

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

OHIO STATE CONFERENCE
OF THE NAACP
c/o Attorney Rachel Bloomekatz
1148 Neil Ave.
Columbus, OH 43201

OHIO ORGANIZING
COLLABORATIVE
c/o Attorney Rachel Bloomekatz
1148 Neil Ave.
Columbus, OH 43201

STEPHANIE HOWSE
Member of the Ohio House of
Representatives
c/o Attorney Rachel Bloomekatz
1148 Neil Ave.
Columbus, OH 43201

CECIL THOMAS
Member of the Ohio Senate
c/o Attorney Rachel Bloomekatz
1148 Neil Ave.
Columbus, OH 43201,

Plaintiffs,

v.

THE STATE OF OHIO
c/o Attorney General Dave Yost
30 East Broad Street, 14th Floor
Columbus, OH 43215,

Defendant.

Case No. _____

COMPLAINT FOR
DECLARATORY JUDGMENT

The Ohio State Conference of the NAACP, the Ohio Organizing Collaborative, Ohio State Representative Stephanie Howse, and Ohio State Senator Cecil Thomas bring this action for a

declaratory judgment against the State of Ohio to invalidate provisions of Amended Senate Bill No. 175 enacted in the 133rd General Assembly in violation of the three-considerations and one-subject rules of the Ohio Constitution Article II, Section 15(C) and (D), and do allege as follows:

INTRODUCTION

1. This is a case about bypassing the democratic process, silencing the voices of those most directly affected by controversial legislation, and turning a blind eye to a community's well-founded fears about the public safety consequences of rewriting Ohio's self-defense laws.

2. This action challenges the Ohio General Assembly's unconstitutional, late-night, last-minute passage of controversial Stand Your Ground legislation. In December 2020, during the waning days of the lame duck session, the Ohio General Assembly forced through previously unpassable Stand Your Ground provisions by lifting them from prior unsuccessful bills and inserting them in a popular and unrelated bill—2021 Am.S.B. No. 175 (“S.B. 175”)—which was poised for final approval. This tactical insertion violated two provisions of the Ohio Constitution: the three-considerations rule, Ohio Constitution, Article II, Section 15(C), which requires that all bills be considered three times by both the House and the Senate; and the one-subject rule, Ohio Constitution, Article II, Section 15(D), which requires that bills passed by the legislature have only one uniting purpose. The three-considerations and one-subject rules safeguard fair participation in the legislative process and protect against the most egregious abuses of that process.

3. By adding the Stand Your Ground provisions to S.B. 175 after that bill had already been fully considered, the General Assembly fundamentally changed the bill without subsequent reconsideration and debate. The provisions transformed S.B. 175 into a bill containing two subjects with no uniting purpose.

4. Before the Stand Your Ground provisions were added, S.B. 175 sought simply to treat nonprofit and for-profit corporations equally under the law. Private companies, universities, cities, and towns had already long enjoyed immunity from civil liability when injury, death, or loss resulted from handguns carried by concealed-carry weapons licensees on their property or at their events. This legislation took the uncontroversial step of mirroring these same protections for religious institutions, civic associations, and other nonprofit organizations. The bill enjoyed bipartisan, near-unanimous support and reached its final consideration in the House on December 17, 2020.

5. But before bringing that bill to a final vote, House members added new provisions to S.B. 175. These provisions amended R.C. 2307.601 and 2901.09 by codifying in both criminal and civil self-defense laws the principle that “a person has no duty to retreat before using force in self-defense . . . if that person is in a place in which the person lawfully has a right to be.” Plaintiffs call this change to Ohio’s self-defense standards “Stand Your Ground,” a term by which these provisions are “widely referred to,” *State v. Estelle*, 3d Dist. Allen No. 1-20-50, 2021-Ohio-2636, ¶ 21 fn.5, though they are also known as no duty to retreat. The provisions added to S.B. 175 enforce and expand the Stand Your Ground principle by prohibiting juries from even considering evidence that defendants could have avoided violent confrontations in public spaces by simply walking away if it was safe to do so.

