



AMERICAN CIVIL LIBERTIES UNION

Ohio

4506 Chester Avenue
Cleveland, OH 44103
P: (216) 472-2220
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

Jack Guttenberg
President

J. Bennett Guess
Executive Director

TO: Senate Judiciary Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
DATE: March 27, 2019
RE: Senate Bill 55 – Opponent Testimony

To Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for this opportunity to present opponent testimony on Senate Bill 55.

The ACLU of Ohio understands the desire of SB 55's proponents to protect those receiving drug treatment if or when they are targeted by drug traffickers. However, SB 55 is far more likely to make matters worse, not better.

First, please keep in mind drug traffickers are already punished with felony sentences in Ohio. SB 55 would increase the penalty by one degree if the offense takes place within 1,000 feet – or 3+ football fields – of a treatment center.

Proponents of SB 55 continually remind this committee this sentencing enhancement is no different from, and is modeled after, current enhancements for the same offense when they occur near schools or in the vicinity of juveniles. That is true. What is not being asked is whether those existing enhancements amount to good public policy or not. The ACLU of Ohio believes they are not and Ohio would not benefit from repeating this increased punishment as it does not reduce the problem it is meant to address.

SB 55 also does not require the defendant to know they are within 1,000 feet of a treatment center or that the person they sell to is actually undergoing treatment at that location(s) in question. Instead, SB 55 simply increases prison sentences because of a particular location, whether or not that location has any bearing or impact on the seller or buyer's actions.

In larger urban areas, where more treatment exists, SB 55 will likely create large swaths in those cities where anyone caught selling drugs will face increased punishment. All the prosecutor needs to do is break out a tape measure. No inquiry into motives or knowledge is needed.

The predictable end result will be more people in Ohio prisons. After all, that is what SB 55 is designed to accomplish. By doing so, SB 55 repeats 40+ years of a failed War On Drugs approach – the discredited idea that drug problems are something we can arrest, convict, and incarcerate our way out of.

The timing of SB 55 is also particularly ironic because of the existence of Substitute Senate Bill 3. SB 3 is touted as recognition Ohio should try a different, more appropriate, and more productive approach to drug crimes that actually helps people and partially relieves our perpetually overcrowded prison system.

Unfortunately, as we have seen repeated times in the past, SB 3, as currently written, is likely to have little impact on overall prison numbers. In part, this is because whatever relief the passage of SB 3 will provide will be undermined by SB 55 (as well as SB 1, last session's fentanyl bill, and SB 201, last session's indefinite sentencing bill).

This is the ongoing status of reform efforts in Ohio - the General Assembly very occasionally passes a bill to modestly reduce the number of people going to prisons and jails but is continually passing bills to lock more people up.

If Ohio is ever going to meaningfully reduce our prison population two things must happen – 1) we need many more bills like SB 3, and we need them to provide maximum positive impact and 2) we need to stop creating new crimes, enhancing sentences, and finding new reasons to throw people behind bars, as is the case with SB 55.

If we do not do both, the best case scenario is our prison population numbers will remain stagnant. Much more likely, our prison numbers will continue to climb. Last session, the Senate introduced 43 bills to put more people in prison and jail, almost twice as many as the session before. Most of those bills – like SB 1 and SB 201 - enjoyed widespread bipartisan support.

SB 55 will not stop the selling of drugs near treatment centers. But it definitely will increase the prison population and neutralize positive efforts like SB 3.

If we know an approach is a failure it should be abandoned. Instead, SB 55 doubles down and rolls out a red carpet for more of the same. We ask this committee to reject SB 55 and turns its attention to proven, effective solutions for drug problems for the benefit of all of Ohio.