



# Zach Klein

CITY ATTORNEY

CITY ATTORNEY'S OFFICE ■ COLUMBUS OHIO

Chair Peterson, Ranking Member Fohan, and Members of the Government Oversight Committee:

I submit the following as written testimony in opposition to HB 51.

I am the independently elected City Attorney for the City of Columbus, home to over 906,000 individuals. The City of Columbus is the largest City in the State and fourteenth largest city in the United States. In my role as city attorney, I am responsible for misdemeanor prosecutions for crimes that occur inside the city's boundaries. I also serve as the legal advisor to the City, its officials, and its departments including the Mayor, City Council, the Department of Public Safety, and the Division of Police. In my role as City Attorney I am familiar with firearms and issues associated with criminal activity due to the use of firearms.

According to the Centers for Disease Control and Prevention, Ohio has 15.2 deaths per 100,000 individuals due to firearms.

<https://www.cdc.gov/nchs/pressroom/states/ohio/oh.htm> In 2020, 1,764 Ohioans were killed by a firearm.

[https://www.cdc.gov/nchs/pressroom/sosmap/firearm\\_mortality/firearm.htm](https://www.cdc.gov/nchs/pressroom/sosmap/firearm_mortality/firearm.htm). The following states have a higher firearm mortality rate than Ohio: Mississippi, Louisiana, Wyoming, Missouri, Alabama, Alaska, New Mexico, Arkansas, South Carolina, Tennessee, Montana, Oklahoma, Kentucky, West Virginia, Georgia, Idaho, Indiana, Nevada, Kansas, Arizona, North Carolina, and Colorado. *Id.*

HB 51 is an unconstitutional statute that will allow individuals who have been convicted of domestic violence to take advantage of the State's permitless concealed carry law. It will destroy the ability of law enforcement agencies to work with their federal counterparts. It will open the State, its municipalities, and all of their employees up to endless litigation with the real threat of damages and attorneys' fees. Finally, HB 51 embraces the discredited nullification language used by South Carolina and other states during the antebellum era. This terrible bill should be rejected.

According to the Ohio Attorney General, there were 30,199 charges of domestic violence brought by prosecutors in the State of Ohio in 2022.

<https://www.ohioattorneygeneral.gov/Files/Reports/Domestic-Violence-Reports/Domestic-Violence-Reports-2022/2022-Domestic-Dispute-Calls> Since 2011, the State's prosecutors have brought between 28 to 38,000 charges of domestic violence each year. <https://www.ohioattorneygeneral.gov/Files/Reports/Domestic-Violence-Reports>

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Nationally, almost one in four women and one in seven men will experience severe physical violence at the hands of an intimate partner at some point in their lifetimes. <https://efsgv.org/learn/type-of-gun-violence/domestic-violence-and-firearms/> One-half of the women murdered in the United States are killed by a current or former intimate partner and half of the homicides are by firearms. *Id.* Women are five times more likely to be murdered by an abusive partner if that partner has access to a gun. *Id.*

Homicides from domestic violence are not simply an urban phenomenon. Rural areas are even more susceptible to domestic violence than urban areas. 61.5% of women in isolated rural areas reported four or more events of physical violence over the past year compared with 39.3% of women living in urban areas. *Id.* Likewise, more than 30% of women in isolated rural areas reported severe to very severe physical violence as opposed to 10% of women in urban areas. *Id.*

Federal law prohibits any individual who has been convicted of a misdemeanor case of domestic violence from possessing a firearm. 18 U.S.C. 922(g)(9). Sadly, the State of Ohio only prohibits individuals who have been convicted of felony cases of domestic violence from possessing a firearm. R.C. 2923.13(A)(2). Under state law, those convicted of misdemeanor domestic violence can still legally access a firearm. Allowing individuals who have been convicted of a misdemeanor charge of domestic violence to carry a concealed weapon results in a 24% increase in the rates of assaults with a firearm. <https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/>

Ohio has recently passed a permitless concealed carry law. HB 51 proposes to amend that law's definition of a "qualifying adult" -- a person who is allowed to carry a concealed weapon without a permit, to remove federal disqualifying language. *See* RC 2923.111(A)(2)(b). This means that only individuals who are prohibited from possessing a firearm under state law would be barred from the permitless concealed carry protections. Any individual who committed a misdemeanor act of domestic violence would be allowed under Ohio law to carry a concealed weapon without a permit. In fact, H.B. 51 calls these criminals "law-abiding citizens."

Numerous studies have shown that allowing permitless carry causes more violent crime and results in police solving fewer crimes. Right to carry laws have resulted in a 13% increase in the number of firearm homicides and a 29% increase in firearm violent crime. <https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/> Furthermore, states that have passed permitless carry have seen a 22% increase in the number of firearm homicides within three years after passage. <https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/> This law is also associated with a 29% increase in firearm workplace homicides. <https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/>

These permitless carry laws are also associated with an increase in gun thefts and violent crime. Gun owners who have carried are three times more likely to have their guns stolen. <https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/>

[requirements-to-carry-a-concealed-firearm-increases-violent-crime/](https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/) Permitless carry laws have also resulted in an increase of gun thefts by roughly 35%.

<https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/> Firearm violence has increased by 29% after the passage of permitless carry with firearm robbery showing the largest increase.