6. The Stand Your Ground provisions were not new to the General Assembly—or to scores of citizens, civic organizations, and city governments. For example, only days earlier, witnesses provided statements testifying to the dangers of eliminating the duty to retreat, warning that Stand Your Ground laws have been shown to increase gun homicides and have disproportionately adverse effects on persons of color. Witnesses testified to being afraid for

themselves, for their family members, and for their fellow Ohioans. The broad coalition opposed to Stand Your Ground had defeated multiple previous efforts over the course of many years in the House and Senate to pass identical provisions. But, to avoid another defeat, the General Assembly did not provide the opportunity to meaningfully debate these completely unrelated and controversial provisions as required by the Ohio Constitution. Instead, the General Assembly simply inserted the previously defeated Stand Your Ground provisions and—about an hour later—rushed to pass the bill.

7. S.B. 175 was signed into law on January 4, 2021, and took effect April 6, 2021. (2021 Am.S.B. No. 175 is attached as Exhibit A). The law's effects are reverberating throughout Ohio, causing the Ohio State Conference of the NAACP to take measures to address its members' growing fears over their continued safety and to educate them and Black Ohioans about how to adjust to living and surviving in a Stand Your Ground state. The Ohio Organizing Collaborative, which conducts major voter registration campaigns, will have to overhaul its training processes ahead of next year's campaigns to account for the new public safety reality caused by S.B. 175's Stand Your Ground provisions. These Plaintiff organizations will continue to face these harms absent the Court's intervention. They, together with Representative Stephanie Howse and Senator Cecil Thomas, bring this challenge to the General Assembly's unconstitutional attachment of Stand Your Ground provisions to S.B. 175 and ask this Court to declare those provisions unconstitutional and invalid.

8. By bringing this suit, Plaintiffs seek to confirm that before the Legislature can enact such significant and controversial bills it must act in line with the democratic process required by the Ohio Constitution. Because the General Assembly did not abide by those basic protections before enacting the Stand Your Ground provisions of S.B. 175, those provisions cannot stand.

PARTIES

9. Plaintiff Ohio State Conference of the National Association for the Advancement of Colored People (“Ohio NAACP”) is a nonpartisan, nonprofit membership organization that serves as an arm of the National Association for the Advancement of Colored People, which was founded in 1909 and is the oldest civil rights organization in the country. The Ohio NAACP has over 30 active adult chapters, college chapters, and youth councils in Ohio. Its mission is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination. The Ohio NAACP, consistent with the national organization, identifies major areas of inequality facing Black and brown Americans and builds strategic plans and initiatives to focus its advocacy and target these inequalities. These initiatives are in the areas of economic sustainability, education equality, health equality, environmental and climate justice, criminal justice reform, voting rights and fair representation, and expansion of youth consciousness, among others.

10. The Ohio NAACP opposes Ohio’s Stand Your Ground law because such laws are applied in a racially biased manner. Stand Your Ground laws—including Ohio’s—make it easier to kill human beings without the perpetrators facing any legal consequences. And because of Ohio’s Stand Your Ground law, those human beings will more often be Black Ohioans—including members of the Ohio NAACP, whose equality of rights the organization aims to secure. The Ohio NAACP’s opposition is informed by studies regarding Stand Your Ground legislation and its disparate impact on Black Americans. In states that have Stand Your Ground laws, Black Americans experience disparate outcomes, including for example in the criminal justice system, where Stand Your Ground laws exacerbate disparities in outcomes between shootings of Black and white victims, with shootings of Black victims deemed justified much more frequently than

shootings of white victims. The Ohio NAACP opposes Stand Your Ground to avoid the loss of more Black Ohioans' lives, including the lives of its members, and to prevent and avoid the fear and intimidation that such laws engender in many Black Americans, including its members. Consistent with its mission, the Ohio NAACP has submitted testimony in opposition to Stand Your Ground legislation in Ohio, including in 2018 in opposition to House Bill 228—an earlier failed attempt to enact Stand Your Ground legislation.

11. As a result of the impact of the passage of the S.B. 175 Stand Your Ground provisions, the Ohio NAACP has had to divert resources from other core projects to prioritize education, organizing community outreach, and counseling individual members regarding Stand Your Ground and continues to have to do so. Some Ohio NAACP chapters have had to continuously counsel their membership and communities about how Stand Your Ground laws are applied disparately to Black Americans using lethal force in self-defense. The Ohio NAACP has had to coordinate with outside experts, collect and study data, and educate themselves and their members in response to Black Ohio NAACP members' fears that they are more likely to be killed if others feel justified in doing so and if such perpetrators know that they are less likely to be convicted for doing so—as studies have shown—when Stand Your Ground laws are in effect. They have also had to organize community discussions and advocate for government interventions to alleviate the Black community's fears surrounding its own use of force in self-defense. The Ohio NAACP now anticipates that some of its local chapters will be overwhelmed by requests for legal representation in cases that involve Stand Your Ground.

