

Chairman Wilkin, Vice Chair White, Ranking Member Hicks-Hudson and members of the Government Oversight Committee:

I want to thank you for inviting me to speak today. I will keep my remarks brief. My name is Daniel Driscoll. I am the Prosecutor in Clark County, Ohio. I have been involved in the courts in criminal law for almost 20 years, the last 17 of which have been with the Clark County Prosecutor's Office.

Springfield and Clark County are not unlike the many other communities throughout this State and nation that are struggling with how to address gun violence. Protection of the public – while not infringing on the liberties ensured to us by the Constitution – has become a balancing act marked by the failures of blanket firearms bans, empty promises to do better, and the idea that violence is simply the price of liberty.

As a prosecutor, I sit along the front lines of this conflict, and too often I see the results of inaction. As a gun owner, I understand the bedrock principles that ensure our right to own a gun. The question then is: What common ground do we have, and how can we address the need for safety without restraining the liberty of law-abiding citizens.

It is my belief that House Bill 383 addresses both of these concerns. This bill – as proposed – will not affect the ability of legal gun owners to use or possess firearms. It will only affect individuals who have already forfeited their right to possess a firearm.

Having Weapons Under Disability – meaning the unlawful possession of a firearm – is an existing Felony of the 3rd degree. A person is under a legal disability and unable to possess a firearm if any of the following apply:

- If they are a fugitive from justice
- If they have a prior felony conviction for an offense of violence
- If they have a prior felony conviction for drug use or trafficking
- If they are a person who is drug-dependent or a chronic alcoholic
- If they are under adjudication for mental incompetence

As a 3rd degree felony, having Weapons Under Disability carries a potential maximum sentence of 36 months in the Ohio State Penitentiary. At times, this sentence seems woefully inadequate. As it currently stands, an individual can never be sentenced to more than 36 months for Weapons Under Disability, regardless of whether it is their first conviction or their tenth violation of the same weapons law.

When criminals choose to continue to break the law, the law must have sufficient consequences that it deters future crimes and adequately protects the public, without this we will see the same people continue to commit these same acts.

As an example of the why this bill is needed, I would point to something we see on a fairly regular basis in Clark County. We will have two different factions, or “gangs,” who have a beef or disagreement with each other, and over the course time, we see the houses of members of each faction targeted in drive by shootings. Oftentimes, the individuals committing these offenses are under a disability and cannot legally possess a firearm.

Frequently, the victims in these cases do not cooperate with law enforcement, making it very difficult to bring charges for firing into a habitation. When law enforcement is able to make a stop, they are often limited to Weapons Under Disability and Improper Handling of a Firearm in a Motor Vehicle, a felony of the 4th degree. Because the charge is not serious, these individuals are given a low bond or released on their own recognizance and returned to the streets, where the cycle continues until someone is shot or killed.

HB 383 provides judges the greater range of flexibility they need to set bonds that would allow for a cooling off period and adequately punish violent offenders who are found to be in the possession of a firearm. Under the proposed bill, a person who has been convicted of a felony offence of violence and then is convicted of Weapons Under Disability will face a 2nd degree felony, which carries a sentencing option of 2 years to 8 years. If that same individual is subsequently convicted of Weapons Under Disability, they will face a 1st degree felony charge, which will carry a sentence of 3 years to 11 years. By increasing the severity of the charge and lengthening the potential prison sentence, HB 383 could drastically reduce the incidence of repeat firearm offenders by deterring recidivism and by removing these offenders from our streets.

This change would put real teeth in the law and make real change in communities just like mine, where we continue to fight an ongoing battle against repeat firearms offenders. HB 383 specifically addresses people who have already forfeited their rights to gun ownership through their actions. In these cases, criminals with felony convictions of offenses of violence, have already shown violent tendencies and are now choosing to disregard the law by having a firearm.

In Clark County this year, we have prosecuted 49 cases where Weapons Under Disability was charged. In the great majority of these cases the individual was also charged with additional felony violations. These violations range from Carrying a Concealed Weapon and Receiving Stolen Property to Murder. In these cases individuals who cannot possess a firearm, because they have committed a felony are committing a felony by possessing a firearm, while they commit other felonies. If there is anyone who should face a harsher punishment, it is these individuals who choose to disregard the weapons laws built to protect our communities.

I also want to reinforce that this law does not in any way affect legal gun owners. Our Constitution gives us all the right to own firearms. HB 383 does not try to provide a blanket solution to all gun violence – nor should it – by creating more processes or regulations for people wishing to lawfully obtain and use firearms. It instead takes direct action against individuals who are under legal disability and have forfeited their right to possess a firearm because of their own actions. HB 383 increases the severity of the allowable punishment for repeat firearms offenders while granting legal gun owners the peace of mind that their rights are not affected.

Furthermore, even with the changes HB 383 makes, the existing law would continue to provide a path forward through which a person can be released from that disability and once again be a legal gun owner. As a law, HB 383 would be a significant step in the right direction to improving the safety of communities across our state. It is my hope that both sides of the aisle can see the importance of getting behind this bill, as it addresses gun violence and public safety while also protecting the rights of law-abiding citizens. I thank you for your time and would be happy to answer any questions.