

**44<sup>th</sup> House District**

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**State Representative Joshua E. Williams**  
**Ohio House of Representatives**

Chair Thomas, Vice-Chair Mathews, Ranking Member Isaacsohn, and fellow members of the House Judiciary Committee, thank you for the opportunity to provide sponsor testimony on House Bill 108.

I have spent many years working in criminal defense in different roles in Lucas County and Northwest Ohio. During this time, I represented a client accused of murder who had, by all the evidence, acted in self-defense. The county prosecutors declined to consider the strong evidence of self-defense and went ahead with the charges. As a result, my client's life was completely upended. He was forced to sell his home and vehicle and was held in jail for nine months awaiting trial. After spending nearly a year behind bars and tens of thousands of dollars in court and legal fees, my client was finally acquitted. It is an injustice that a man who bravely fought for his country and risked his own life had to not only protect his own life against an armed assailant but also had to fight for his life again in court. Up to now, the scales of justice have been tilted against those who act in self-defense. Today, I am introducing legislation that will balance the scales in favor of citizens who act in self-defense by providing new guidelines for courts to adjudicate a self-defense claim.

The key change proposed in this legislation is the creation of the option for a pretrial hearing for a defendant charged with a crime that has alleged that they acted in self-defense. The defendant may elect to have a pretrial hearing, in which he will be able to lay out a case for self-defense based on the circumstances. If the defendant proves with a preponderance of evidence that he acted in self-defense, then the court will grant a rebuttable presumption to the defendant that the prosecution must overcome in trial beyond a reasonable doubt. This presumption can make all the difference for a defendant, and would have changed the trial for my own client. Without a rebuttable presumption, a defendant maintains the burden of production, meaning the defendant is responsible for producing evidence that tends to support that they acted in self-defense. However, in his case, key video and audio evidence was overlooked by the police, handicapping my client's ability to meet his burden. The rebuttable presumption granted in pretrial would shift the burden back to the prosecution, thereby relieving the onus from the defendant to produce evidence in support of his self-defense claim at trial.

This proposed procedure is also critical for preserving the right to assert self-defense from a constitutional perspective. Currently, a person who asserts the right of self-defense in court must give up his fifth amendment right and testify in front of the jury to effectively make the affirmative case for self-defense. A defendant should never have to sacrifice one right to exercise another, and the pretrial hearing is key to preserving both of those rights. Additionally, the pretrial hearing that this legislation creates provides more clarity to the court during the trial, establishing at the outset that a self-defense claim has been asserted and is presumed to be valid. This legislation balances the scales of justice in favor of responsible citizens who act in self-defense, protecting them from

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overzealous prosecutors as well as the heavy costs and legal ramifications associated with being charged with murder. With the additional protections for those who assert self-defense, prosecutors will be forced to consider evidence of self-defense more seriously and respect the right to self-defense that all Ohioans possess.

Chairman Thomas, Vice-Chair Mathews, Ranking Member Isaacsohn, and members of the House Judiciary Committee, thank you again for the opportunity to testify in support of HB 108. I welcome any questions you may have.