



JUDICIARY
COMMITTEE

Witness Form

Today's Date 6/12/17

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Organization Representing: _____

Testifying on Bill Number: SB 67 - Sierra's Law

Testimony: _____ Verbal Written _____ Both

Testifying As: _____ Proponent _____ Opponent _____ Interested Party

Are you a Registered Lobbyist? _____ Yes No

Special Requests: _____

My name is Jennifer Baughman and I am a criminal defense attorney in Columbus, OH. I obtained my Bachelors of Arts at Ohio University in Political Science and my Juris Doctor at Thomas M. Cooley Law School in Lansing, Michigan. Working as a criminal defense attorney, I have witnessed on a daily-basis the implications of registry systems, such as the sex offender and arson registries. As such, I have grave concerns about the proposed SB 67, Section 109.561 of the Ohio Revised Code, Sierah's Law and I strongly urge you to vote NO on SB 67.

First and foremost, the current bill gives an alarming wide discretion to the Attorney General. The proposed bill makes anyone who pleads or is convicted of aggravated murder, murder, voluntary manslaughter, kidnapping, abduction, attempt/complicity/conspiracy to any of those crimes susceptible to being placed on this registry. Then the bill goes a step further in section (b) by stating that "[a]ny other offense of violence the Attorney General considers necessary to include in the registry." SB 67, Section (c.) This is particularly troubling because it is granting the Attorney General, a member of the executive branch, essentially legislative powers by cherry-picking which additional crimes should fall under this registry. This is a breach of the separation of powers and is quite frankly unconstitutional. Further, the Attorney General's powers are enhanced by the Attorney General being the decider of whether this proposed registry will model the sex offender registry or the arson registry. Again, this is granting the Attorney General legislative function which absolutely does not comport with the Constitution.

Secondly, the proposed bill is overly broad, vague, and leaves more unanswered questions than providing actual sound answers. It does not have the practicality regarding enforcement and implementation of the registry. Specifically, what are the major penalties involved if someone does not register? Is it going to be a new felony conviction for failing to register? Is it going to include community notification requirements like with the sex offender

registry? The bill does leave all of these questions unanswered, and instead, gives the Attorney General the power to provide the answers—again, functioning as a legislature. This is quite alarming that in an adversarial criminal justice system, that one side, the State, is essentially receiving authority to not only be the enforcer of the law through prosecuting criminal cases, but is essentially also determining the punishment through deciding which crimes would fall under the registry requirement. Again, there is a separation of powers issue through this proposed legislation.

Lastly, this proposed violent offender registry has major due process concerns. The core of the judicial system is the right of due process and for the constitutional protections of an individual's rights when their liberty is at stake in criminal justice system. Court's in Ohio hear the very specific facts of cases and Ohio's honorable Judges decide the punishment. Cases are heard on the merits, evidence presented with the protection of the jury or bench trial, and when an individual is sentenced, whether by conviction or plea, the circumstances surrounding the crime is heard in open court. This offender registry strips apart the notion of due process, as it is labeling specific crimes and individuals, and molding them into a one-size-fits-all model. If an individual is convicted of the offense, then that individual is automatically labeled and must register. The proposed legislation does not have any mention of an actual hearing, with due process rights, to determine if an individual should even have to register as a violent offender. Another due process concern is the proposed look-back period for this violent offender registry. Does the State plan on making this registry ex post facto, and making it apply retroactively? If so, the expense of having to find all individuals with these specific convictions on their record and then afford them a hearing would be astronomical and impractical. If it is retroactive

application and the individual does not get a hearing, this would be a major due process violation.

Again, this proposed violation offender registry has multiple constitutional concerns and I urge you to vote NO.