

**Testimony of Emily M.S. Houh, J.D., Gustavus Henry Wald Professor of the Law and
Contracts at the University of Cincinnati College of Law
Before the House State & Local Government Committee
Representative Scott Wiggam, Chair
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Chair Wiggam, Vice Chair John, Ranking Member Kelly, and members of the House State and Local Government Committee,

Thank you for allowing me to testify today. My name is Emily Houh and I am a professor of law at the University of Cincinnati College of Law, where I've been teaching and writing in contracts, commercial law, and critical race theory since 2003. As an educator and researcher who studies the role of race in our legal system and society, I submit this testimony to express my strong opposition to House Bill 322 and, especially, House Bill 327.

In restricting my and my colleagues' ability to teach about race and other "divisive concepts," as those are defined in both bills, House Bills 322 and 327, if passed, would signal that the state of Ohio is giving up on democracy and democratic ideals. As we all know, we live in an increasingly diverse America – and our evolving democratic society cannot exist or flourish if our citizenry is not educated about the complex facets of American history and society and of the American people, which includes all of us. You've already heard compelling opponent testimony, but I want to speak specifically from my position as a teacher of future lawyers *and* of critical race theory.

Students come to law school for many reasons, but they all share a desire to solve difficult problems. To do so, they have to be able to identify and assess what the problems are in the first place so they can devise effective and lasting solutions to them. In fact, the entire first year of law school is spent teaching and learning the fundamentals of the American legal system. Why? So they have a problem-solving toolkit rooted in a baseline understanding of what the law is and how the law works. From there, students go on to study more specific areas of law so that they can address more specific problems. For example, they might take corporate law, family law, law and economics, and—yes—critical race theory. In all of these classes, they learn how the law structures and orders American work, life, and society in various and specific contexts – from how corporate minority shareholders protect and enforce their rights to how custody determinations are made in divorce proceedings to whether and how laws do and should function to achieve certain goals, goals like the best interests of the child, efficiency in transactions and corporate governance, and—yes—racial equity and equality. Professors with expertise in these various areas have a responsibility to ensure that our students who *choose to take courses with us* understand the concepts important in these fields and to engage critically and in good faith with them in exploring these concepts. In return, our students are expected to likewise engage in good faith with their classmates *and* teachers in this exploration. Indeed, that is what higher education, particularly, is all about.

In my CRT class, I teach my students the basic and different methods of analysis that CRT scholars have developed over the decades to better understand the very complex,

complicated, and entrenched problems of racial inequity and inequality. And despite what House Bill 327 presumes—that in so doing I’m teaching my students that one race is inherently better than others, that certain races of people are evil and others good—that is precisely what I am *not* teaching them; it is precisely *not* what CRT is about. Instead, the point of CRT is quite the opposite. And here’s why. If we observe what’s around us, we cannot deny the hard *reality* of persistent racial inequity and inequality, and there exists an abundance of data and evidence documenting persistent *racial* disparities in wealth, health, education, and pretty much every other “quality of life” indicator. These are not “divisive concepts” – these are *real, documented* facts that people *live in and with*. The material assigned in my CRT class challenges students to think deeply about these realities. While “individual choice” or “they don’t work hard enough” might comprise one set of responses, they’re not adequate or even accurate responses – because they suggest that it is “their” lack of ability, “their” lack of capacity—in other words, “their” *inferiority*—that makes the problem of racial inequality so seemingly intractable. And that presumption of inferiority is *exactly what CRT* questions and challenges, through the close and careful study of the law, how it is made, how it is structured, and how it also contributes to the problem. It’s difficult and unsettling stuff – but it’s also what higher education is all about.

In fact, over the past 18 years almost every one of my CRT students has communicated to me that CRT was one of the most important and impactful classes they took in law school, not because it taught them to hate white people or any such nonsense, but because it enhanced their ability to identify and analyze difficult legal and social problems and, consequently, to better serve their clients and society. When I hear that, I know I’ve served my students well.

House Bill 327 would take away my and countless other educators’ ability to train and teach our students to be better thinkers, problem solvers, and, in my case, better lawyers. Our students, and indeed our society as a whole, deserve better. For this and all the foregoing reasons, I oppose House Bills 327 and 322. Thank you for your time and consideration.

Sincerely,

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