

May, 2018

Chair Roegner, Vice-Chair Becker, Ranking Member Leland, and members of the House Federalism and Interstate Relations Committee. Thank you for the opportunity to speak to you today.

My name is Charles Reinhardt, and I live in Upper Arlington, Ohio. I am speaking today as an individual, but I know from conversations with many friends and acquaintances that my words reflect their thinking also.

I believe H.B 228 is a good bill that should be passed, but my remarks today will be on only two parts thereof.

Regarding the of the duty to retreat, I want to start by saying that I think every person faced with a conflict should de-escalate that conflict if possible, and I am in favor of every effort to teach people how to de-escalate conflict and give them incentive to do so. But the provision of this bill to eliminate the duty to retreat is not relevant to simple conflicts, but to violent attacks that present an imminent risk of death or serious bodily harm. That means either the event happened so quickly that there was no opportunity for de-escalation, or any attempt at de-escalation has already failed. I also think every person has a moral duty to attempt to retreat from a threat if possible before using deadly force. But I believe even more strongly that good government has a moral duty to vigorously support every person's most basic of all human rights, the right to defend oneself from harm. In this context, I mean that government is wrong to impose a legal duty upon the innocent victim of an attack to retreat from that imminent threat. This favors the violent assailant over the innocent defender, by requiring the defender to make a split-second decision whether to further expose himself or herself to risk by attempting to flee. Even the most agile person can stumble and fall in such a moment and become helpless, or nearly helpless, in the face of attack. Some might object that if there is an event where the alleged assailant is dead and there are no other witnesses, no one will know whether the alleged defender was truly not at fault, did not escalate the confrontation, or whether at that moment he or she had genuine fear, as well as actual cause to have fear, of imminent death or serious bodily harm. I would suggest that in such a scenario it would also be impossible to determine whether the defender attempted to retreat, therefore rendering moot the question of a legal duty to retreat.

This committee has already heard the explanation that under self-defense law in Ohio, three conditions must be met. First, the defender must not be at fault. That is, he or she must not have initiated, escalated or prolonged the conflict. Second, the defender must not only have a genuine fear, but also actual reason to have a fear, of imminent death or serious bodily harm. And third, the defender must have fulfilled the duty to retreat if possible. Removing the third factor only leaves two very clear and demanding bulwarks against irresponsible or indiscriminate use of deadly force. Those opponents of this bill who claim that removing the duty to retreat will allow violent people to get away with murder, and especially those who refer to this measure as a "kill at will" measure, base their statements only on emotion and general assumptions. Fortunately, this committee

and the Ohio legislature have the responsibility of passing legislation that is based on fact and reason, not on emotion and general assumptions. According to some articles I have read, written by attorneys and police officers, in the large majority of cases falsely claiming self-defense, it is fairly easy to show that the alleged defender was not innocent in the matter and or did not have actual cause to fear for his or her life. And we must remember that the prosecution only has to show that one of those conditions was not met in order for the claim of self-defense to be thrown out. Which brings me to commenting on another part of this bill, the part that would shift the burden of proof from the defender proving his innocence to the prosecutor proving his guilt.

This provision is of course not at all radical, since it is already the law in all the other 49 states. In regard to Ohio prosecutors who have spoken in opposition to this measure, I would have to wonder why they think they will not be able to accomplish what their counterparts in 49 other states are doing. More importantly, the current law flies in the face of our guiding principle that the accused is innocent until proven guilty. This is an egregious error that the current legislature has the opportunity to correct.

I would like to point out that every time Ohio has considered easing the restrictions on law-abiding armed persons using force to defend themselves from harm, opponents have predicted dire consequences, often proclaiming there will be blood in the streets. But in every instance subsequent reality has proven them wrong. I believe that if this bill is enacted the opponents will be proven wrong yet again. In consideration of other measures in the past I have read where opponents said that Ohio already has good self-defense laws and we don't need to change them. I would point out that even after the changes which have been made, it is still true that the innocent person who uses a firearm to defend himself or herself from harm will often spend tens of thousands of dollars defending himself or herself in court, sometimes losing their life savings, or even their home, before the court declares them innocent of any wrongdoing. I would hardly call this justice, and I would hardly call it adequate protection for the peaceful, law-abiding individual.

In summary, these two measures, shifting the burden of proof and removing the duty to retreat, will not protect violent people with ill intent from prosecution. Ohio law will still have plenty of clout to convict anyone who uses deadly force when sharing the fault for a conflict, or when not having genuine cause for fear of imminent harm. However, H.B. 228 will help protect peaceful, law abiding people from the travesty of escaping harm at the hands of a violent attacker only to become a victim of their own government. I urge this committee to report H.B.228 to the full House, and I hope it will soon be enacted.

Sincerely,
Charles Reinhardt