



Ohio Gun Owners

Ohio's Grassroots Gun Rights Organization
3195 Dayton-Xenia Road, #900-306
Beavercreek, OH 45434

MEMORANDUM

DATE: February 26, 2020

TO: Members of the House Criminal Justice Committee

FROM: Chris Dorr
Director, Ohio Gun Owners

RE: Support for House Bill 381

Chairman Lang, Vice Chairman Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to testify in support for HB381 to this committee.

I'm Chris Dorr, the Director for Ohio Gun Owners, Ohio's biggest and most aggressive defenders of the Second Amendment in this state.

I helped break the log-jam that the 2012 Trayvon Martin/George Zimmerman sham trial created when we passed this Stand-Your-Ground law in Missouri in 2016. I helped pass it in Iowa in 2017 for Iowa Gun Owners, the group founded by my brother Aaron. And I helped do the digital mobilization efforts that ensured this bill passed in Wyoming in 2018 as well.

I helped write this bill. In fact, it was this very legislation that I passed on to State Senator Anthony Bouchard out in Wyoming that served as the drafting instructions for the Stand-Your-Ground bill they passed

into law there in 2018, and it is the model for legislation I'm helping to write right now in New York state, and it will be introduced there shortly.

House Bill 381

This bill is a great piece of legislation that has the full support of our membership. This bill is very simple in terms of what it accomplishes, and it involves a couple of key components.

First, it removes a law-abiding citizen's "duty to retreat" from an attacker before using reasonable means to defend themselves from violent attack.

As most experts who study self-defense trials will agree, every self-defense situation is individual, with details and circumstances specific only to that event.

To mandate a general requirement to retreat is a blanket approach to specific events, and that approach can have lethal consequences.

Gun owners are lawful people. They want to respect and obey the law to the extent possible. However, a split-second decision based on a blanket mandate to retreat instead of immediately commencing a good and proper self-defense could easily mean the difference between life and death.

That's why repealing the "duty to retreat" is one of the pillars of the three or four-legged stool that is Stand-Your-Ground law. The fact is the violent criminal attacking the innocent individual should be the one doing the retreating.

Another leg of that stool is immunity from criminal prosecution and civil suits arising from acts of self-defense.

Often in the gun rights community you'll hear the term "out-of-control anti-gun prosecutors" as a reason why legislation like this with strict immunity clauses should be passed into law.

Sadly, Cuyahoga County assistant prosecutor Andrew Santoli recently provided an example of what they are referring to.

Last year in March, Santoli and the Cuyahoga county prosecutor's office were forced to drop charges against a black man named Joshua Walker who had been forced to use a firearm to defend himself against a thug named Aaron Mason.

In the high-definition surveillance footage of the incident, attacker Aaron Mason is clearly seen walking up to Joshua Walker and viciously initiating a physical attack against Walker.

A fight ensues and continues through the front door of the establishment out onto the sidewalk, where Mason throws Walker to the ground and gets on top of him, at which point Walker fires three shots into Mason's body.

After shooting Mason, Walker stupidly fled the scene to his home in Phoenix, Arizona, but left behind a cell phone that connected him to the shooting.

Now, if you're a guilty murderer, that isn't too smart.

To be clear, Walker wasn't a model citizen. He had prior drug convictions in both Phoenix and Cleveland.

An arrest warrant was issued for Walker, Phoenix police picked him up and extradited him to Cleveland for prosecution.

And this is where a full-orbed Stand-Your-Ground law is needed.

You see, justice isn't only reserved for the squeaky clean, as this case illustrates.

Having prior drug convictions, the Cuyahoga County Prosecutor's Office probably thought to themselves that Walker was a scumbag who they could slam the cell door shut on, and case closed.

But that wouldn't have been justice.

Because in that specific moment, Walker was freely sitting there in that establishment, NOT physically or violently attacking anyone.

But because Ohio does not have a Stand-Your-Ground law with criminal immunity provisions in it as this bill provides for in Sec. 2901.092, there was no standard which the Cuyahoga county prosecutor had to meet before they were able to charge Walker with murder.

In the end, Walker spent 200 days of his life behind bars, only to have his charges dropped the day his trial was supposed to start.

When asked WHY prosecutors charged Walker in the first place, communications director Ryan Miday from the Cuyahoga County Prosecutor's office admitted that their prosecutors had asked a grand jury to indict Walker before the grand jury had seen the surveillance footage.

Justice isn't only reserved for the perfect. Stalin's secret police chief (BEARIA) Berea infamously once said, "show me the person I'll show you the criminal." None of us are perfect. But some are certainly better than others.

That's why we need this bill.

