



GOVERNMENT OVERSIGHT  
AND REFORM  
COMMITTEE

Witness Form

Today's Date \_\_\_\_\_

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Organization Representing: NONE

Testifying on Bill Number: SB317

Testimony: \_\_\_\_\_ Verbal  Written \_\_\_\_\_ Both

Testifying As: \_\_\_\_\_ Proponent  Opponent \_\_\_\_\_ Interested Party

Are you a Registered Lobbyist? \_\_\_\_\_ Yes  No

Special Requests: PLEASE VOTE AGAINST SB317

AND THE AMENDMENT DISCUSSED BY

SENATOR HOAGLAND ON JULY 21.

August 30, 2020 Testimony on Senate Bill 317  
Government Oversight and Reform Committee  
Submitted by  
Douglas Rogers

Chair Coley, Vice Chairman Huffman, Ranking Member Craig, and members of the committee, thank you for allowing me to present this testimony in opposition to SB317 and the amendment (the "Amendment") discussed by Senator Hoagland, but tabled without testimony, on July 21 (the "Amendment").

By way of background, I am a lawyer who graduated in 1971 from Yale Law School, was a Captain in the Military Police, was a partner in the law firm of Vorys, Sater, Seymour and Pease LLP for over 20 years and acted as counsel to then Republican Senator Dave Hobson's Senate Subcommittee investigating the Ohio Department of Mental Retardation and Developmental Disabilities in 1986. I was also an adjunct professor at The Ohio State University Moritz College of Law after retiring from Vorys in 2008. In addition to caring for grandchildren, I am now devoting my time to promoting common sense gun legislation and opposing legislation, such as SB317, that would endanger Ohioans.

**SB317**

A. There is no emergency to enact SB317 and no need to bypass the courts

Senator Coley is the sole listed sponsor of SB317. The purpose of SB317 was to change the status quo : "to expressly overrule the decision of the Twelfth District Court of Appeals in the case *Gabbard v. Madison Local School Dist. Bd. of Educ.*" (§3 of SB317) , allowing the decision of the Madison Local School Board to remain in effect. Now the Ohio Supreme Court has granted the school district's motion for a stay of the Twelfth District's decision, so the status quo has been preserved.

If, as Senator Coley asserts, the Twelfth District issued the wrong decision in *Gabbard*, the Supreme Court will correct it. **The reason for the introduction of SB317 – to stop implementation of *Gabbard* - has vanished.** Why change a statewide statute on firearm training when the Supreme Court will decide the individual Madison Local case without having to change state law throughout Ohio?

B. SB317 would eliminate existing firearm training standards - endangering Ohio students and teachers

Proposed R.C. §109.78(D) (lines 108-132 of SB317) permits a local school board to authorize an individual who is not employed as a police officer or security officer and who has no training or education in the use of firearms to carry a loaded firearm into a school. In other words, it would permit a local school board to authorize a teacher – or even an individual with no knowledge of or relation with a school – to carry a loaded firearm into that local school.



Teachers, police and other school safety experts strongly oppose allowing untrained individuals to bring loaded guns into schools, because of the danger to students and teachers. For instance:

- The Executive Director of the Patrolman’s Benevolent Association of Ohio testified in 2019, “There must be a minimum training requirement for someone entrusted with the awesome right of carrying a weapon that can deprive another person of their life.” <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA133-HB-178> ; and
- A 2019 report by the National Education Association, the American Federation of Teachers and Everytown for Gun Safety states: “The most dangerous idea in the American education system is that arming teachers or school staff is an effective solution to an active shooter incident. Everytown, AFT, and NEA strongly urge, as a matter of student safety, that schools reject attempts to arm teachers and instead focus on proven solutions that intervene to prevent shootings.” <https://www.aft.org/sites/default/files/keepingourschoolssafe2019.pdf> , p. 30.
- March 2, 2020: Giffords Center to Fight Gun Violence: “Armed adults frequently mishandle their guns in schools. Arming teachers wouldn’t decrease risk to students – it would increase their risk. Our comprehensive analysis finds there have been more than 90 publicly reported incidents of mishandled guns at schools in the last five years, including: A teacher’s loaded falling from his waistband during a cartwheel. A student grabbing an officer’s gun while the officer attempted to subdue the student. A teacher unintentionally firing a gun in class during a safety demonstration.”

