

## TESTIMONY IN OPPOSITION TO HB 381

**TO:** MEMBERS OF THE OHIO HOUSE CRIMINAL JUSTICE COMMITTEE

**SUBMITTED BY:** MOLLY VOIGT, STATE LEGISLATIVE MANAGER, GIFFORDS

**DATE:** JUNE 9, 2020

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Chair Lang and Members of the Ohio Criminal Justice Committee,

On behalf of Giffords, the gun violence prevention organization co-founded by former Congresswoman Gabby Giffords, I would like to voice our strong opposition to HB 381. Bills like this are commonly referred to as ‘Stand Your Ground’ or ‘Shoot First’ laws. Contrary to their supposed purpose of preventing crime, Stand Your Ground laws can actually encourage unnecessary violence, particularly towards black victims. White assailants have long used stand your ground laws—which generally allow a person to not retreat from a conflict when the ability to do so safely exists—to justify attacks against black victims. An analysis of Florida stand your ground cases found that a defendant is twice as likely to be convicted in a case that involves white victims compared to those involving non-white victims<sup>1</sup>.

Currently, Ohio allows individuals to use force, including deadly force, to protect their residences and vehicles without requiring them to retreat first, but requires individuals in public places to retreat if possible before resorting to deadly force. HB 381 would remove the duty to retreat in public places. This is a radical departure from the centuries-old legal principle that if a person faces a potential threat in a public place, they must retreat if they can safely do so before using deadly force.

This bill would expand the locations in which a person may use deadly force without first attempting to retreat to anywhere a person is lawfully present, and prohibit triers of fact from considering the possibility of retreat when determining whether the force was reasonable. This bill would also create a pre-trial hearing for cases in which self defense was claimed which switches the burden of proof regarding whether the use of force was self defense to the prosecution. The bill complicates this process by immunizing people who claim to have used self defense from arrest, filing of criminal charges, and civil and criminal action, interfering with the investigative process.

Laws like HB 381 threaten public safety by encouraging armed vigilantism. Shoot first laws have a profound impact on our justice system, tying the hands of law enforcement and depriving victims of remedies. These laws confer immunity even where someone’s claim of self-defense is highly questionable, and create opportunities for prejudice to become deadly. In the well known case of Trayvon Martin, a 17-year-old who was shot in 2012 by someone who claimed self defense under Florida’s ‘Stand your ground’ law, his shooter was not held accountable, even though he chose to pursue and shoot an unarmed teen rather than follow a 911 dispatcher’s advice.

According to a *Tampa Bay Times* investigation, between its enactment and 2012, Florida’s ‘Stand Your Ground’ law was invoked in over 200 cases.<sup>2</sup> Of the cases reviewed by the *Times*, nearly one third involved a defendant

<sup>1</sup> Nicole Ackerman, Melody S. Goodwin, Keon Gilbert, Cassandra Arroyo-Johnson, Marcello Pagano. “Race, law, and health: Examination of ‘Stand Your Ground’ and defendant convictions in Florida,” *Social Science & Medicine*, no. 176, (2015): 194-201.

<sup>2</sup> Kris Hundley, Susan Taylor Martin & Connie Humburg, “Florida ‘stand your ground’ law yields some shocking outcomes depending on how law is applied,” *Tampa Bay Times*, June 1, 2012,

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who initiated the fight, shot an unarmed person, or pursued their victim and still went free.<sup>3</sup> The investigation also found that defendants claiming self defense were more likely to prevail if their victim was black.<sup>4</sup> Researchers found that Florida’s “Stand Your Ground” law increased both justifiable and unlawful homicide rates.<sup>5</sup> Since the law was implemented in 2005, Florida’s firearm homicide rate is up by 32%.<sup>6</sup> If enacted, HB 381 will endanger lives, particularly the lives of people of color, by emboldening people to use deadly force in situations where it could safely be avoided.

Giffords is honored to be working with partners in Ohio toward responsible gun safety. We urge you to reject HB 381 and protect Ohioans from preventable gun violence. Thank you.

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## ABOUT GIFFORDS

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Led by former Congresswoman Gabrielle Giffords and her husband, Navy combat veteran and retired NASA astronaut Captain Mark Kelly, Giffords inspires the courage of people from all walks of life to make America safer.

<https://web.archive.org/web/20141129034517/http://www.tampabay.com/news/publicsafety/crime/florida-stand-your-ground-law-yields-some-shocking-outcomes-depending-on/1233133>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> David K. Humphreys, Antonio Gasparini, and Douglas J. Wiebe, “Association Between Enactment of a ‘Stand Your Ground’ Self-defense Law and Unlawful Homicides in Florida,” 177 *JAMA Internal Medicine*, no. 10 (2017): 1523–1524.

<sup>6</sup> David K. Humphreys, Antonio Gasparini, and Douglas J. Wiebe, “Evaluating the Impact of Florida’s ‘Stand Your Ground’ Self-defense Law on Homicide and Suicide by Firearm: an Interrupted Time Series Study,” 177 *JAMA Internal Medicine*, no. 1 (2017): 44–50.