Along with criminal immunity for self-defense cases, this bill provides for immunity from civil action as a result of the use of force in self-defense.

I think this one is pretty self-explanatory, so I won't belabor the point too long, but the last thing the victim of a violent attack should face after successfully defending themselves against it is a civil suit by some attacker or their family looking to get rich off the backs of their intended victims.

Another thing I'd like to highlight about HB381 is the enactment clause, or the pre-trial immunity hearings.

There have been states that have passed self-defense overhauls like HB381 but which failed to include enactment

language, or language that specifically provides a victim the opportunity to invoke the intended protections.

That is the intention of this bill in Sections 2307.601(F)(2) and 2901.05(A)(2).

These sections provide a victim of a violent crime the opportunity to prevent being victimized a second time by being forced to go through a lengthy, expensive trial just to prove their innocence.

During these pretrial immunity hearings, the victim of a violent crime can present evidence to the court of their innocence, and unless a prosecutor or plaintiff looking to overcome immunity can prove to a judge -- to a lesser standard than they'll have to prove later on to a jury for a conviction or positive finding -- that the defendant did NOT act in self-defense, the case is prohibited from moving forward and justice for the victim is preserved.

Another important part of this bill that I'd like to draw your attention to is the "threatened use of force" that you see throughout the bill.

Current Ohio law is silent about the time period between when a firearm is drawn from the holster and when the hammer or striker is released. By default then, it actually encourages someone to pull the trigger once they pull their firearm because at that point, justification for lethal force has already been established by the three historical components of ability, opportunity and jeopardy.

By establishing the "threatened use of force," HB381 provides lawful citizens the ability to use a firearm as a de-escalation tool, to de-escalate violent situations by threatening to use force against a would-be attacker.

For example, a grandmother walking out of a grocery store with a couple of grandkids in tow would be able to pull the Glock 43X (or Glock 48, or Sig P365, or Springfield Hellcat, or Glock 19, or Colt Combat Commander) from her holster and threaten to use it against a man sneaking up behind her grandkids with a knife in his hands.

Such an action might be all that is needed to deescalate what could end in the loss of life for the would-be attacker, and also protect the grandmother from a spurious "assault with a deadly weapon" accusation by the would-be assailant.

Continuance

What this bill does is keep the innocent citizen who is telling the truth that they did shoot in self-defense from going through a legal nightmare.

You're going to hear objections in this committee that this bill will make the police's jobs and the prosecutor's jobs more difficult, but that's just not true.

The burden that the prosecution has for a conviction, under this bill, is unchanged from current law. They must prove to a jury beyond a reasonable doubt that a defendant is guilty.

To be able to proceed to trial after someone has invoked their pre-trial immunity hearing, the prosecution will have to prove to a judge at the lower (thus, EASIER) standard of "clear and convincing evidence" what they will have to prove later to the jury at the conviction standard.

And as you'll see in lines 342 and following of the bill, the argument that this will make it harder for law-enforcement officers to do their jobs simply isn't true, either.

The bill simply specifies that an officer MUST have probable cause that a person's use of force was not justified - a standard which is completely appropriate and has been for a very long time - before they are allowed to arrest them.

Another objection we've heard all too often already in regard to this bill is that it's a "license to kill" or that you can shoot anybody if you feel threatened by someone.

But such a sentiment is an indication that the bill wasn't read closely or that the person doesn't understand the law.

Nowhere in this bill does it say you can kill someone who looks at you cross-eyed. Nowhere in this bill does it say you can shoot someone for calling you names or even shouting at you angrily or even slapping you across the face.

What the bill says in lines 242 and following is that a person's actions must be reasonable. What defines reasonable?

According to the Ohio jury instructions, a trier of the facts, in deciding whether the defendant had reasonable grounds to believe and an honest belief that he or she was in imminent or immediate danger of being killed or receiving great bodily harm, must exercise a three-prong test:

1. They must put themselves in the position of the defendant
2. Knowing what the defendant did or did not know
3. Under the circumstances that surrounded him or her at the time.

Quite frankly, the insinuation that you'll hear that lawful gun owners like myself or the thousands of people that I represent would even consider killing another human being if we could simply walk away in safety is insulting to the best citizens in this state.

FINAL THOUGHTS

In closing, we love this bill and we urge this committee to support its passage.

Our membership across Ohio is fired up, geared up and mobilizing in support for this bill.

We would like to see this committee swiftly act to pass this bill out and send it to the House for a full floor vote.

In addition, we urgently caution this committee against merging it with any other bill or "watering it down" through weakening amendments.

I thank you for your time and would be happy to answer any questions.