12. Parents of Black children and teenagers and Black youth themselves in Ohio are turning to their Ohio NAACP chapter presidents and leaders for specific guidance on how to stay safe and survive now that the Stand Your Ground provisions are in effect. These parents and their

children understand, from news media coverage of justified homicide verdicts in cases involving the killing of young Black people, that they face a heightened and substantial risk of being perceived as dangerous and of having their own deaths found to be justified because others see them as a threat. The Ohio NAACP continues to respond to these fears during chapter meetings and in private conversations and has had to develop and teach strategies for de-escalation of conflict in normal daily activities, including trips to the grocery store, traffic stops, and any place in public that a young Black child or teenager fears that he or she will be killed in an alleged act of self-defense. Absent this Court's intervention, the unconstitutional passage of the Stand Your Ground provisions will continue to cause the Ohio NAACP to have to divert resources and time to addressing the fears of the parents of Black children and teenagers and young Black people themselves.

13. Because the Stand Your Ground laws pose a continuing threat, the fear felt by Ohio NAACP members that their lives are disparately at risk is at the forefront of the Ohio NAACP chapter meetings and conversations with members. It now plans to focus on Stand Your Ground during its annual state convention. Multiple chapters have identified a need for education among Ohio NAACP membership and with public and community actors outside of the organization. Some chapters plan to collaborate with local organizations and local media to develop strategies to educate Ohioans about the recent change in the law and what it means for the Black community. Others are planning to spend funds to update and circulate literature that informs Ohioans of their rights. Local NAACP chapters are hosting discussions and developing programming aimed at addressing the fears and anxiety Ohio NAACP members are expressing, including through obtaining and engaging mental health resources.

14. For as long as S.B. 175's Stand Your Ground provisions are in effect in Ohio, the Ohio NAACP will have to divert its time and resources away from the strategic initiatives it has focused on, developed over many years, and that are in furtherance of its mission of securing political, educational, social, and economic equality of rights. The Ohio NAACP's efforts in these areas—including economic sustainability, education equality, health equality, environmental and climate justice, criminal justice reform, voting rights and fair representation—have been and will continue to be stalled by the threat that Stand Your Ground presents to Black Ohioans.

15. Further, part of the Ohio NAACP's mission is to ensure racial equality under the law and through democratic processes. The General Assembly's tactical last-minute insertion of the Stand Your Ground provisions into S.B. 175 deprived the Ohio NAACP of the opportunity to participate in the legislative process through the type of legislative advocacy it has engaged in on prior campaigns—including previous attempts to pass Stand Your Ground bills.

16. Denise Williams, a member of and the President of the Springfield, Ohio unit of the NAACP fears harm to herself, her family members, the other staff members of the Springfield unit, and to the Black and brown community of Springfield from the enactment of S.B. 175's Stand Your Ground provisions. Ms. Williams's fears are reasonable in light of the pervasive racial tension she has already experienced as a resident in Springfield. Those tensions have been exacerbated and made potentially deadly after the passage of the Stand Your Ground provisions. Even before S.B. 175's Stand Your Ground provisions became law, Ms. Williams received hate mail to her home, delivered without postage, and filled with racial slurs and death threats. The hate mail included specific threats related to her work with the Springfield branch of the Ohio NAACP and mentioned seeing Ms. Williams in news conferences on TV. Ms. Williams continues to receive anonymous mail with racial slurs and death threats. The senders of the hate mail do not identify

themselves and instead write “white power” and other sayings on the envelopes. The letters are delivered directly without postage, and in lieu of a postage stamp, the senders write phrases such as “N***** Stamp” in the top right corner of the envelopes. The hate mail is filled with numerous racial slurs, racist depictions, and death threats. For example, Ms. Williams has received a letter stating: “Do you know the saying about a N*****. Only good one is a dead one.” Ms. Williams is fearful that under a Stand Your Ground regime, those who threaten her because of her race and because of the racial equality work she does in her community will be able to initiate a confrontation with her anywhere in public, claim that she made them feel threatened or unsafe, and shoot and kill her because they feel protected under the law. In early 2021, after Ms. Williams received additional hate mail and death threats to her home, the Executive Committee of the Springfield, Ohio unit of the Ohio NAACP decided to install two additional cameras outside Ms. Williams’s home because of the substantial risk to Ms. Williams’s safety and survival.

