill making numerous changes and with much complexity, needs to be passed during this current lame duck period. Ohio would be much better served by extending this conversation into next session so these concerns can be further discussed and, perhaps, actually passing a bill that will address the reason SB 201 was purportedly introduced in the first place.

The ACLU of Ohio urges you not to pass Senate Bill 201 at this time.