This Committee should reject SB317 in order to protect Ohio students and teachers from gun violence.

### **The Amendment**

Senator Hoagland has introduced, and Senator Coley is a cosponsor of, SB147, which - like the Amendment - would also create an Ohio School Marshal Program. It does not appear to be identical to the Amendment discussed in this Committee on July 21. However, SB147 is a separate reason for rejecting putting this proposal of new state standards into legislation that Senator Coley introduced as a matter solely of local concern. In any case, this Committee should also reject the Amendment to SB317 for the reasons set forth below:

C. The Amendment would eliminate existing firearm training standards for any person with written authorization from the board of education to carry a loaded firearm into schools and would endanger Ohio students and teachers

**The Amendment is simply a wolf in sheep’s clothing that would not only endanger Ohio students and teachers, but would also waste millions of dollars of state funds on an experiment not successfully tested anywhere else in this country. Ohio students and teachers should not be treated as guinea pigs by the General Assembly.**

Proposed R.C. §5502.701 (lines 1359 – 1429) creates three “types” of “school safety designees,” but only incorporates training standards for “school resource officers,” which position exists already throughout Ohio under current R.C. §3313.951(B). R.C. §3313.951(B) lists detailed training standards for school resource officers, including completion of a basic training program approved by the Ohio peace officer training commission, and “the nuances of law enforcement functions conducted inside a school environment.”

The Amendment, however, lists no specific training requirement for “any person with “written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into ... a school safety zone” (lines 1371-1378 of the Amendment). Tucked away at p. 19, lines 518 – 525, the Amendment specifically eliminates the existing training requirement to satisfy OPOT standards in R.C. §109.78(D)(1)(now over 700 hundred hours). **As a result, a person with written authorization from the board of education would not have to complete any existing training course or any specified number of hours to openly carry a loaded firearm into a school.**

A person with written authorization from a board of education would have to complete “a basic firearms training program for school safety designees.” However, that anticipated program has not yet been developed, and there are no standards for such imagined program in the Amendment comparable to the standards currently set for school resource officers in §3313.951(B).

For instance, proposed R.C. §5502.701(C)(2) refers to “a basic firearms training program for school safety designees” (lines 1401-1402) without further elaboration or limits on the content, except for referring to proposed R.C. §§109.73(A)(17) and 109.743(B).

Proposed R.C. §109.73(A)(17) refers to the “requirements for basic firearms training programs that a person who is not a school resource officer shall successfully complete to be appointed as a school safety designee,” but without further elaboration on the content of the training

Proposed §109.743(B) similarly refers to the rules for “basic firearms training programs that a person who is not a school resource officer shall successfully complete to be appointed as a school safety designee,” but without further elaboration on the content of the training.

**Put another way, the amount, content and extent of firearm training of teachers and other individuals who are not police officers to carry loaded firearms into schools would be left to the unbridled discretion of currently unknown individuals who would staff a currently non-existing bureaucracy or would be designated by that unknown staff.** That would be dangerous for Ohio students and teachers.

D. The Amendment does not provide adequate safeguards on who would train the teachers

Under proposed R.C. §109.73(A)(17), lines 341-347, the training of these school safety designees could be provided either by a “regional school marshal or another authorized



instructor as described in” proposed R.C. §5502.701(C)(2) and (E). That “other authorized instructor” can be any person “if a regional school marshal has referred the designee to that other person or ... if the designee previously received the training from that other person and the regional school marshal approves the training.” See proposed R.C. §5502.701(E)(2), lines 1423 - 1429. Essentially the **regional school marshal could select whoever he/she wanted to select to provide the training, so the firearms training could be provided by a representative of the Buckeye Firearms Association**, which advocates that people carry loaded firearms into schools with only 27 hours of “active killer training.” <https://www.buckeyefirearms.org/should-teachers-carry-guns-classrooms>.