17. Since the Stand Your Ground provisions were passed, Ms. Williams lives in heightened fear and has had to alter her behavior in public, where she is sometimes recognized for her work with the Ohio NAACP. Ms. Williams has had to remain calm and aware of her surroundings in the face of public racist confrontations because she fears that those who feel comfortable verbally attacking her in public will quickly resort to violence if they subjectively perceive any response from her as threatening. She feels she must balance defending herself in these racist confrontations and staying safe. During one such racist confrontation while at the grocery store, Ms. Williams was fearful that if this extremely confrontational person had a weapon or firearm, he would have pulled it out and used it on her. This fear was shared and expressed by other customers and by employees of the grocery store, who told her to remain calm for her own safety throughout the confrontation. Ms. Williams fears that without a duty to retreat, she faces a

substantial risk that these attackers will not hesitate to shoot and kill her because they know they will be found justified for killing her, a Black woman, in self-defense. Plaintiff Ohio NAACP brings this suit on behalf of Ms. Williams.

18. Plaintiff the Ohio Organizing Collaborative (“OOC”) is a nonprofit organization incorporated in Ohio with a multi-pronged mission of organizing everyday Ohioans to build transformative power for racial, social, and economic justice. The OOC’s state and local priorities center on three subject areas: (1) economic justice, including wages, healthcare, income support, the social safety net, and access to affordable quality education; (2) criminal justice reform, including bail reform, police and prosecutor accountability, community reinvestment, and drug policy reform; and (3) structural democracy reform achieved through the expansion of voting rights.

19. The OOC has organized opposition to Stand Your Ground legislation on multiple occasions in prior General Assemblies. But the General Assembly’s last-minute amendments and unconstitutional passage of the S.B. 175 Stand Your Ground provisions deprived the OOC of a meaningful opportunity to engage in legislative advocacy around the bill.

20. The OOC engages in two primary programmatic activities: nonpartisan voter engagement and grassroots community organizing. The OOC’s voter engagement program has registered hundreds of thousands of Ohioans to vote and requires that the OOC recruit and train canvassers who travel to communities to knock on doors or set up tables in public places such as parks, government or shopping centers, and gas or transit stations. Now that Ohio is a Stand Your Ground state, the OOC has had to amend its field training for canvassers with lessons on how volunteers can keep themselves safe, in addition to providing substantive training on effective voter engagement strategies. Absent relief from this Court, the OOC will have to spend its

resources to engage its outside counsel to update the OOC's formal written training materials, particularly its "Know Your Rights" handouts, and to print copies for each canvasser to keep with them in the field in light of the new Stand Your Ground law. In addition, the dangers posed by the Stand Your Ground law have led some to communicate to the OOC that they are no longer willing to attend its protests or other events. As a result, the OOC is having to rethink the direct action strategies that underlie all of its work.

21. Plaintiff the Honorable Stephanie Howse is the elected representative of Ohio's Eleventh House District, a seat she has held since 2015, following her first election in 2014.

22. Representative Howse opposed the General Assembly's previous failed attempts to pass Stand Your Ground legislation. On November 14, 2018, Representative Howse spoke on the House floor in opposition to House Bill 228, which included Stand Your Ground provisions, noting that "this was the type of legislation that was the legislative justification for the murder of Trayvon Martin," referring to the Black Florida teenager notoriously gunned down by a neighborhood watch member who claimed he acted in self-defense against the unarmed victim and who was acquitted at trial of all charges. Representative Howse emphasized that Black Ohioans would be threatened by the passage of a Stand Your Ground law. As she began to recite the demographics of the constituencies of H.B. 228's supporters to point out that the concerns of Black Ohioans were not being taken into account, the House Speaker pounded his gavel to cut short her remarks. Representative Howse later provided testimony in opposition to H.B. 228 to the Senate Government Oversight and Reform Committee in which she urged committee members to "speak with your black constituents to ask them how Sub HB 228 will affect them and their families."

