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State Representative Joshua E. Williams Ohio House of Representatives

Chairman Claggett, Vice-Chair Workman, Ranking Member Mohamed, and esteemed members of the House Technology and Innovation Committee, thank you for the opportunity to provide sponsor testimony on HB 84. I also want to thank my joint sponsor, Representative Demetriou, for outlining the provisions of the bill as I will detail the constitutionality and legal aspects of the bill.

For decades, different levels of government have had issues with the protection of obscene materials under the First Amendment's speech and press provisions. The first major case that dealt with the censorship of obscene materials was *Roth v. United States* in 1957. The case was combined with *Alberts v. California*. Both Roth and Alberts were convicted of mailing obscene literature and publishing obscene advertisements. Both men challenged these convictions as infringements on their First Amendment rights. In this landmark case, the Supreme Court of the United States (SCOTUS) decided that obscenity does not fall "within the area of constitutionally protected speech or press". This established the Roth Test, which is used to determine whether something is obscene.

Later altered in a similar case (*Miller v. California*), the test is established as follows:

"[t]he basic guidelines for the trier of fact must be:

- (a) Whether 'the average person, applying contemporary standards' would find that the work, taken as a whole, appeals to the prurient interest...

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(b) Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and

(c) Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.”

This test clearly outlines what is deemed obscene under law in the United States. The content that HB 84 seeks to protect unequivocally falls under the jurisdiction of this test, and should not be freely disseminated without the proper age verification requirements that Representative Demetriou summarized.

As young children gain more and more access to digital content like this, states like Ohio must act to protect them from harmful materials, as we have with physical media. By passing HB 84, Ohio would join Texas, Utah, and Kansas in enacting legislation to protect minors from pornographic materials online. Once a similar bill was introduced in Texas, a lawsuit challenging it was filed by the Free Speech Coalition. A month later, one day before the law was set to take effect, A U.S. District Judge struck down the age verification requirement and health warnings. Subsequently, the Texas AG’s office filed a notice of appeal and the Circuit Court lifted the injunction, allowing Texas to enforce the law. Despite an emergency appeal by the Free Speech Coalition, SCOTUS refused to block the law, with no noted dissents. They have agreed to further hear the case, and a decision is expected in July.

However, Ohio must not wait. The safety and protection of our children is of paramount importance, and the longer we wait to safeguard our children, more and more will be subjected to harmful, adult

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content. I urge your support for HB 84 and hope you will join us in creating a safer Ohio for tomorrow. Chairman Claggett, Vice-Chair Workman, Ranking Member Mohamed, and members of the Technology and Innovation Committee, I thank you again for the opportunity to testify and welcome any questions you may have.