

Rebecca Rabb
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Representative George F. Lang
Criminal Justice Committee Chair
Ohio House of Representatives
77 South High Street
13th Floor
Columbus, Ohio 43215

June 8, 2020

Dear Chairman Lang, Vice Chair Plummer, Ranking Member Leland, and members of the Criminal Justice Committee,

I am writing to request the opportunity to testify before the Criminal Justice Committee on June 9, 2020 regarding House Bill Number 381. If I am sending this request too late to be permitted to testify in person, I ask that you please take my written statement into consideration.

My name is Rebecca Rabb. I have lived most of my life in Ohio and I have been licensed as an attorney in Ohio since 2007. Throughout my career, I have worked for the Ohio judicial system at various levels and in various capacities. But today I come before you on my own behalf, as a citizen of Ohio, and the views I am expressing are not the official position of, nor are they on behalf of, any elected official or court that I have worked for, presently or previously. As an Ohio citizen I feel morally compelled to express to you that I am strongly opposed to H.B. No. 381.

I assume that other people and organizations are coming forward to you with data-analysis and policy arguments that are far more comprehensive than I could offer and based on a level of expertise I won't even pretend to have. I don't want to muddy their arguments by providing my own second-rate version. What I have to say on my own behalf is just personal and anecdotal. But I still think it is important enough for you to hear it and to ponder it in your hearts.

When I was reviewing the language of this bill, I was reminded of a case that I read around 2016 that has stuck with me. It should have been a murder case, except that the victim miraculously survived. One evening, a husband made his wife fear for her life, and so she hid in a spare bedroom and put one of his guns on a nightstand hoping it would deter him. She didn't know how to use it and it wasn't even properly loaded. He broke into the room and said smilingly that he was glad she had put the gun out because now he was going to be able to claim self-defense. Then he shot both of her legs off with a big-game rifle.

The man in that case was obviously trying to exploit the law in bad faith, and he grossly misunderstood the nature of the law and the extent to which it might protect his actions. But the language in H.B. No. 381 is worlds different from the concept of self-defense currently contained in R.C. 2901.05 and 2901.09. And it won't take a gross misunderstanding or even moderate misunderstanding of the language that is currently proposed in H.B. No. 381 for a person to feel empowered to use deadly force and to feel confident that he will be able to exploit the law in bad faith, not only to excuse his use of deadly force, but to receive immunity from being prosecuted for it in the first place.

People will feel empowered to use this law, in good faith or bad faith, to unnecessarily kill the citizens of Ohio whom you have been elected to serve. If you pass this law, you will be responsible for the increase in killings--killings that absolutely don't need to happen--in Ohio. You may say that this proposed law shouldn't be criticized because of those who might misinterpret the law in bad faith, and plus, they will still be held accountable. Personally, I have doubts that they all will. But regardless, who cares if a person will or won't be sent to prison based on their correct or incorrect interpretation of this law? What matters is that their victim will be dead, either way, because of this law. Anyone who kills in light of the language of this bill is doing so because they thought you said it was okay, or that they could get away with claiming that you said it was okay. The blood will be on your hands, either way, because of this law. The heavy weight of every lifeless head that is physically laid down in every casket will be figuratively laid down in your lap.

In my current and previous jobs advising members of the judiciary, I have been tasked with performing research and providing advice and recommendations on the interpretation and application of a wide variety of statutes, including plenty of criminal statutes. My job is to advise on what the law means, by its plain language, or what the General Assembly intended for it to mean based on tried and true canons of statutory interpretation. My job is not to say whether the General Assembly's intent was noble or despicable. I endeavor to have the law applied in the judiciary as it has been written, and that means I have been witness to or made part of results that I, deep down, suspect are morally objectionable. I throw up my hands because it is not my role to advocate for the alteration of a law that has been enacted by the General Assembly. I feel that my vow to honor the rule of law and the separation of powers does not allow me to advise otherwise. But I feel complicit. I feel complicit in the unfairness, the injustice, and the tragedies that have been cleaned up to the point of caricature and are impossible to scrutinize by the time they reach the appellate level. If this bill becomes law, I would not for a moment try to advise anyone that the law means anything other than what it says. But if I am put in the position of promoting a result that I think, in my professional capacity, is legally correct but believe, in my personal capacity, is morally objectionable, the blood on your hands will become the blood on my hands. The heavy weight of every lifeless head in your lap will become the heavy weight of every lifeless head in my lap.

Maybe you want the blood and the weight. But I don't. Don't make me complicit. Don't pass this law.

Please consider my statement and vote NO on House Bill Number 381.

Sincerely,

Rebecca Rabb