

Written Statement on Behalf of Amnesty International USA

For a Hearing on

H. B. No. 381

Submitted to the Ohio House Criminal Justice Committee

Submitted by Emily Walsh, Senior Campaigner

Amnesty International USA

June 9, 2020

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 6,540 supporters across 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-armed conflict settings.

On behalf of Amnesty International USA, I urge you to vote no on H. B. No. 381, which would create an expansive Stand Your Ground law by removing the duty to retreat before resorting to lethal force. 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. Gun Violence in the State of Ohio

I had the honor of submitting a statement in opposition to H. B. 228 while it was under consideration back in December 2018. H. B. 228 would have created a similarly expansive Stand Your Ground law and was opposed by groups including the Ohio Prosecuting Attorneys Association, ACLU of Ohio, League of Women Voters, Fraternal Order of Police, NAACP, Catholic Conference of Ohio and Ohio Mayors Alliance. The bill number has changed, but the facts remain the same: Stand Your Ground laws are unnecessarily broad and their implementation is dangerous, as studies show that it may contribute to an increase in gun homicides. Ohio already has sufficient laws governing self-defense.

Gun violence in Ohio is already a crisis, taking the life of one person every six hours and being the second leading cause of death for children within the state. Communities are still reeling from the horrific massacre in Dayton, where a shooter killed nine and injured 27, in addition to the everyday violence experienced by communities subjected to rampant shootings in their neighborhoods. I urge honorable members of the Committee to consider those victims and survivors before passing a bill that has been shown to increase firearm violence.

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).

In addition to the serious emotional and physical toll wreaked on families, friends and neighbors, gun violence incurs a substantial financial cost and drain on the state economy. An analysis of directly measurable costs, including healthcare, law enforcement and criminal justice, employer cost and lost income, suggests that gun violence in Ohio costs at least \$2.7 billion³ annually.

I implore the Committee to consider the physical, emotional and economic ramifications of supporting policies like Stand Your Ground which increase the likelihood of gun violence, while the state already incurs billions of dollars addressing this human rights crisis.

III. 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. I urge members of the Committee to carefully consider the meaning of the word “retreat” in this context. While it may initially invoke images of an individual fleeing for their life, the meaning in this context is simply making any attempt to deescalate or walk away **if one is able to do so safely** before using lethal force. Attempting to deescalate before resorting to force is a standard that society holds to individuals even in unarmed contexts: for example, we expect individuals to try to deescalate or walk away before punching someone with whom they are in an argument. Should we not expect the same—if not higher—degree of diligence and caution when deadly arms are involved in public spaces?

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 in “any place in which the person is lawfully present.”⁴ 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.

IV. Stand Your Ground Laws Put Lives at Risk

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.⁵ 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.⁶

³ Giffords Law Center to Prevent Gun Violence. (n.d.). The Economic Cost of Gun Violence in Ohio. Retrieved from <https://lawcenter.giffords.org/wp-content/uploads/2017/12/Cost-of-Gun-Violence-in-OH.pdf>

⁴ Sub. H. B. No. 381, Sec. 2307.601.

⁵ 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).

⁶ 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).

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.”⁷ The Task Force also found evidence that self-defense related homicides, particularly interracial homicides, spiked in the 33 states that have Stand Your Ground Laws.⁸

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

V. HB 381’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.⁹

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 in 2018, “places virtually no burden on the defendant to show that his or her actions were justified.”¹⁰ 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.

VI. Conclusion

H. B. No. 381 would needlessly endanger lives at a time when Ohioans are still recovering from the tragic massacre in Dayton as well as the everyday gun violence that plagues communities across the state. For the aforementioned reasons, Amnesty International USA strongly urges members of the Ohio House Criminal Justice 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 Emily Walsh, Senior End Gun Violence Campaigner at Amnesty International USA, with any questions. She may be reached at ewalsh@aiusa.org.

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 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.

⁹ 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).

¹⁰ 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>.