

TESTIMONY OF LARA BAKER-MORRISH
COLUMBUS CITY ATTORNEY ZACH KLEIN'S OFFICE,
ON SUB HB 228
BEFORE THE OHIO HOUSE FEDERALISM AND INTERSTATE RELATIONS COMMITTEE

Chair Roegner, Vice-Chair Lipps, Esteemed members of the House Federalism and Interstate Relations Committee, thank you for the opportunity to provide opponent testimony on House Bill 228.

My name is Lara Baker-Morrish. I am City Solicitor General for Columbus City Attorney Zach Klein's Office. I have been with the Columbus City Attorney's Office since 1993 and, prior to assuming my current position, I spent the past 11 years in the position of Chief Prosecutor. The City of Columbus, with a population of roughly 860,000, is the 14th largest city in the United States and the largest city in the State of Ohio. Among its other duties, the Columbus City Attorney's office prosecutes misdemeanor crimes committed in the City of Columbus and unincorporated townships – crimes which include misdemeanor domestic violence offenses of which there are roughly 4,000 filed each year.

The City of Columbus is currently contemplating the enactment of local ordinances designed to fill the gap between existing federal firearms law and state law prohibitions. As an example of such a gap, in the State of Ohio an abuser who has been convicted of misdemeanor domestic violence and who may not lawfully possess a firearm under federal law faces no state law consequences for possessing a gun. This means that a state or local law enforcement officer who encounters this individual in possession of a weapon has no ability to effectuate an arrest. Likewise, an individual who is the subject of a court order of protection for having allegedly engaged in acts of violence and who has been advised of their inability under the federal law to possess a firearm cannot be held accountable for possessing one under the state weapons under disability law. Nor can an individual who is found to have used a gun to commit a misdemeanor offense of violence be made to forfeit that weapon under state law. The City of Columbus seeks to hold those who have committed acts of violence accountable for possessing a firearm in violation of federal law. However, provisions of HB 228 which are designed to prohibit local government from passing common sense gun legislation would have a chilling effect upon the City's attempt to protect our citizens from these dangerous criminals. Specifically, I am here to address the proposed amendments to Ohio's local firearms preemption statute – ORC 9.68.

The amendments to ORC 9.68 were not included in HB 228 as introduced. Rather, Substitute bill I-132-0595-7, which contains the amending language, was quietly accepted as the new working version of HB 228 on December 13, 2017 by a 7-4 vote. And yet, when this bill came on for hearing on February 13, 2018 and again on April 10, 2018 the language amending ORC 9.68 was all but hidden from view on the General Assembly website. A keyword search for amendments impacting ORC 9.68 returns zero hits and if one selects the "View Current Version" button for the legislation, the substitute language is not included. As a result, I suspect few members of the general public are even aware of what is being attempted here today.

Sub HB 228 seeks to amend ORC 9.68 in the following ways:

1. The State seeks to extend its attempt to preempt local action pertaining to firearms to include the regulation of firearms manufacturing, taxation, keeping, and reporting of loss or theft.
2. The State seeks to extend its attempt to preempt local action pertaining to firearms by seeking to curtail the ability of local governments to enact ordinances, regulations, and resolutions pertaining to firearms.
3. The State seeks to go even farther in its attempt to prohibit local action – amended 9.68 not only attempts to preempt local legislation, it seeks to chill the ability of local government to prosecute gun crimes or to engage in “other legal process” as pertains to firearms.
4. The State seeks to chill the work of local government and local prosecutors by creating a cause of action and defining standing to broadly encompass “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 the terms of 9.68 and allowing the person, group or entity to seek damages from the city, to seek declaratory relief, injunctive relief or a combination of these remedies to be paid by the city.
5. The State seeks to expand the reward for a successful civil action by allowing not only for the payment of costs and attorney fees but also expert witness fees and compensation for loss of income in bringing the lawsuit.
6. The State seeks to further chill any meaningful attempt by a city to seek a legal determination as to whether or not a proposed ordinance or process may be found to be in violation of ORC 9.68 by allowing for entities who sue under 9.68 to recover losses even if the city chooses to settle the lawsuit and repeal or rescind an ordinance, rule or practice prior to a final court determination.

It is the position of the City of Columbus that local government needs to be able to make decisions about how to protect its citizens in light of local problems. The problems attendant to an urban community may well be different from those encountered in a rural area and local government needs to be able to address those issues that impact their community. The possession of firearms by individuals who have been disqualified by federal law but who face no state law consequences is one such issue. The amendments to ORC 9.68 seek to chill local action by threatening local government with the payment of actual damages, attorneys’ fees, expert witness fees, and more all while allowing those who violate our existing federal gun control laws to do so with impunity.

In conclusion, I strongly urge this Committee to strike the language of HB 228 pertaining to amendments to ORC 9.68 and to consider the need of local governments to address local concerns. I would be happy to answer any questions you might have.