



**OPPONENT TESTIMONY ON HOUSE BILL 51
HOUSE GOVERNMENT OVERSIGHT COMMITTEE | MAY 23, 2023
Submitted by Keary McCarthy, Executive Director**

On behalf of the Ohio Mayors Alliance, a bipartisan coalition of mayors in Ohio’s largest cities, we submit this written opposition testimony to H.B. 51. **We strongly oppose this legislation because it will make solving violent gun crimes exceptionally harder for our law enforcement professionals. This bill is also an unconstitutional preemption of cities’ home rule authority under the Ohio Constitution, and appears to violate the U.S. Constitution as well.**

H.B. 51 makes it harder for local law enforcement to solve gun crimes and prevent violent crime

H.B. 51 sets a dangerously vague standard that will deter cooperation with federal law enforcement partners on gun crimes. Currently, local law enforcement agencies work with regional, state, and federal partners to solve murders, homicides, and other firearm related crimes. One example of this that could be at risk under H.B. 51 is the National Integrated Ballistic Information Network (NIBIN). Local, state, and federal partners have been working together to establish and deploy NIBIN machines across Ohio to help address the scourge of gun violence and solve gun crimes. The language in this bill *would not only deter this type of productive collaboration* between law enforcement agencies, it could also result in local police departments facing financial penalties of up to \$50,000 per occurrence.

H.B. 51 also exposes local governments and law enforcement agencies to enhanced liability for employing otherwise qualified or experienced law enforcement officials who are or have been employees of the federal government. This prohibition will exacerbate our cities’ already significant challenges in recruiting and retaining law enforcement officers. The last thing our police departments need are more limitations on who they can and cannot hire to protect their communities.

As mentioned above, H.B. 51 places unconstitutionally vague and overbroad liabilities on local law enforcement agencies and law enforcement officers. The imposition of a \$50,000 “penalty per occurrence” will prevent police officers and other first responders from acting in their best judgment to keep Ohioans safe. Local officers cannot know, by sight, whether someone is a “law-abiding citizen” or a potential criminal. H.B. 51 will hamstring officers and law enforcement agencies with the threat of civil liability and keep them from doing their jobs to protect the public. The chilling effect of the possibility of being sued and fined \$50,000 “per occurrence” could result in officers being unable to act to prevent crime when necessary and will make their jobs more difficult and dangerous.

Consequently, we are also very concerned that creating new and vague civil liabilities for law enforcement officers, agencies, and cities will raise law enforcement liability insurance costs. The Ohio Department of Public Safety and its Office of Criminal Justice Services are attempting to create, through the currently pending state budget which many members of this committee supported, more opportunities for law enforcement agencies across Ohio to become accredited through the Ohio Collaborative Community-Police Advisory Board—a program whose benefit to police departments (beyond better trained officers) is to reduce liability insurance premiums through the adoption of standards of excellence. This bill would undo that important work, which is broadly supported by our Mayors and Police Chiefs Committee and a majority of local law enforcement agencies in Ohio.

H.B. 51 broadly puts Ohio police officers in danger and hampers crime investigations to foreclose a few very small discrepancies between Ohio and federal law. This is dangerous and ill-advised.

It appears that there are three specific discrepancies between Ohio and federal firearms law that the sponsors of H.B. 51 seek to foreclose: 1) an ATF rule prohibiting the sale and use of a specific type of firearm stabilizing device; 2) federal law prohibiting the possession of a firearm by a person who has committed misdemeanor domestic violence; and 3) federal law prohibiting possession of a firearm by people subject to restraining orders for stalking or harassing an intimate partner. Instead of addressing these apparent differences directly, H.B. 51 threatens to radically alter how local, state, and federal law enforcement agencies work together to solve gun crimes and prevent violent crime. This is a dangerous approach to policy making and public safety.

H.B. 51 violates the U.S. Constitution.

The model for this bill, Missouri's Second Amendment Preservation Act, was [ruled unconstitutional](#) in a federal court on March 8, 2023. The court ruled, among other things, that the provisions of the bill purporting to ignore or overrule federal firearms laws violates the U.S. Constitution's Supremacy Clause. If passed, H.B. 51 will almost definitely draw court challenges that drain taxpayer resources unnecessarily. We urge you to consider dedicating additional taxpayer resources to supporting our local law enforcement agencies rather than subjecting our state to future fruitless litigation that will foment confusion and increase dangers to our police officers and communities.

H.B. 51 violates home rule and the Ohio Constitution.

America's federalist system of government has long emphasized the value and authority of the form of government that is closest to the people. The policy within H.B. 51 argues that the federal government should not infringe on the state's ability to legislate the sale, distribution, and use of firearms. H.B. 51, however, takes this power for the state and refuses to pass along any of that power to local governments. This is despite the fact that the people of Ohio, through Section 3, Article XVIII of the Ohio Constitution, have explicitly granted Ohio municipalities the right to home rule—particularly with regard to police powers.

Local officials elected by their neighbors are in the best position to determine what is best for their communities. H.B. 51 purports to impose the state legislature's view of what is best on every community in Ohio, regardless of how residents of different municipalities might feel about it. Not every community in Ohio is the same, and local leaders must have the flexibility to establish innovative policy solutions to the unique challenges of their communities. This concept is the modern expression of our federalist form of government. We believe, therefore, that H.B. 51 violates both the letter and spirit of the Ohio Constitution's preservation of home rule for municipal governments.

Conclusion

In summary, H.B. 51 advances harmful policies that will put law enforcement officers and Ohio communities in danger. **It is yet another dangerous state gun law that will further threaten public safety and make it harder and more dangerous for Ohio law enforcement officers and agencies to solve violent crimes.** Ohioans have and will retain their Second Amendment rights, and it is our job as elected leaders to work together to impose—or not impose—reasonable limitations on the use of dangerous weapons to protect our neighbors and the freedoms of all Ohioans. Severely limiting our police officers' ability to collaborate with federal law enforcement and otherwise do their jobs is dangerous and anti-public safety. We *strongly* urge you to reject H.B. 51 and to forgo any further such action that would put our officers and the residents of our cities at risk. Thank you.