<https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/> States that allow permitless carry have also had an increase of 12.9% in officer involved shootings and a decrease of 13% in the rate that police clear violent crimes. <https://www.americanprogress.org/article/fact-sheet-weakening-requirements-to-carry-a-concealed-firearm-increases-violent-crime/>

In addition to giving domestic abusers free range to carry weapons and continue torment their victims, H.B. 51 also prohibits state and local entities and their employees from working with federal agencies on enforcement of firearms laws. The City of Columbus is proud of its law enforcement partnerships whether it is a partnership with other municipal and county law enforcement agencies, state law enforcement agencies such as the Ohio State Highway Patrol and the Bureau of Criminal Investigation and Identification, or federal law enforcement agencies such as the United States Marshall Service, the Federal Bureau of Investigation, the Drug Enforcement Agency, or the Bureau of Alcohol, Tobacco, and Firearms.

H.B. 51 would add a new provision to the Ohio Revised Code – R.C. 2923.50. One of the definitions in R.C. 2923.50 includes the definition of “law-abiding citizen.” A “law-abiding citizen” is “a person who is not otherwise precluded under state law from possessing a firearm and shall not be construed to include anyone who is not legally present in the United States or this state.” A “law-abiding citizen” would, under that definition, include an individual who beat his wife since a person convicted of a misdemeanor case of domestic violence is allowed to carry a firearm under Ohio law.

H.B. 51 provides that “No law enforcement officer shall have the authority to enforce or attempt to enforce any federal acts, laws, executive orders, administrative orders, rules, regulations, statutes, or ordinances infringing on the right to keep and bear arms as described under this section.” R.C. 2923.50(F)(1). This statement makes it nearly impossible for any state or local law enforcement entities to continue any of their partnerships with federal agencies. Human trafficking and illegal drug operations will include firearms and may require members of federal-state-local taskforces to look at firearms charges. However, the language of R.C. 2923.50(F)(1) would prohibit the City’s police from working with a federal agency if the federal agency was looking at bringing firearms charges as a way to initially disrupt the trafficking operation.

R.C. 2923.50(F)(2) also provides that if any state or local employee employs a law enforcement officer who knowingly violates the provisions of (F)(1), then the state or locality is liable to the “law abiding citizen” for damages and a civil fine of \$50,000.

This would mean that our “law-abiding citizen” who committed a misdemeanor act of domestic violence who is being investigated by a federal-local taskforce could successfully sue a municipality if their law enforcement personnel worked with the United States Attorney to charge and convict that individual.

R.C. 2923.50(G)(1) also prohibits the state or any municipality from employing any individual who had previously worked as an employee of the federal government and who provides “material aid” in support of the charges brought against our “law abiding” domestic abuser. The City would be subject to the civil fine of \$50,000. “Material aid” is defined as “allowing others to make use of lodging, communications equipment or services ... facilities, weapons, personnel, transportation, clothing, or other physical assets.” Thus, simply inviting the federal agent or former federal agent into a precinct to come in from the rain would be considered material aid and be sufficient to trigger this fine.

R.C. 2923.50(I) does allow for local law enforcement to work with federal agents but it is an exception so narrow as to be meaningless. It states that it is not a violation to aid federal officials “who are in pursuit of a suspect when there is a demonstrable criminal nexus with another state or country and such suspect is either not a citizen of this state or is not present in this state” Before a state or local law enforcement official could aid in that situation, the official would need to determine a nexus with another state or country and that the potential criminal defendant is not an Ohio citizen.

R.C. 2923.50(J) also allows aid in federal prosecutions for federal gun crimes but only in the limited circumstances where the weapons violations are “merely ancillary to the prosecution.” This would mean that if an individual were federally charged for illegally selling fully automatic machine guns at the corner of Broad and High, state and local officials could not participate in aiding the prosecution because the gun charges were primary and not ancillary.

Perhaps the worst portion of H.B. 51 harkens back to the nullification language used by slave states in the antebellum period. R.C 2923.50(C) declares that “the following federal acts, laws, executive order, administrative orders, rules, and regulations shall be considered infringements on the people’s right to keep and bear arms: (4) any act forbidding the possession, ownership or use or transfer of a firearm, firearm accessory, or ammunition by law-abiding citizens; (5) any act ordering the confiscation of firearms, firearm accessories, or ammunition from law-abiding citizens.” The “law-abiding” misdemeanor domestic abuser would be covered under the provision and the federal prohibition would be declared nullified by the Ohio General Assembly.

Trying to go even further, R.C. 2923.50(D) provides that “All federal acts, laws, executive orders, administrative orders, rules, and regulations, regardless of when they were enacted ... that infringe on the people’s right to keep and bear arms ... shall be invalid to this state, shall not be recognized by this state, shall be specifically rejected by this state, and shall not be enforced by this state.” In 1832, the State of South Carolina tried to enact a law nullifying federal laws. That State’s legislature passed a law that provided, “it shall not be lawful for any of the constituted authority ... to enforce ... said acts within the limits of this State; but it shall be the duty of the legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest of the operation of the said acts and parts of acts of the Congress of the United States within the limits of this State ... and all persons residing or being within the limits this State ... are hereby required and enjoined to obey and give effect to this ordinance, and such acts and measures of the legislature as may be

passed or adopted in obedience thereto.”  
[https://avalon.law.yale.edu/19th\\_century/ordnull.asp](https://avalon.law.yale.edu/19th_century/ordnull.asp)

I respectfully request you vote no on HB 51.

Sincerely,

Zach Klein  
Columbus City Attorney