

Testimony Opposing House Bill 22
House Criminal Justice Committee
Submitted by:
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Chair LaRe, Vice Chair, Swearingen, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for affording me the opportunity to testify in opposition to this bill. I apologize that this testimony is not better drafted but I only learned this morning about this hearing.

It would appear HB 22 seeks to address a problem that does not exist. For most of the prohibited conduct in this Bill, the Ohio Revised Code already addresses the same. Disorderly conduct in ORC 2917.11 reads in pertinent part

A. No person shall recklessly cause inconvenience, annoyance, or alarm to another by doing any of the following:

(2) Making unreasonable noise or an offensively coarse utterance, gesture, or display or communicating unwarranted and grossly abusive language to any person;

(3) Insulting, taunting, or challenging another, under circumstances in which that conduct is likely to provoke a violent response;

(5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

A conviction for disorderly conduct is a minor misdemeanor or a misdemeanor of the fourth degree if he conduct persists after being told to cease.

2921.31 Obstructing official business

(A) No person, without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a public official of any authorized act within the public official's official capacity, shall do any act that hampers or impedes a public official in the performance of the public official's lawful duties.

(B) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this division, obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony of the fifth degree.

And then there is Assault in ORC 2903.13 which requires either **“knowingly” or “recklessly”** and carries a penalty of a misdemeanor of the first degree or a felony of the fourth degree if an officer is harmed. Throwing water at your spouse has been deemed an assault so surely throwing objects at a law enforcement officer would be an assault.

ORC 2917.13 provides for **knowingly** hampering and/or failure to obey a police officer during, inter alia, a riot or emergency of an kind. A violation of which is a misdemeanor of the fourth degree.

ORC 2921.33 Resisting arrest which applies not only to the one's arrest but the arrest of another. This mens rea is **“recklessly”** and the penalty is a misdemeanor of the second degree.

It would appear that this Bill seeks to reduce the mens rea necessary for a conviction while increasing the penalties for the same or retaining the mens rea but increasing the penalty when charged with a different section of the code. So we have various sections of the code which apply but the police get to decide which code section to charge under.

Further, this bill is overbroad, vague and chills one's right to free speech and protest. Merely chanting at a rally, even when not directed at law enforcement officers could be distracting and thus a violation of this Bill. The provisions regarding actions which would cause an officer to lose control over a

subject is so vague and fails to notice as what conduct is prohibited. If one observes an officer using excessive force and merely states this to the officer, under this Bill that alone could be cause for an arrest. Photographing the incident could also be a basis.

This Bill serves no purpose other than to further restrict one's free speech and right to redress. I would respectfully request that this committee vote against this Bill.

Andrea R. Yagoda