23. Representative Howse voted to pass S.B. 175 on December 2, 2020. On December 17, 2020, she voted against amending S.B. 175 to add the Stand Your Ground provisions, voted against closing debate on the bill, and then voted against passage of the newly amended S.B. 175.

24. Representative Howse holds monthly office hours to talk to constituents, including about pending legislation, and she provides newsletters to local leaders in her district that summarize pending bills to keep those leaders informed of the General Assembly's activities. The General Assembly's violation of the three-considerations and one-subject rules prevented Representative Howse from providing timely and informative updates on Stand Your Ground legislation to her constituents and local leaders. In bypassing full consideration of the Stand Your Ground provisions added to S.B. 175 on December 17, 2020, the General Assembly impeded Representative Howse's ability to voice her views on Stand Your Ground legislation and explain how it affects Black Ohioans, a crucial role for Representative Howse in her representation of a majority Black constituency.

25. Plaintiff the Honorable Cecil Thomas is the elected senator representing Ohio's Ninth Senate District, a seat he has held since 2015, following his first election in 2014. For the 133rd General Assembly, Senator Thomas was elected Assistant Minority leader and was appointed to serve as ranking minority member of the Senate Judiciary Committee. Currently, in the 134th General Assembly, Senator Thomas continues to serve as the ranking minority member of the Senate Judiciary Committee.

26. As a member of the Senate Government Oversight and Reform Committee, Senator Thomas participated in hearings on December 2 and 9, 2020, on S.B. 383, a bill containing Stand Your Ground provisions. In the hearings, Senator Thomas made clear his opposition to the legislation and voted against passing S.B. 383 on December 10, 2020.

27. As a member of the Senate Judiciary Committee, Senator Thomas added his name as a cosponsor of S.B. 175 and joined the committee's approval of the bill on November 13, 2019. Senator Thomas voted with the whole Senate to pass S.B. 175 on December 11, 2019. But after the House added Stand Your Ground provisions to S.B. 175, Senator Thomas voted against concurring in the House's amendments on December 18, 2020.

28. Senator Thomas relies on several sources to inform himself about the legislation he votes on, including input from his staff, the bill analyses, fiscal notes, and local impact statements produced by the Legislative Service Commission, testimony from bill sponsors and witnesses, meetings with interested organizations and individuals, and contacts with constituents. The General Assembly's enactment of the Stand Your Ground provisions of S.B. 175 without full consideration prevented Senator Thomas from meaningfully communicating the substance of pending legislation with his constituents. If there had been hearings on S.B. 175's Stand Your Ground provisions there would have been a vigorous debate within the committees among legislators and the public and legislators would have had the opportunity to propose amendments to the legislation. Senator Thomas would have contributed to that debate and raised public interest by alerting his constituents and interested parties to the pending Stand Your Ground legislation.

29. By cosponsoring S.B. 175, Senator Thomas had indicated to his constituents that the subject of that legislation was important to him and to the community. In inserting the Stand Your Ground provisions into S.B. 175 and causing Senator Thomas to remove his cosponsorship of the legislation, the General Assembly prevented Senator Thomas from signaling the importance of the nonprofit immunity provisions of S.B. 175.

30. Representative Howse and Senator Thomas were harmed in their individual capacities as legislators by the General Assembly's violations of the Ohio Constitution in passing

the amended S.B. 175. The violations of the three-considerations and one-subject rules had distinct, personal, particularized effects on Representative Howse and Senator Thomas in their individual capacities as legislators. Both Representative Howse and Senator Thomas had supported S.B. 175 before the House added the Stand Your Ground provisions to it on December 17, 2020, and were deprived of an opportunity to vote for the final approval of the nonprofit immunity provisions of S.B. 175 separately from the add-on Stand Your Ground provisions. Both Representative Howse and Senator Thomas were deprived of an opportunity to oppose S.B. 175's Stand Your Ground provisions in the regular course of legislative procedure and debate and to organize opposition to those provisions with other legislators, constituents, and interested organizations. When the General Assembly violates the three-considerations and one-subject rules, it cuts short the time that legislators have to consider legislation, obfuscates the subject matter of the legislation by combining unrelated topics, and causes confusion about the contents of the bills legislators must vote on.

