

HB 109 Testimony from Larry Bresler

Chair LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the House Criminal Justice Committee. Thank you for the opportunity to provide testimony in opposition of House Bill 109 (HB109). My name is Larry Bresler. I am a social worker and former attorney from Cleveland.

HB 109 is a bill in the vein of other bills across the country that are aimed at stifling dissent and protests. In its efforts to stifle dissent, HB 109 would greatly increase criminal and civil penalties to people engaging in protests and people and organizations who support them. There are three areas that I want to highlight.

1. *Making it a 3rd degree felony for four or more people to block a street, a sidewalk or students doing a sit-in at a school.*

Under the current ORC, someone convicted of this offence would be facing a minor or 4th degree misdemeanor. Under HB 109 individuals engaged in such activities would be facing three years in prison and a \$10,000 fine. This would put blocking a street on par with statutory rape and vehicular homicide and would provide heavier penalties than the 4th degree felonies of stealing a car or aggravated assault. Do you really want to make peaceful civil disobedience a 3rd degree felony?

2. *Organizations who provide active support or resources to a demonstration, protest or other kind of event that results in loss of property or harm to a police officer with be liable for treble damages.*

An example of why this problematic: A community or faith-based organization provides such support as lending a sound system, providing water to participants or serving as a co-sponsor to an event/demonstration that was intended to be peaceful. However, an unaffiliated person causes damage to a police officer's vehicle. That organization could be responsible for treble damages for the loss. Does it make sense to inflict that punishment to an organization who acted in good faith and did nothing wrong?

3. *Creating the new offenses of "riot assault" and "riot vandalism" which make it between a 3rd to 5th degree felony to engage in a "riot" that recklessly causes physical harm to another person or property.*

A riot in Ohio is four or more persons causing a public disturbance (which can include a public protest). A riot assault is when physical harm recklessly comes to an individual as part of a riot. Riot vandalism occurs when physical harm recklessly comes to monuments, tombs and government property as part of a riot.

Penalties for assault and for vandalism are warranted, and indeed they already exist in the Ohio Revised Code. Why we need more stringent penalties is questionable. In particular making it a fifth-degree felony punishable up to a year in prison for painting a word on a school building as part of a public disturbance is an overreach.

Furthermore, this bill has made a point of making or changing the liability from “knowingly” to “recklessly” as the standard of guilt. A person in Ohio is reckless, when the person disregards a substantial and unjustifiable risk that such circumstances are likely to exist. A person in Ohio is knowing when a person is aware that another person’s conduct will probably cause a certain result. The loosening of the standard for proving intent from reckless to knowing will make it easier to convict and send people to prison for a year for causing personal harm or property damage even if it was never the intent of the individual to do harm.

Members of the House Criminal Justice Committee, the areas that I have just highlighted, demonstrate an intent by its framers to strike fear into the individuals who wish to demonstrate and protest, and organizations who wish to support to such actions. Jailing people for three years for engaging in an act peaceful civil disobedience and providing severe financial penalties to organizations who provide modest support to protests where unintended property damage occurred, flies in the face of the democratic principles with which our country was founded.

I urge you not to pass HB 109 out of the House Criminal Justice Committee.