E. Creating a new, untested and expensive bureaucracy subject to political pressures

The National Association of Resource Officers (NASRO) has stated its opposition to allowing individuals who are not specially trained police officers to enter schools with loaded firearms:

NASRO strongly recommends that no firearms be on a school campus except those carried by carefully selected, specially trained school resource officers, who are by definition ... active, sworn law enforcement officers.  
<https://www.nasro.org/faq/>

NASRO set forth many reasons for this recommendation, including that school resource officers “should have a strong desire to develop positive relationships with youth on a daily basis. Their service records should contain no disciplinary actions or complaints involving youth.” *Id.*

The proposed Ohio School Marshal Program (OSMP)(proposed R.C. §5502.70, lines 1322 – 1429) would militarize schools and encourage bringing guns into schools outside of the existing school resource officers, by among things presenting a cheaper staffing alternate to the existing over hundreds of hours of training required for school resource officers. The OSMP would also create confusing lines of authority and communication among local police, school resource officers and the OSMP.

The Amendment would even allow school safety designees to be individuals who have had disciplinary actions taken against them because of their treatment of youth. Moreover, there is only mention in the Amendment of basic firearm training, not training to work with youth and other matters essential for working in schools with firearms. As is apparent from the position of the NASRO and existing §3313.951, the training of “school safety designees” must extend far beyond “basic firearms training,” but the Amendment does not specify anything else.

**The Amendment would pass off power to 16 unknown individuals (to be appointed by chief school marshal) and whoever they hire as their staffs and would be subject to political patronage pressures - an unthinkable proposal in these days of political turmoil in Ohio, particularly near the end of this legislative session. There is no**

**evidence that has been presented that an equivalent structure has worked on the United States.**

F. Departing from the theme of local control in SB317 and creating two state bureaucracies/processes – without additional Senate consideration - would violate Article II, Section 15(C) of the Ohio Constitution

Senator Coley's testimony - as sole sponsor of SB317 - on May 27 was that "Senate bill 317 is all about local control." Senator Coley may now be totally departing from the local nature of the legislation by supporting the Amendment. The Amendment would totally depart from Senator Coley's "all about local control" and turn instead to two state bureaucracies/processes not contemplated in SB317: a new, untested and bloated state bureaucracy, the Ohio School Marshal Program, and a new, cumbersome state process to remove children from schools (proposed R.C. §§3113.26-3113.536).

Under Section II, Section 15(C) of the Ohio Constitution, these changes should require three readings of the Amendment in both houses before passage, in order for the legislation to be constitutional. After all, "[w]hen the subject or proposition of the bill is thereby wholly changed, it would seem to be proper to read the amended bill three times, and on different days ...." See, e.g., *Youngstown City School District Board of Education v. Ohio*, 2020-Ohio-2903, ¶14, quoting *Hoover v. Franklin Cty. Bd. of Commrs.*, 19 Ohio St.3d 1, 5 (1985), in turn quoting *Miller v. State*, 3 Ohio St. 475, 482 (1854). There must be time for the public to read thoroughly and then submit testimony on the Amendment three times in the Senate.

G. Conclusion

This Committee should reject (i) the elimination of firearm training standards in SB317 and (ii) the elimination of firearm training standards in the Amendment, the proposed substitution of hypothetical, imagined standards in the Amendment, and the creation of new bureaucracies in the Amendment on a wish and a hope. This is especially true, since no evidence has been presented that the existing structure needs to be bypassed and since the NASRO argues against permitting individuals who are not especially trained police officers from entering schools with loaded firearms.

The Committee should reject SB317 and the Amendment, at least until it has asked for and received detailed input and support from the following recognized Ohio agencies: Ohio School Resource Association, <https://osroa.org/>; Ohio Association of Chiefs of Police, <https://oacp.org/>; Ohio Education Association, <https://www.ohea.org/>; Ohio Federation of Teachers, <http://oh.aft.org/>; and the Ohio Association of Probate Judges been asked for input on the Amendment, <http://www.ohiojudges.org/Resources/judicial-associations>. Thank you very much.

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