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Sponsor Testimony
Senate Bill 288
Senate Government Oversight &
Reform Committee
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Good morning Chairman Coley, Vice- Chair Uecker, Ranking Member Schiavoni and members of the committee. Thank you for the opportunity to give sponsor testimony on Senate Bill 288.

Before we get into the specifics of the bill, we would like to make clear the intent of this legislation. We have always been and will continue to be adamant defenders of second amendment rights. We introduced this measure because Ohio needs to begin having a thoughtful debate and a conversation about what we can do as a state to protect Ohio citizens and carefully balance the sacred Second Amendment rights that are afforded to us in the United States Constitution. There are some people who have already told us that Senate Bill 288 does not go far enough and others have said that it goes too far. If we are hearing from both ends of the spectrum, perhaps this proposal will allow us to have an honest look at where we are and where we should or should not go.

After the Parkland School shooting, our constituents were moved—we are sure your offices received the same amount of emails and phone calls that we did—imploing the Senate to act—to do something to make our communities more safe—to get the conversation going. Many suggestions poured in--- of course there was not one solution and there were many ideas tossed around, but no one said to do nothing.

We began drafting some language based upon the suggestions of our constituents. Then, we heard the ideas that came out of the Governor's working group and felt those ideas had that potential, to taking a step to making a difference. The working group was comprised of diverse individuals on all sides of the gun debate. Some of the people at the table have been a part of numerous legislative proposals that have previously sought out for clarity on how best to protect the second amendment. Yet most importantly, every member, both gun opponents and advocates alike, agreed upon the concepts that emerged from the working group.

Senate Bill 288 contains proposed changes that have been carefully vetted by the Governor's work group. Let's be clear from the get-go and nip a misconception that has been spread erroneously: **IT DOES NOT TAKE AWAY THE GUNS OF THE RESPONSIBLE, LAW-ABIDING GUN OWNERS.**

Here is what Senate Bill 288 actually does:

Extreme Risk Protection Order:

Allows a family member, an individual that cohabits with the person, or a law enforcement officer (upon the completion of an independent investigation) to file a petition in the court of common pleas for a protection order that temporarily restricts a high-risk person from possessing a deadly weapon or firearm. Subject to a hearing, the petitioner must prove by clear and convincing evidence that the respondent is a danger to themselves or others.

This provision:

- Strictly limits who can request an order
- Petition must include:
 - o Facts showing significant risk of suicide or serious threat to others
 - o The number, types and locations of deadly weapons
 - o Respondent's address and whereabouts
 - o Identify if there is a current protective order
- Petitioner has the burden of proof
- Sets the bar high with "clear and convincing evidence"
- Defines exactly what evidence is permitted
 - o Recent threats or acts of violence towards petitioner
 - o Recent threats or acts of violence towards others
 - o Recent act of cruelty to animals
 - o Reckless use, display, or brandishing of weapons
 - o History of suicide threats or attempts
 - o History of the use, attempted use or threatened use of physical force or violence against another person
 - o Illegal use of controlled substances or abuse of alcohol
 - o Prior court ordered involuntary confinement for mental health and a substantial risk.
 - o Other relevant factors
- Person must be served notice of the hearing or hearing is continued
- Gives due process, allowing rebuttal
- Any order must include notice that order can be appealed
- In cases where the threat is Significant and Imminent
 - o Petitioner can file an Ex Parte order
 - o Law enforcement will remove their firearms
 - o Order is for 72 hours

We have also afforded gun owners with stated rights in this section. On pages 82 and 102—language is included that specifically states: "No person shall file a petition for an extreme risk protection order or an ex parte extreme risk... if the person knows the allegation is false... may recover full damages in, a civil action under section 2307.60 of the Revised Code. A civil action described in this division is in addition to, and does not preclude, any possible criminal prosecution of the person who violates division (A) of this section for the violation" (lines 2376-2392). Anyone violating this section of Senate Bill 288 is guilty of a misdemeanor of the first degree. We are looking to increase this provision of Senate Bill 288 to a felony to ensure that there are safeguards and severe punishments in place to act as a deterrent to keep people from filing false petitions

Additionally, language is included to direct the courts to return the firearms promptly to the respondent after the court findings: (page 74 lines 2149-2159; pages 76-77 lines 2215-2228; page 77 lines 2242-2253; page 78 lines 2254-2268; page 79 lines 2287-2301).

Weapons Disability:

Prohibits a person from having a firearm or a dangerous ordinance if:

- Under federal indictment for or been convicted of a felony offense
- Been convicted of domestic violence or violating a protective order
- Subject to a qualified protection order
- Been dishonorably discharged from the military
- Alien or renounced U.S. citizenship

This section is mirroring federal law so law enforcement officers who live in the community and know their neighbors can enforce it.

Armor Piercing Ammunition:

Adds armor piercing ammunition, as defined by federal code, to the list of dangerous ordinances.

We believe this section is self-explanatory and once again, this mirrors federal law.

Strawman Purchases:

Prohibits the purchasing of a firearm on behalf of a third party unless it is a gift. Violation of this provision is a second-degree felony. This is just a way around the background check laws. If a grandfather purchases a shotgun as a gift for his grandchild, this would still be permissible. This section also mirrors federal law.

NICS Changes:

Specifies that any court-ordered protection orders against a person be entered into LEADS in a format compatible with NICS so that the system can identify a person when they attempt to purchase a firearm. This is a data in/data out issue. If the courts are not entering the information into the system then we cannot use the information to find out if an individual should be allowed to purchase a firearm.

Automatic Firearm Definition:

Adds to the ORC the definition of “automatic firearm” and the federal definition of “machine gun.” This will allow Ohio to comply with federal law when the definitions change.

Gun ownership is a right guaranteed by the Constitution and we have protected that right on every occasion. However, with every right comes an equal responsibility. First amendment right guarantees the right of free speech but that speech cannot be used to cause panic in a crowded theatre. The second amendment is just as powerful a right but it comes with its own limitations. Just as you cannot own a handgun if you are under 21, a felon, or multiple other reasons, people who are a threat to themselves and others should not have access to guns. Senate Bill 288 is about limiting their access to guns.

Chairman Coley and members of the committee. Thank you for the opportunity to give sponsor testimony on Senate Bill 288. We are happy to answer any questions that the committee might have.