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Written Testimony before the Ohio Senate, Judiciary Committee

Dear Honorable Sirs and Madams,

As an Ohio concealed handgun licensee, NRA Certified Firearms Instructor, NRA Certified Range Safety Officer, NRA Life Benefactor Member, attorney, law enforcement officer, trainer of nearly 1,000 concealed handgun licensees, and citizen, I am appreciative of many provisions proposed in S.B. 180.

As a person who does not want to be murdered without his killer being prosecuted, I request that you amend S.B. 180 to excise the provisions related to Ohio's self-defense standard.

For two centuries, Ohio's standard of proof for self-defense has been that of common law. Specifically, to lawfully take a life in self-defense, the accused must not have caused the situation giving rise to the affray, must have reasonably feared an imminent threat of death or serious harm, and must have honestly feared an imminent threat of serious harm. The final condition for defense has been that the only means of escape was the use of deadly force – a condition which will be modified by "stand your ground," and to which modification I voice no objection.

To prevail in a self-defense claim under Ohio law, the accused has to demonstrate that it is more likely than not that the above listed conditions were present. Ohio has over 200 years of settled and successful jurisprudence erected around this standard.

It is accurate for several proponents to relate that Ohio is unique in its formulation of the self-defense standard among the other states. It is also accurate to state that none of the sponsors of this legislation can identify a single person wrongfully convicted using Ohio's standard. I know this, as I was requested some years ago by one of the sponsors to research the exact topic. It is from this extensive research on the topic – conducted for one of this bill's proponents – that I formed my opinion on this matter. There was not one example of any person in the history of this State wrongfully, or even close-to-wrongfully convicted due to this standard.

This begs the question: who then does this legal change benefit, if no person has suffered due to the current standard. The answer, simply, is dangerous, guilty, violent criminals.

I carry a gun every single day. If someone attacks me and, God forbid, they are the victorious party, I am going to die with a gun in my hand. Come court time, should the case even get that far under the proposed standard, my killer is going to sit with a smile on his face while his attorney explains to a jury that my having a gun in my hand *is* reasonable doubt related to whether his client might have acted in self-defense. His attorney will be absolutely correct.

That's what is perverse about this proposal. The persons it harms the most are law abiding victims with concealed carry licenses – statistically one of the least criminally-inclined populations in the State. The persons it benefits the most are gangland assassins whose targets are likely to also be armed, or who

will also be criminally corrupted. The proposed standard is, in effect, the legalization of gangland gunfire exchange and killing of legally armed persons.

This legislation demands that the State prove a negative, and prove that negative to a standard of proof beyond a reasonable doubt, while the State is not the party in possession of the relevant information, and while the only witness on the matter is dead due to the defendant's actions.

When one looks around at other states and their systems of justice, and asks themselves "why are 500 people being killed a year in Chicago with relatively few convictions or punishments" and "why does there seem to be endless rioting in St. Louis," and "why is the California criminal justice system a chronic failure," and "why can a law enforcement officer be acquitted for executing a compliant person on clear video," in many cases the answers lie in well-intentioned but nonetheless senseless legislation related to the enforcement of common social norms. Legislation like what you're reviewing today.

I prosecuted shootings in Columbus for almost ten years. Juries in Columbus were routinely lost as to whether someone acted in self-defense during drive-bys and gangland shootings under the current standard. I even had a judge get confused and believe someone was acting in "self-defense" after they busted in a business's door and then shot several of the employees who came outside to investigate the vandalism. One can only speculate on the free-for-all created by forcing the State to imagine every scenario a defense attorney might fabricate in a closing argument and fastidiously disprove all of them during trial. Over time, the practical result will simply be that those persons will never be charged, and Ohio's system of justice will take another step towards the failed systems in other, inferior, states.

Which comes back to the question, "Why?" Why is this drastic change to the entire system of justice in Ohio necessary or desirable? It is a massive change. The current system works. The proposed change is frustrating because it is needlessly destructive and its proponents cannot cite a single wrong to be righted by their proposal.¹

When tinkering with the bedrock legal principles governing our state, the only responsible approach is "Do no harm." Changing a 200 year body of jurisprudence that presents zero demonstrated poor outcomes is the doing of harm.

Please excise the proposed modifications to R.C. §2901.05 located at lines 396-433 of this bill.

Respectfully



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¹ It is further frustrating as a staunch proponent of firearm rights to see the loudest voices in that arena "jumping the shark." For years those who oppose civil liberties have falsely and insultingly claimed firearms rights groups were aiding dangerous persons by advocating for law-abiding citizens' rights. This proposal actually does hurt law abiding armed citizens and actually does benefit dangerous criminals solely for the purpose of benefitting dangerous criminals.