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Opponent Testimony: SB 33  
Ohio House Public Utilities Committee  
November 18th, 2019

Organize! Ohio

Chairman Callender, Vice Chair Wilkin, Ranking Member Smith and members of the House Public Utilities Committee,

Our names are Larry Bressler, Delaney Jones, and Jacie Jones, and we are providing testimony on behalf of Organize Ohio. Organize Ohio works to promote and assist grassroots organizing in Ohio. We are speaking to give our opposition to Senate Bill 33. As activists, community organizers, and Ohioans, we are concerned with the threat that Senate Bill 33 presents to the rights to peaceful protest.

The proposed amendments on civil and criminal liability for organizations are also of particular concern for our organization. The amendment inserts language defining “improperly tamper” as “to change the physical location or the physical condition of the [critical infrastructure] property.” This language lacks clarity and does not define tamper as something that causes harm. This new definition could still be used to mark peaceful, nondestructive protest activity and minor acts of civil disobedience as a 3rd degree felony. This is a hyper-criminalization of such issues, far beyond what is constitutionally just punishment. To charge an individual with a felony is incongruent to a minor crime such as trespass or petty vandalism. This penalty is unconstitutional, and would almost certainly be challenged in court, as a similar bill was in South Dakota.

In addition, the amendment inserts language defining compensation as any “thing of value” or “financial benefit”. According to this change, an organization could be liable if they provided compensation *even before* an individual commits an unlawful act. Would this include an organization providing a ride to a protest, training or protest tactic?

Further, the amendment states that a person or organization is civilly liable if they “provided compensation to the person for damaging” the critical infrastructure facility or “directed, authorized, facilitated, or encouraged the person to damage” a critical infrastructure facility. This amendment expands the ways that organizations and other people can be held civilly responsible for an individual's criminal offences. This civil liability on organizations is likely to discourage individuals and organizations from engaging in protest-organizing, preparation, or participation to avoid being held responsible for the unforeseeable actions of all



participants. The vague language of direct/ authorize/ facilitate/ encourage could be applied in a wide variety of circumstances, even an individual providing medical aid.

As a nonprofit organization, we are particularly concerned with the proposed penalty to organizations. At Organize Ohio, we engage in promoting activism from anyone in the community. If people fear that they could be arrested, this will discourage and disempower people from speaking up about issues that affect their lives. Organize Ohio trains and provides assistance to organizations that are planning protests. No organization or organizer can control all the actions of those who attend a demonstration. Where is the line drawn for an organization like Organize Ohio to be held criminally liable for any unintended consequences involving the groups we engage with? The penalties of up to \$100,000 proposed is more than punitive, it is silencing. This level of financial penalty is catastrophic for a small organization like ours. To avoid potential liability, smaller organizations may be forced to not organize a protest. Therefore, we ask that you oppose Senate Bill 33 to protect free speech and organizations that work to empower Ohioans.

