

Chairman Wiggam, Vice Chairman John, Ranking Member Kelly, and members of the State and Local Government Committee, I write to testify in support of House Bill 90.

House Bill 90 rectifies a glaring breach of the principle of separation of powers that we currently have in Ohio law. Section 3701.13 of the Ohio Revised Code delegates to the Department of Health the power to “make special or standing orders...for preventing the spread of contagious of infectious diseases.” I would like the members of the Committee to consider that for a moment. Consider the scope of possible orders the Department may make – and not just in the case of an emergency. Whether or not the current governor or health director says there are plans to enact a particular order or not, a plain reading of Section 3701.13 shows that the Department of Health has the unlimited power to hand down **any** order, at **any** time, upon the citizens of Ohio, so long as the Director states it is to prevent the spread of contagious or infectious diseases.

The citizens of Ohio have no path of recourse to challenge these orders under current law. Their only remedy is to wait for the next gubernatorial election, and then hope to elect a new Governor, and hope that the new Governor nominates a health director who would rescind the orders. Regardless of how the members of this Committee feel about the Director’s current standing orders under Section 3701.13, I hope all of you can see that giving such broad, unchecked powers to a single person is, as a matter of law, extremely dangerous, and a violation of the principle of the separation of powers. This bill is critical to returning a key but forgotten principle to Ohio government: The consent of the governed.

I understand the inclination to defer to public health experts in times of emergency. But our public health experts have failed us. They were faced with a challenge, and they panicked. Worse, they deemed it wise to pass that feeling of panic on to society, and now a culture of fear, dread, and distrust has pervaded our lives for nearly a year.

Dr. Vanderhoff testified in opposition to a similar bill in the Ohio Senate that “the medical literature is increasingly clear” that jurisdictions that delayed in implementing certain orders “probably saved thousands of lives”. I will leave it to you to carefully parse his claim that it is “increasingly clear” that something “probably” saved lives. More importantly, the doctor willfully ignores the growing body of evidence from Ohio and all over the world that contradicts his claims. One such example concluded that “stringency of the measures settled to fight pandemic, including lockdown, did not appear to be linked with death rate.”¹ Our Department of Health and our Governor do not publicly discuss, or even acknowledge, the entire body of evidence surrounding the measures they have taken. This reveals a worldview dominated by groupthink and tunnel vision unfit for the positions and power they hold, and highlights the need for the checks and balances House Bill 90 provides.

In his opponent testimony, Dr. Vanderhoff trotted out the now-familiar aphorism: “*Let us be clear, it is COVID-19 that has disrupted our lives and our economy, not the necessary efforts to contain it.*” I reject his cowardly deflection of blame, and urge you to do the same.

The virus didn't use erroneous data to create flawed models that inflated the estimate of its mortality. The virus didn't create overly-inclusive reporting requirements. The virus didn't design a test unfit for purpose. The virus didn't quarantine the healthy and low-risk. The virus didn't initiate lockdowns that decimated small businesses. The virus didn't institute testing and quarantine protocols for hospital staff that reduced the healthcare workforce. The virus didn't exploit itself for political leverage. The virus didn't close schools, or insist that children spend a year in a faceless society. The virus didn't siphon resources from other deadly threats. The virus didn't use fear to control people's behavior. The virus didn't threaten people with social, financial, and professional ostracization for pointing out the harms caused by any of the above.

People did all of these things. Now, the people responsible for those actions insist that those of us who have suffered from them deserve **no** voice in whether those disastrous policies should continue. It is long past time to hear from other voices. Please pass House Bill 90.

Sincerely,

Matthew Urbas

¹ "Covid-19 Mortality: A Matter of Vulnerability Among Nations Facing Limited Margins of Adaptation", *Frontiers in Public Health*, November 19, 2020