

## Criminal Justice Issues and Prisoners' Rights

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COLUMBUS- The American Civil Liberties Union of Ohio appeared before the Ohio Supreme Court today challenging retroactive application of Ohio Senate Bill 10, known as the Adam Walsh Act. The bill was passed by the General Assembly in 2007 and drastically altered the classification system used for sexual offenders in Ohio. The ACLU argued that reclassifying offenders retroactively changes their sentences legislatively instead of a hearing and may harm low-level offenders ability to reintegrate back into society.

At the heart of the Constitution is the principle that everyone is to be treated consistently by the government. Senate Bill 10 creates an end-run around due process. It sidesteps the courts and imposes additional penalties on those previously sentenced. Lawmakers cannot invalidate punishments given by the courts and replace them with greater punishments, said ACLU of Ohio Cooperating Attorney Jeffrey M. Gamso.

Perhaps what is most unfortunate about this law is that it doesnt serve its purpose. The law actually makes it harder for government to protect people from repeat offenders by imposing blanket categories that do not reflect an individuals likelihood to reoffend and makes it harder for those who have paid their debts to become productive members of society, added Gamso.

The ACLU is lead counsel in *State of Ohio v. Bodyke*, which challenges whether those who committed crimes before the effective date of S.B. 10 are subject to the reclassification. The Ohio Supreme Court also heard arguments in three other related cases and the ACLU filed friend-of-the-court briefs in two of them. These cases examined whether offenders are entitled to legal counsel to challenge their reclassification and whether juvenile offenders are subject to the law. The Office of the Ohio Public Defender served as lead counsel on these cases.

Several organizations from around the nation filed friend-of-the-court briefs supporting the ACLUs position that these laws are unfair and may increase sexual violence instead of curtail it. Some of these victims rights and law enforcement advocates include the Texas Association Against Sexual Assault, the National Alliance to End Sexual Violence and Detective Robert A. Schilling who serves on the Interpol Specialists Group on Crimes Against Children.

Gamso concluded, This law betrays many of our most cherished principles, and does nothing to make our communities safer. We all want to prevent sexual violence, so we must focus on effective solutions rather than knee-jerk policies that only exacerbate the problem.

Update: 06.03.10

The Ohio Supreme Court ruled 5-1 that two sections of the Adam Walsh Act requiring retroactive reclassification of some offenders was unconstitutional. All offenders who were convicted prior to January 1, 2008 and were reclassified by the Adam Walsh Act will revert back to their previous classification as determined by the courts.

[Read the court's decision](#)

[Read the court's press release](#)

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