

**TESTIMONY OF LARA N. BAKER-MORRISH, CITY SOLICITOR GENERAL**  
**COLUMBUS CITY ATTORNEY ZACH KLEIN'S OFFICE,**  
**ON HB 27**  
**BEFORE THE OHIO HOUSE CIVIL JUSTICE COMMITTEE**

Chairperson Hambley, Vice Chair Patton, Ranking Member Brown, and Esteemed members of the Committee, thank you for allowing me to submit my testimony today.

My name is Lara Baker-Morrish. I am the City Solicitor General for Columbus City Attorney Zach Klein and I have been with the Columbus City Attorney's Office since 1993. Serving an estimated 860,000 people, in 2017 the Columbus Division of Police had 1,848 sworn officers who answered 1,221,244 calls for service of which 630,592 were Emergency 911 calls. That same year, the Columbus Division of Fire with 1,575 uniformed firefighters, answered 164,156 calls for service or an average of 450 calls for service each day.

The citizens of the City of Columbus expect that these emergency calls will be responded to by its first responders without delay. It is for this reason that the Revised Code has afforded local government immunity from damages caused by all but willful and wanton actions on the part of first responders who are responding to an emergency. This is a unique allowance in the code: it extends only to police and fire departments, it is limited to emergency runs, and it applies only to damage caused by virtue of operation of a motor vehicle. Over time, case law has developed to provide guidance on where the line is to be drawn between willful and wanton as opposed to conduct that is negligent or reckless and this jurisprudence strikes the necessary balance between holding the municipality accountable for behavior that crossed the line while protecting taxpayers from claims for damages inadvertently caused in the course of responding to an emergency call for service.

I say protecting taxpayers because it is important to keep in mind that it is taxpayers who ultimately pay the price should HB 27 be enacted. All too often, conversations regarding the exercise of sovereign immunity are presented as asserting the rights of the citizen over that of the government. But it must be kept in mind that should this immunity be lost, the funds necessary to pay the proliferation of lawsuits that would surely follow come at the direct expense of the taxpayers – be that in the loss of funds available to support other desirable programs or services or in the loss of prompt response times by first responders.

It has been suggested in some of the proponent testimony offered that the courts will be able to account for the need for immediacy in emergency runs by holding first responders to a standard of ordinary care that is specific to that care which would be reasonable for emergency personnel under like or similar circumstances. But by the time that courts are weighing in on whether or not the behavior constitutes ordinary care under the circumstances of that emergency, the case is already well into litigation with all of its attendant costs. As Mr. Melewski pointed out in his proponent testimony last week, the tragic case involving Ms. McConnell is in its third year of litigation – but lowering the threshold standard to negligence and holding officers to a standard of ordinary care in light of the emergency will do nothing to lessen the extent of litigation.

Instead, it will allow for a far greater number of lawsuits to be filed and a concomitant delay for all litigants.

Finally, even if this committee should choose to advance HB 27, the addition of a comparative negligence provision to Revised Code 2744.05 is unnecessary and likely to result in unintended confusion. Should the amendments to Revised Code 2744.02 be accepted, comparative negligence would already apply by operation of existing law.

In conclusion, I strongly urge this Committee to consider these matters when reviewing the proposed amendments contained in HB 27.