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House Criminal Justice Committee
Ohio Public Defender
HB 38, Testimony in Opposition
May 9, 2017

Chairman Manning, Vice-Chair Rezabek, and members of the Criminal Justice Committee-thank you for this opportunity to testify in opposition of HB 38. OPD appreciates the desire to protect Ohioans, namely those who risk their lives to protect the rest of us. Despite the inherent danger of their jobs veterans, emergency responders, police officers, and other law enforcement personnel are humans, and they deserve to feel safe from attack when they're off the clock, retired, and otherwise not working.

The intention of the bill is clear, but the technicalities the language creates seeks to evade other laws and enhance crimes where little, or no harm, has occurred. For instance, the bill seeks to change the felonious assault law to make a first degree felonious assault charge with mandatory sentencing. Felonious assault is traditionally based on intent and serious physical harm, or intent and a threat of serious physical harm. HB 38, however, removes the harm requirement from felonious assault, technically elevating a first degree misdemeanor assault to a second degree felony with prison time. Further, the bill allows a person to be charged with the enhanced aggravated murder or felonious assault if they knew or should have known that the person had ever been a veteran, first responder, or law enforcement officer (including ROTC); an ever growing population.

I urge the Committee to table this bill, but in the alternative, at least consider remedying the inappropriate and incoherent felonious assault portions, and delineate an elevated standard of proof of intentionally victimizing a member of this protected class. Like the war on drugs, Medicaid reform, and gun laws, the topic of this bill excites visceral reaction from some areas of our State. And, statistics and data give us potential answers and information about what works, but it's up to us to use that information to influence public opinion. I'm happy to answer any questions at this time.