



# Office of the Ohio Public Defender

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*Timothy Young, State Public Defender*

**Testimony in Opposition of Substitute HB360  
Anti-Bullying and Hazing  
Sponsor Representative Greenspan**

Chairman Brenner, Vice Chair Slaby, Ranking Member Fedor, and members of the House Education and Career Readiness Committee, thank you for the opportunity to testify on behalf of the Ohio Public Defender in opposition of Substitute House Bill 360.

OPD believes that HB360 will further contribute to the school-to-prison pipeline that is currently plaguing Ohio's youth. All too often children who struggle with their behavior are pushed from the school into the criminal justice system before they have a chance to mature into successful adults. OPD believes certain provisions of Substitute HB360 will contribute to this epidemic. According to national statistics cited by the Children's Defense Fund of Ohio, a history of suspensions from school is one of the strongest indicators that a child will enter the juvenile justice system.<sup>1</sup> Furthermore, minority children and children with disabilities are disproportionately suspended compared to other students. According to the Children's Defense Fund of Ohio, black students in Ohio make up 52% of suspensions and 53% of expulsions while only being 15.9% of the student population. Additionally, students with disabilities are 14.8% of the student population, but are approximately two times more likely to be suspended as students without disabilities.<sup>2</sup>

OPD is concerned that the bill penalizes the first offense of bullying with an in-school suspension. A youth who is acting out is likely suffering from personal issues of their own. A better approach would be to address the underlying issues causing that child's behavior, educate that child about bullying, speak to

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<sup>1</sup> Juvenile Justice Fact Sheet Series: School to Prison Pipeline, February 2015, <http://www.cdfohio.org/research-library/2015/school-to-prison-pipeline.pdf>

<sup>2</sup> Id.

their guardian, or consider counseling for that child. Instead, the bill requires that the child be suspended from class for one to ten days, which only serves to put the child behind in school and add to their pre-existing difficulties in life.

The second concern OPD has with the bill is that bullying is defined as “any intentional written, verbal, electronic, or physical act” done “more than once” that “causes mental or physical harm” and is “sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening or abusive education environment.” When you consider the delicate emotions of many children, especially adolescents, this is a very broad definition. Mental harm and feelings of intimidation and abuse are not a sufficiently high burden considering the severe penalties for bullying outlined in this bill. This broad definition is particularly problematic considering the long-term consequences of being labeled a bully, even once, can have for a child.

OPD is also concerned that the bill requires the investigation into the offending behavior to be conducted by the school. The school is not required to find culpability beyond a reasonable doubt, and they are not governed by the rules of criminal procedure or evidence. Despite not having these safeguards, a child could be suspended for an entire academic year. Since the bill is currently written to consider each calendar year, the alleged bullying events could have occurred during different academic years even as much as eleven months apart. A longer suspension could also last over multiple academic years.

OPD’s final concern is regarding the hazing portion of the bill. The bill increases the offense level for hazing from a misdemeanor of the fourth degree to a misdemeanor of the second degree. The bill also creates a felony of the third degree if the hazing creates a substantial risk of causing death. Under current law, if a person should die as a result of being hazed, the offense would likely be charged as involuntary manslaughter, a felony of the third degree. Substitute HB360 makes the offense of hazing a felony of the



third degree even if no death or serious harm results, which categorizes the offense far too severely in light of resulting harm.

Thank you for the opportunity to speak today before your committee. I am happy to answer questions at this time.