31. In addition, the General Assembly's violations of Ohio Constitution, Article II, Section 15(C) and (D) diminish the institutional roles of Representative Howse and Senator Thomas, as members of a legislative minority, to debate and vote on legislation in accordance with these safeguards placed on the legislative process by the Ohio Constitution. That the institutional roles of Representative Howse and Senator Thomas continue to be diminished is demonstrated by the General Assembly's recurring violation of the three-considerations and one-subject rules in the 134th General Assembly. On June 28, 2021, the Senate, poised to take up for third consideration a popular House bill "regarding technology-based educational opportunities for, and the enrollment of, military children," amended that bill by adding controversial provisions prohibiting public schools and universities from (1) requiring that students and employees receive a vaccine

for which the United States Food and Drug Administration has yet not granted full approval and (2) imposing precautions on unvaccinated students and employees. Senator Thomas voted against the amendments and against passage of the amended bill, explaining on the Senate floor that he objected to the amendments but that the bill “in its original form was a good bill.” When the bill had involved only the subject of technology-based education opportunities for military children, Representative Howse had voted in favor of the bill as it passed the House on a unanimous vote and later was unanimously approved by a Senate committee. But Representative Howse voted against concurring in the Senate’s amendments, which were approved by the House in a party-line vote. The General Assembly’s disregard for the Ohio Constitution’s procedural safeguards in enacting that legislation, 2021 Am.H.B. No. 244, will continue absent judicial intervention.

32. Defendant State of Ohio is the sovereign entity on whose behalf S.B. 175 was enacted.

JURISDICTION AND VENUE

33. This Court has jurisdiction over this action under Article IV of the Ohio Constitution and R.C. Chapter 2721.

34. Venue is proper under Civ.R. 3(C).

FACTUAL ALLEGATIONS

35. The 133rd General Assembly abruptly passed Stand Your Ground provisions by adding that legislation into an unrelated bill with only days remaining in the legislative session. The Stand Your Ground legislation was controversial and the tactical insertion of it into S.B. 175 circumvented the public criticism of pending and past Stand Your Ground bills.

36. The General Assembly’s amendments to and passage of the S.B. 175 Stand Your Ground provisions on December 17 and 18, 2020 violated both the three-considerations and one-

subject rules of the Ohio Constitution. The insertion of the Stand Your Ground provisions vitally altered the legislation, implicating the three-consideration rule's requirement that the altered bill receive three considerations in each house. Those three considerations did not happen. Furthermore, the lack of a common purpose between the two disparate subjects of S.B. 175, as enacted, runs afoul of the one-subject rule. The allegations below, presented largely in chronological order, demonstrate the disunity between the Stand Your Ground provisions and the nonprofit immunity provisions of S.B. 175, and illustrate the enormity of the change to S.B. 175 marked by the Stand Your Ground amendments.

I. S.B. 175 from July 11, 2019, through December 16, 2020.

37. Between July 11, 2019, and December 16, 2020, S.B. 175 proceeded through the General Assembly from introduction in the Senate to scheduling for final consideration in the House. During this period, the sole purpose of S.B. 175 was to close a civil liability loophole for nonprofit corporations so that they would be treated equally to for-profit businesses, universities, and political subdivisions when injury, death, or loss resulted from the actions of third-party concealed-carry weapons licensees on their property or at their events. During this time, the bill received nearly unanimous approval from both parties and was supported without recorded public dissent in committee testimony.

A. *The Senate introduces and considers S.B. 175 three times: July 11, 2019, to December 11, 2019.*

38. S.B. 175 was considered for the first time when it was introduced in the Senate on July 11, 2019. *See Ohio Senate Journal*, 564 (July 11, 2019) (attached as Exhibit B); (S.B. 175 as introduced in the Senate is attached as Exhibit C). At the time of introduction, S.B. 175's stated purpose related solely to the subject of civil immunity of nonprofits:

To amend section 2923.126 of the Revised Code to grant civil immunity to nonprofit corporations and persons associated with them for certain injuries, deaths, or losses resulting from the carrying of handguns.

