

**Ohio Coalition Against Gun Violence
Testimony in Opposition to HB 381
House Criminal Justice Committee**

Chairman Lang and Committee Members

The Ohio Coalition Against Gun Violence opposes HB381.

Removing a duty to retreat into Ohio law will add to violence instead of reducing it. The bill purports to clarify the right to self-defense and defense of others. The bill presumes that someone acted properly even when using lethal force if they ‘**reasonably believe**’ they were suffering or might be about to suffer an offense of violence. Fear of harm or death is based on perception. It is human nature to protect ourselves and others from the threat of severe bodily harm or death when retreat to safety is not possible.

The challenge is who and what is **reasonable** of which we all might disagree.

We question how this bill might affect domestic violence situations, long standing feuds, neighborhood conflicts and workplace bullies. How will their fear influence the use of deadly force?

We also question the wisdom of proposing a law where violence is acceptable behavior in circumstances that are based on fear. In these times of civil unrest and the horror of the brutality that has even been inflicted by law enforcement in times of stress this bill will not add to our safety. It will enhance it. We also have to ask if applying Stand Your Ground with no duty to even consider retreat when possible will be applied to everyone equally. At this time there is a total mistrust of law enforcement, protestors, justice, and the elected to keep us all safe. This bill will make it all worse.

House Bill 381 states:

Reasonable force" means the use or threatened use of force that a reasonable person would judge to be necessary to prevent an injury or loss and can include deadly force if a person reasonably believes that using or threatening to use such force is necessary to avoid injury or risk to the person's life or safety or the life or safety of another.

A court or jury as trier of fact shall not consider the possibility of retreat as a factor in determining whether a person who used or threatened to use force, including deadly force, **reasonably believed** that such force was necessary to prevent injury, loss, or risk to life or safety.

A person is justified in the use of or threat to use **reasonable** force, including deadly force, even if an alternative course of action is available.

A person may be wrong in the estimation of the danger or the force necessary to repel the danger as long as there is a **reasonable** basis for the person's belief and the person acts reasonably in response to that belief.

Four incidents come to mind; the man that killed the neighbor boy when he walked across his lawn because of a history of feuding with the family, a young boy that was considered a threat for cutting through a backyard at night with friends, and a young man that was an exchange student on a scavenger hunt but because of his nationality was perceived as a threat when he knocked on someone's door. All were shot at by fearful homeowners, two died.

A few years ago a 14 year-old was killed while stealing a car. The defendant was not charged because the boy was driving the car towards him and therefore the man was considered to have acted in self-defense. There was an alternative. This man could have stayed in the house but chose not to. A duty to **retreat if one can safely do so**. He now lives with the fact that he killed a 14 year-old over a car. And of course none of us can forget the killing of Trayvon Martin by George Zimmerman who was frightened by someone not like himself walking through the neighborhood. The prosecutors needed to show Zimmerman was not acting in self-defense to find him guilty. They didn't and Mr. Zimmerman has continued to use poor judgement in the years that have followed resulting in more violence. He could have safely retreated but he claimed his fear was reasonable.

One could argue that these decisions to use lethal force were based on fear not 'reasonable belief'. Good judgement would have decided on retreat.

We oppose HB381 for these reasons:

- A. That a 'duty to retreat' if safely possible will no longer be the moral and preferred choice.
- B. That lethal force could be the first line of defense.
- C. That fear and/or danger justifies suspension of rational thought.
- D. That any citizen may with impunity act on an ad hoc basis, as judge, jury, and executioner of his fellow citizens
- E. That some citizens are not entitled to the cherished right to a trial by a jury of his/her peers and, instead, legally may be judged unworthy of that right by one angry or fearful citizen that reasonably believes they may be in danger.
- F. That minimally trained or untrained, unsupervised civilians should have authority to use lethal force in ways that are currently prohibited to our highly trained police officers.
- G. That society is better served by street justice than by the rule of law.

This permissive bill makes a number of serious mistakes. While a person should surely be allowed to protect himself, he/she should not be excused from assessing the degree and immediacy of danger before using deadly force against another.

We cannot conclude that this legislation is necessary for those who fear being wrongly imprisoned and/or impoverished by the costs associated with having to defend themselves in a court of law. The jails are not full of people that used deadly force in self-defense. Fear that it might happen does not justify the bill.

First legislation was approved to allow carrying loaded hidden guns in public. People wanting to carry claimed fear of attack made it necessary. Now this bill wants to expand on that privilege by giving people excuses even if they make bad decisions.

HB381 will establish in law values that are contrary to the building of a safe and civil society. The bill will determine norms that will affect behavior. Law teaches. Seat belt and no smoking laws determined a norm for behavior and these bills will do the same. For more than 2000 years the Judeo/Christian tradition has been to treat life as sacred. This law would violate that spirit.

We believe these changes to Ohio law attempts to convince the public that it is a solution to a problem where one does not exist. It contributes to the circle of violence and we oppose this dangerous public policy.

Thank you for your time and consideration.

Toby Hoover

Founder

Survivor

Ohio Coalition Against Gun Violence