

November 21, 2019

To: The Ohio House Criminal Justice Committee

RE: Additional Notes Regarding SB140 Since Testimony From October 17th Hearing

Chairman Lang, Ranking Member Leland, Members of the Committee,

This is follow-up testimony to address some specific questions raised at the last hearing in October, and to address the fact that SB140 is not only about “switchblades”.

Current Ohio statute states:

2923.12 Carrying concealed weapons.

A) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

- 1) A deadly weapon other than a handgun;*
- 2) A handgun other than a dangerous ordnance;*
- 3) A dangerous ordnance.*

Since knives aren't “handguns” or “a dangerous ordnance”, the legality of carrying **ANY** concealed knife falls on whether or not that knife is considered a “deadly weapon.” This is problematic because whether a knife is “concealed” depends on the police officer, prosecutor, judge and jury. A citizen has no way to determine this critical issue ahead of time.

The way this is addressed in SB140 is simple. **ANY** knife is considered a “deadly weapon” when it is “used as a deadly weapon”. The bill is **NOT** just about switchblades, it's about all knives including **ANY** pocket knife.

From SB140:

(H) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.

The only section of SB140 that specifically addresses “switchblades” is the section related to manufacturing and sale.

From SB140:

~~Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon;~~

How does SB140 make Ohioans safer?

Everyone is safer when the law is easily understood. The current statute is very confusing to the extent that websites have been created to try to explain it. Their conclusions all amount to “it’s up to law enforcement’s interpretation”. Citizens have a right to expect the law to apply equally to all, not left up to interpretation by law enforcement, prosecutors or judges. They have a right to understand the plain letter of the law. This is impossible under the current statute.

The legislature has an obligation to assure that the law is as clearly written as possible, as easily understood by a lay person as possible, removing as much subjectivity as possible.

The Affirmative Defense:

The “Affirmative Defense” in the statute was discussed at the last hearing. This Affirmative Defense is ONLY applicable in VERY LIMITED circumstances:

- 1) *The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.*
- 2) *“The actor...had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home”*
- 3) *“The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.”*

To assert the “Affirmative Defense” requires a person to divine whether or not where they are at the moment makes them more “susceptible to attack”. How does one determine that? In 2019 are we really going to agree that WHERE a person walks makes them more susceptible to attack? What neighborhoods would those be?

The Affirmative Defense requires one to “fear a criminal attack” to themselves, a 3rd party, or in one’s home. So carrying a pocket knife concealed is only legal in Ohio when a person can prove they thought they or a 3rd party were in danger of an attack.

An "Affirmative Defense" is also manifestly unfair to those who cannot afford an attorney or even to take time off work to fight. The burden of "Affirmative Defense" falls disproportionately upon minorities and the poor who too often are taken advantage of because of this burden.

To conclude, SB140 is essentially a cleanup of existing statute allowing the manufacture and sale of switchblade knives, and better defining the circumstances under which a person may carry ANY knife concealed, which could be in a purse or handbag, a worker’s pocket, a hiker's backpack, or a business person’s briefcase.

Respectfully Submitted,



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