



Ohio Prosecuting Attorneys Association

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House Bill 796
Written Opponent Testimony
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Chair Hambley, Vice-Chair Patton, Ranking Member Brown and members of the House Civil Justice Committee, thank you for the opportunity to provide opponent testimony today on House Bill 796, a bill to repeal the duty to retreat before using force in self-defense in Ohio.

Ohio prosecutors have been in the past and continue to oppose repealing the duty to retreat in areas outside the home or vehicle. We think the current policy, that one should take advantage of a reasonable opportunity to retreat, is a good policy that prevents needless confrontations, helps lead to de-escalation, and potentially prevents the unnecessary loss of life. We have heard arguments from proponents of these bills that it is unreasonable to expect a woman or an elderly person or someone with a disability to retreat from an attacker who is bigger, faster, and healthier. It is important to emphasize, and for this committee to understand, that the duty to retreat is only a reasonable duty. It allows the prosecution and the court to consider factors like age, gender, size, or physical condition. In other words, an elderly person or a person who is significantly smaller than his or her attacker, will not be held to the same standard as a younger, more equally sized person in the eyes of the law. The law does not require a person to run from a criminal who can outrun them.

In addition, House Bill 796 says specifically that “A trier of fact shall not consider the possibility of retreat as a factor in determining whether or not a person who used force in self-defense, defense of another, or defense of that person’s residence reasonably believed that the force was necessary to prevent injury, loss, or risk to life or safety.” There is no way for a jury to determine whether a person who used force in self-defense reasonably believed that force was necessary if the jury can’t also consider whether it was possible for the person to safely retreat from the situation. In a truth-based justice system, we should want juries to have as much truthful information as possible. House Bill 796 prevents that and because of that could result in injustice.

Ultimately, House Bill 796 is a bill in search of a problem. It rests on the idea that prosecutors are seeking and obtaining convictions in situations where the use of force was justified. It rests on the idea that they are prosecuting the victim of crime. Neither of these things are accurate. Current law helps to promote public safety and does so without diminishing a person’s right to self-defense. House Bill 796 is wholly unnecessary and we urge its defeat.

Thank you again for the opportunity to provide written opponent testimony.