

Ohio House of Representatives  
Government Oversight Committee

February 17<sup>th</sup>, 2022

Re: Ohio House Bill 455

Honorable Chairman Wilkin and members of the committee, thank you for the opportunity to express our support for House Bill 455.

The difference between innocent negligence and intentional wrongdoing should not constitute a crime. This is the basic principle behind *mens rae*, a concept dating back to the 13<sup>th</sup> Century, which requires the intention or knowledge of wrongdoing to constitute a crime. Prior to its adoption in English courts defendants could be found guilty simply based on physical conduct.

*Mens rae* allows the law to differentiate between the person who knowingly and intentionally committed a violation and the person who did not mean to do any harm. It is a concept that delineates the difference between an innocent mistake and willful, malicious and/or knowledgeable intent.

House Bill 455 restores that approach to areas of prohibited firearm possession while not gutting the original intent of the prohibitive law. It does this by requiring a person who is carrying a firearm to promptly leave if asked and prohibiting them from returning. These two elements establish knowledge in the mind that being in that place with a firearm is prohibited, returning with that firearm will not come with a warning, and presents them with a choice:

Leave now (and don't return) or you can be charged with a crime you have been effectively informed you are committing. You may no longer claim your actions are anything but willful disregard for the law at this place.

HB455 does this in such a way that it protects the original intent of these laws. Criminal charges still exist for those who simply refuse to leave or those who blatantly return.

Some may argue that *mens rae* should not apply here because it doesn't apply with respect to laws such as littering or traffic violations. The difference, in our opinion, is that where prohibitive places exist isn't an exact science. We all know that when we get in a vehicle there are laws that are consistently applied to speed, traffic lights, etc. We all know that for the most part littering simply is never permitted. However, the penalty in those cases is also typically an insignificant fine.

The punishment for unintentionally carrying a firearm into a prohibitive place is more significant, and the reality is where those places exist is a patchwork quilt of unknowns. You can easily find yourself in a place you never intended to carry a firearm into long after you've been there for an extended period of time. This is why the *mens rae* standard, or what HB455 accomplishes, should be adopted.

Contrary to what many may say, this doesn't eliminate the prohibition. It merely protects the person who may unwittingly find themselves in a place they would have never intentionally (ie: with *mens rae*) entered in the first place.

Thank you for the opportunity to share our support for House Bill 455. We strongly encourage its adoption.