

Written Statement on Behalf of Amnesty International USA

For a Hearing on

H. B. No. 228

Submitted to the Ohio Senate Government Oversight and Reform Committee

Submitted by Emily Walsh, Campaigner

Amnesty International USA

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I. Introduction

Mr. Chairman and members of the Committee, I am honored to submit this statement for the record on behalf of Amnesty International USA.

Amnesty International is a global movement of more than 7 million people, including 5,377 supporters in the state of Ohio, who campaign for a world where inalienable human rights are enjoyed by all¹.

Amnesty International has analyzed international human rights laws and standards² and developed a clear set of criteria for states to meet their obligations to protect the right to stay alive, the right to security of person, and other human rights, in the context of gun violence carried out by private individuals in non-conflict settings.

On behalf of Amnesty International USA, I urge you to vote no on H. B. No. 228, which would create an expansive Stand Your Ground law and preempt city and municipal regulation of guns. We believe that this legislation would endanger the lives of people in Ohio and put Ohio in violation of U.S. human rights obligations.

II. Stand Your Ground Laws Pervert the Concept of Self-Defense

Self-defense is a “justification” defense in criminal law in all U.S. states. This means that it is not a crime to defend oneself, even with deadly force, if 1) the force used is reasonable and strictly necessary to protect against an imminent threat, and 2) the force used is proportionate to the perceived threat, which, in the case of use of lethal force means a threat of death or serious injury.

However, with self-defense comes with a “duty to retreat,” which means that an individual has a duty to retreat before using lethal force against an assailant. The underlying purpose of the duty to retreat is to reserve the use of lethal/deadly force to incidents where there is no other safe alternative to using this force. The current version of this bill would eliminate the duty to retreat altogether if the individual “is in a place in which the person lawfully has the right to be.”³ Practically, this means any public place. This is a lower standard on the use of deadly force than applies to law enforcement officers or the military, perverting the concept of self-defense, and protecting aggressors rather than the victims of violence.

III. Stand Your Ground Laws Put Lives at Risk

¹ Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. Amnesty International is independent of any government, political ideology, economic interest or religion. The organization is funded by individual members; no funds are sought or accepted from governments for investigating and campaigning against human rights abuses. Amnesty International USA is the U.S. section of Amnesty International.

² Including the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD).

³ Sub. H. B. No. 228, Sec. 2307.601.

While everyone has a right to self-defense, evidence shows that Stand Your Ground laws endanger lives and public safety.

Evidence suggests that passing Stand Your Ground laws has led to increases in justifiable homicide, homicide and firearm homicide. A 2016 study published in the *Journal of the American Medical Association* found that when compared to the period 1999-2005, before the Stand Your Ground law was enacted in Florida, and the period 2006-2016, after the law was passed, there was a 24.4 percent increase in homicides overall and a 32 percent increase in firearm-related homicides.⁴ In a follow up study by the same researchers, published in 2017, there was a 75 percent increase in justified homicides (or the lawful use of lethal force) in Florida during the same time periods.⁵

We also have serious concerns that this law will contribute to impunity for the killings of black individuals by white perpetrators, in particular. The American Bar Association's 2014 National Task Force found that the application of Stand Your Ground Laws is "unpredictable, uneven, and results in racial disparities."⁶ The Task Force found evidence that self-defense related homicides, particularly interracial homicides, spiked in the 33 states that have Stand Your Ground Laws.⁷

In summary, this policy has been proven both deadly and ineffective.

