



# Office of the Ohio Public Defender

*Timothy Young, State Public Defender*

**Testimony in Support of SB180  
Firearm Related Laws-Changes  
Sponsors Senator Uecker and Senator Hottinger**

Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to testify on behalf of the Ohio Public Defender in support of Senate Bill 180. The Ohio Public Defender is supportive of shifting the burden in self-defense cases to the state and the removal, from Ohio law, of the requirement for individuals to retreat when threatened.

Ohio is not the first state to pass laws similar to these provisions of SB180. According to an article posted by the National Conference of State Legislators, 24 states have enacted laws eliminating a duty to retreat when the individual is lawfully permitted in their location.<sup>1</sup> Additionally, a “great majority” of states place the burden on the prosecution to prove beyond a reasonable doubt that the defendant did not act in self-defense.<sup>2</sup>

During sponsor testimony concern was raised that this bill will put undue burden on prosecutors. This concern is without merit. First, prosecutors already work under current law which provides a presumption in favor of a defendant who was using force against someone unlawfully in that person’s vehicle or residence. Second, the bill still requires that some evidence must be presented at trial that “tends to support that the accused person used the force in self-defense” before the state

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<sup>1</sup> Self Defense and “Stand Your Ground,” March 9, 2017, <http://www.ncsl.org/research/civil-and-criminal-justice/self-defense-and-stand-your-ground.aspx>

<sup>2</sup> Furbish, Lawrence K., Criminal Rules on Self-Defense in Other States, 1999, <https://www.cga.ct.gov/PS99/rpt%5Colr%5Chtm/99-R-0380.htm>, citing 40A Am Jur 2d § 239

has the burden of proving, beyond a reasonable doubt, the force was not in self-defense.<sup>3</sup> Finally, through discovery, prosecutors learn pretrial that the defendant intends to argue self-defense. With that information in mind, the prosecutor prepares their case to convince a jury that the force was not used in self-defense. Under current law, the defendant need only prove self-defense by a preponderance of the evidence. For the State to prove beyond a reasonable doubt that the force used was not in self-defense does not create a burden significantly more cumbersome for prosecutors than rebutting the low standard of preponderance of the evidence as is required under current law. As a former prosecutor myself, I can tell you that a good prosecutor will prepare their case to show that no reasonable person could believe the defendant was responding in self-defense – regardless of where the burden is placed under the law.

Proof beyond a reasonable doubt is a pillar of our criminal justice system. This level of proof is essential for maintaining a free society where individuals cannot be incarcerated for mere accusation. The ability to protect oneself, family, and home are also pillars of our democracy. SB180 works to protect these fundamental concepts. Ohioans should not have to run and hide when they are threatened, and the state should have the responsibility of proving that those protective actions were unreasonable.

Thank you for the opportunity to speak today before your committee. I am happy to answer questions at this time.

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<sup>3</sup> Line 400-409.

