

Chairman Lang, Vice Chair Plummer, and members of the Committee,

Thank you for allowing me to testify today. My name is Rena Shak. I am a staff attorney at the Franklin County Public Defender. I have worked in the municipal misdemeanor unit and have been in the Common Pleas felony unit for four years now. I have an undergraduate degree from The Ohio State University in Political Science and Security & Intelligence, with a focus on counterterrorism. I have spent my entire legal career in criminal defense.

I am strongly opposed to House Bill 381. You may think it is odd for a career defense attorney to be opposed to a bill that would allow for an expanded self-defense argument on behalf of my clients. But I will tell you why I am so incredibly opposed to this Bill.

First and foremost, I will address my concerns with a more practical aspect of this bill. The bill allows for a pretrial “immunity hearing” to enable a judge to make a legal finding that a defendant should be immune from prosecution if they were acting within their rights as laid out in this bill.

As a defense attorney here in Franklin County, I can assure you that that is impractical for two reasons.

One, we almost never receive discovery regarding a case that quickly. It takes the County Prosecutor several months sometimes to supply the defense with the evidence packet of a case. Typically, the wait time is at least over 30 days. To expect a defense attorney to be able to conduct a pre-trial hearing of this magnitude would require investigation and review of the discovery we surely would not even receive by that pre-trial date.

The second reason that this Bill is impractical from a legal perspective is that the “immunity hearing” would require the defendant to take the stand and testify about his or her conduct on the date in question. It is rare for an attorney to recommend that their client take the stand in any criminal case to begin with. No competent defense attorney would ever recommend their client to take the stand that early in the process. Should the hearing not go in the favor of the client, the defense has now provided the State with ample evidence against their client. This essentially forces a defendant to give up the right against self-incrimination from the start of the case.

Moving on from the practicality of the Bill, I am deeply against this bill because of the racial biases that are pervasive in Stand Your Ground laws across the country. And from what I have read, this bill would provide no protections against the racially biased results that we have seen for decades with these laws.

As a Public Defender, we deal with, and fight against, racial biases in the criminal justice system daily. We know that sentences for black individuals are typically 20% higher than their white counterparts. We know that a black man is far less likely to receive a recognizance bond, despite lower levels of pre-trial recidivism than white men with the same charge and similar record. Also, we know that when cash bonds are set, those set for black individuals are typically \$9,000-10,000 more than a white person’s bond with the same charge and similar record. And yet, a black individual is almost 50% less likely to be able to afford those bonds. The list goes on and on... and the effects from this bill would just be another statistic added to that list- with higher imprisonment rates and more deaths for black individuals specifically.

We know, as a fact, that racial biases against black members of society, black men in particular, are pervasive in this country, and especially within the criminal justice system. This bill gives a shooter the

right to resort to deadly force almost immediately- when in “fear for their safety” or those around them, or if they suspect a felony is being committed. A black man is far more likely to be suspected of a committing a crime or to be threatening, even when there isn’t a shred of truth to that assertion. White America is afraid of black men. We have seen it time and time again- most recently with Ahmed Arbery.

Stand your ground laws allow for situations like that to occur. And make it harder for charges to be pressed against the murders. Because the other person involved is already dead. So, if there is no video or audio, the shooter gets to make up whatever facts they want about the shooting to hide the facts. And almost always, this is to the detriment of a black individual.

In fact, across all states with Stand Your Ground laws, the statistics show a sad truth with regard to race. These “defenses” are far less successful for people of color than for white defendants. The odds that a white-on-black homicide is ruled to have been justified in court is more than ELEVEN times more than the odds of a black-on-white shooting. Black-on-white shootings have only been successful in approximately ONE percent of cases.

Further, if the defendant has any criminal history that would make them “disabled” from carrying a firearm, this bill does not apply to them. We know that drug crimes are the most popular and relied upon “disabling” crimes. And we also know that despite the same rate of use of drugs across black and white communities, a black man is 6 times more likely to be charged with a drug crime. This bill, then, would statistically be available to more white people than black people as a defense.

In effect this bill is set up from the beginning to be racially biased in its accessibility and in its effects against the black community. It is just an excuse for racially biased killings to take place against the black members of Ohio’s communities, with no recourse. It is essentially legal lynching. And as a Public Defender, I can’t stand by and allow for this bill to be debated without that being heard.

I ask you to consider my testimony and vote NO on this racially biased and incredibly harmful bill. Thank you again for the opportunity to testify.