

TESTIMONY OF LARA BAKER-MORRISH
COLUMBUS CITY ATTORNEY ZACH KLEIN'S OFFICE,
ON HB 178
BEFORE THE OHIO HOUSE FEDERALISM COMMITTEE

Chair Becker, Vice-Chair Stoltzfus, Ranking Member Miller and esteemed members of the House Federalism Committee, thank you for the opportunity to provide opponent testimony on House Bill 178.

My name is Lara Baker-Morrish. I am City Solicitor General for Columbus City Attorney Zach Klein's Office. I have been with the Columbus City Attorney's Office since 1993 and, prior to assuming my current position, I spent 11 years in the position of Chief Prosecutor. The City of Columbus, with a population of roughly 860,000, is the 14th largest city in the United States and the largest city in the State of Ohio. Among its other duties, the Columbus City Attorney's office prosecutes misdemeanor crimes committed in the City of Columbus and unincorporated townships – crimes which include misdemeanor domestic violence offenses of which there are roughly 4,000 filed each year. While I applaud the recently proposed amendments to HB 178 designed to fill the gap between federal weapons disability law and that of the state by finally including misdemeanor domestic violence offenses within the state weapons under disability statute, the bill, as a whole, remains fundamentally flawed.

First – as relates to the proposed amendment to HB 178 to incorporate changes to R.C. 2923.13 – the weapons under disability statute - if the desire is to specifically preclude those individuals who have a pending charge of domestic violence or who have been convicted of domestic violence then the language will need to be amended to reference not just domestic violence indictments which would only pertain to felony level domestic violence offenses but to those who have a currently pending charge of domestic violence. These individuals are already routinely Brady disqualified from possessing a firearm during the pendency of a domestic violence case and the language in the amendments should reflect the same.

Second – the bill states that the carrying or possession of a deadly weapon “does not constitute grounds for any law enforcement officer or any agent of the state, a county, a municipal corporation, or a township to conduct any search, seizure, or detention, no matter how temporary in duration, of an otherwise law-abiding person.” In addition to imposing restrictions upon law enforcement that are far stricter than the US Supreme Court decision in *Terry v. Ohio*, 392 U.S. 1 (1968) holding that the US Constitution allows for an officer who has reasonable suspicion to believe that an individual is engaged in criminal activity to conduct a pat down to determine if the individual is armed and presently dangerous, the provision is also highly unworkable. Law enforcement officers who may come into contact with an individual who is carrying a concealed weapon have no means of identifying whether or not that individual is “otherwise law-abiding” on the basis of their encounter alone. There is nothing inherently identifying about a person who does or does not have a federal weapons disability and an officer on the street lacks the immediate access to run a record check to determine the same before having to decide if the individual before them with a concealed, deadly weapon is a risk to their safety.

Third – even if a law enforcement officer did have easy access to criminal records information, we are all aware that the current records system in Ohio is fractured and deeply flawed. Lacking a unified court system, it is not unusual for records of disqualifying offenses – particularly those still in the indictment stage or of the mental health/substance abuse variety – to not be available to an officer running a quick check on the street. The existing carrying concealed licensing process requires that a record check be conducted by Sheriff's Departments prior to issuance and that the license be associated with one's vehicle registration information. By allowing for more time to conduct a thorough background check and by linking the fact of a valid license to one's vehicle registration, law enforcement officers were given tools by which to be able to better sort out the "law abiding" firearms carrying citizen in a traffic stop from the non-law abiding citizen. With the elimination of the licensing process, law enforcement is being left largely in the dark. Officers who have good reason to be greatly concerned about their personal safety are also more prone to draw their own weapons, placing more citizens at risk of deadly harm.

Finally, some of the most difficult cases that a municipal prosecutor is called upon to handle are negligent homicides. In these cases, death comes as the result of the negligent handling of a deadly weapon or dangerous ordinance. All too often, the negligence comes in the failure to adequately store a loaded handgun, resulting in the death of a child. The currently carrying concealed license process may not go far enough in assuring that those who possess a firearm have been properly trained to handle and store these deadly weapons but at least it was something. With the amendments proposed by HB 178 even this minor, last remaining vestige of gun safety regulation has been stripped away. Our children deserve better. I urge you to reject HB 178.