IV. HB 228's Version of Stand Your Ground is Breathtakingly Extreme

This bill enables a "shoot first" mentality by eliminating the duty to retreat for all but an extremely narrow set of circumstances. If this bill passes in its current form, any individual lawfully in a place – such as movie theaters, parking lots or malls – could pull a gun and fire in response to practically any perceived threat. In other words, a shooter is allowed to use deadly force in practically any circumstance if they are scared—an incredibly subjective and potentially racially-biased emotional response.⁸

Moreover, the bill lowers requirements on defendants asserting self-defense, to merely producing evidence that "tends to support" that an action was taken in self-defense. This is a legally meaningless standard that, as the Ohio Prosecuting Attorneys Association notes, "places virtually no burden on the defendant to show that his or her actions were justified."⁹ It shifts the burden to police and prosecutors to prove, beyond a reasonable doubt, that the defendant did not act in self-defense. Taken together, these changes in the law would effectively provide immunity for nearly any individual claiming to shoot to kill in self-defense, so long as they were not otherwise engaged in a crime.

V. This Bill Would Penalize Ohio Taxpayers for Efforts to Save Lives

HB 228 includes a punitive preemption provision that absolutely bars city and municipal leaders from passing life-saving gun ordinances, disregarding the obligations that elected officials have to take necessary

⁴ David K. Humphreys et al., *Evaluating the Impact of Florida's "Stand Your Ground" Self-defense Law on Homicide and Suicide by Firearm: An Interrupted Time Series Study*, *JAMA* (January 2017), <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2582988> (This study does not include any evaluation of whether the homicides were justified).

⁵ Humphreys DK, Gasparrini A, Wiebe DJ. *Association Between Enactment of a "Stand Your Ground" Self-defense Law and Unlawful Homicides in Florida*. *JAMA Intern Med.* 2017;177(10):1523–1524. [jamainternmed.2017.3433](https://doi.org/10.1001/jamainternmed.2017.3433).

⁶ American Bar Association National Task Force on Stand Your Ground Laws, Report and Recommendations, American Bar Association, (Sept. 2015), at 2, https://www.americanbar.org/content/dam/aba/images/diversity/SYG_Report_Book.pdf.

⁷ American Bar Association National Task Force on Stand Your Ground Laws, Report and Recommendations, American Bar Association, (Sept. 2015), at 2, https://www.americanbar.org/content/dam/aba/images/diversity/SYG_Report_Book.pdf.

⁸ The exceptions in the bill are circumstances where the individual is involved in committing a felony, resisting arrest or using force against a peace officer, and narrow circumstances where the individual initially provoked the aggressor to use force. Sub. H. B. No. 228, Sec. 2307.601(D).

⁹ Louis Tobin, Executive Director, Ohio Prosecuting Attorneys Association, Opponent Testimony, 13 Feb. 2018, available at <https://www.legislature.ohio.gov/legislation/legislation-committee-documents?id=GA132-HB-228>.

measures to address local safety issues and protect lives.¹⁰ Compelling city and municipal officials to ignore local problems and prevent the implementation of local solutions is not only bad public policy, it puts lives at risk.

The bill also exposes these cities and municipalities that pass gun ordinances to civil action from out-of-state special interest groups, effectively threatening to bankrupt them if they take steps to address local safety issues and make any attempt to protect their citizens from gun violence.¹¹ Ultimately, Ohio taxpayers will be forced to bear the price of costly litigation damage awards.

VI. Conclusion

H. B. No. 228 would needlessly endanger lives while tying the hands of city and municipal officials attempting to address public safety problems at the local level. For the aforementioned reasons, Amnesty International USA strongly urges members of the Ohio Senate Government Oversight and Reform Committee to vote no on this and any other iteration of Stand Your Ground law that may appear in front of this legislature.

Please do not hesitate to contact Victoria Coy, Manager of the End Gun Violence Campaign at Amnesty International USA, with any questions. She may be reached at 985-264-6524 or vcoy@aiusa.org.

¹⁰ Sub. H. B. No. 228, Sec. 9.68 (A).

¹¹ Sub. H. B. No. 228, Sec. 9.68 (B): “A person, group or entity adversely affected by any manner of ordinance, rule, regulation, resolution, practice or other action enacted or enforced by a political subdivision in conflict with division (A) of this section may bring a civil action against the political subdivision seeking damages from the political subdivision....Any damages awarded shall be awarded against, and paid by, the political subdivision.”