39. At the time of introduction, S.B. 175 had one sponsor, Senator Tim Schaffer (R-District 20), and one cosponsor, then-Senator John Eklund (R-District 18). Senator Eklund removed his cosponsorship on December 18, 2020, after the Stand Your Ground provisions were added to S.B. 175.

40. The Ohio Legislative Service Commission's analysis of S.B. 175, as introduced, summarized the subjects of the bill as follows:

Grants qualified civil immunity to a nonprofit corporation and associated persons for injury, death, or loss caused by or related to a handgun licensee bringing a handgun onto the corporation's premises or to an event organized by it.

Grants absolute civil immunity to a nonprofit corporation and associated persons for injury, death, or loss caused by or related to the corporation's decision to permit a handgun licensee or class of licensees to bring a handgun onto its premises or to an event organized by it.

Ohio Legislative Service Commission, S.B. 175 Bill Analysis (Sept. 30, 2019).

41. On July 17, 2019, S.B. 175 was considered for a second time and referred to the Senate Judiciary Committee, *see* Ohio Senate Journal, 574 (July 17, 2019) (relevant pages attached as Exhibit D), which held hearings on the bill on October 2, October 9, and November 13, 2019.

42. The Senate Judiciary Committee received written testimony from three proponents in addition to written testimony from the bill's original sponsor, Senator Schaffer. No written testimony opposing the bill was received. A proponent of the bill, Howie Beigelman, the Executive Director of Ohio Jewish Communities, noted that S.B. 175 "is a modest change to state law that does one thing: it amends nonprofit organizations seeking insurance coverage into the same category as local governments, colleges and universities, and even private sector businesses."

43. On November 13, 2019, the Senate Judiciary Committee reported S.B. 175 with amendments and recommended passage of S.B. 175 by an 8 to 1 vote, with the single nay vote cast by then-Senator Bill Coley (R-District 4). *See* Ohio Senate Journal, 1358–59 (Nov. 13, 2019) (attached as Exhibit E); (S.B. 175 as reported by the Senate Judiciary Committee is attached as Exhibit F). Three senators were added as cosponsors, including Senator Teresa Fedor (D-District 11). As reported by the Senate Judiciary Committee, the subjects of S.B. 175 were amended slightly to remove “associated persons” language from the bill.

44. On December 11, 2019, S.B. 175 was given third consideration in the Senate and passed with 31 yeas and zero nays. *See* Ohio Senate Journal, 1406 (Dec. 11, 2019) (attached as Exhibit G). Senators amended the title of S.B. 175 to add the names of 21 Senators as cosponsors for a total of 25 cosponsors of the bill, with 7 of the 9 Democratic Senators among those cosponsors, including Plaintiff Senator Thomas.

B. *The House considers S.B. 175 three times: May 5, 2020, to December 16, 2020.*

45. The House considered S.B. 175 for the first time on May 5, 2020. *See* Ohio House of Representatives Journal, 1762 (May 5, 2020) (attached as Exhibit H). On May 12, 2020, the bill was considered a second time and referred to the Committee on Civil Justice. Ohio House of Representatives Journal, 1783 (May 12, 2020) (attached as Exhibit I).

46. The House Committee on Civil Justice gave S.B. 175 hearings on May 19, June 2, June 10, and November 17, 2020. Three witnesses submitted written testimony in favor of S.B. 175 for the May 19 hearing, including Senator Schaffer, whose written testimony summarized the subject and purpose of the bill:

This bill fixes a loophole to help protect non-profit organizations around the state. Current law today provides civil immunity from liability to three types of institutions if they are ever involved in a defensive shooting. This bill simply extends that protection to a fourth type of institution—nonprofit organizations—for instances where a concealed handgun licensee is involved in a defensive shooting on the organization’s premises.¹

47. Senator Schaffer’s testimony made clear that S.B. 175 did not relate to gun rights:

I want to be very clear that Senate Bill 175 **does not** expand concealed carry rights or locations. This is not a “gun bill.” But it will go a long way to protect the innocent organizations and their members, volunteers and officers who have no ill intent and are trying to do the right thing.²

48. On November 18, 2020, the House Civil Justice Committee reported back S.B. 175 and recommended its passage, with 14 members in favor and 1 against. *See* Ohio House of Representatives Journal, 2411 (Nov. 18, 2020) (relevant pages attached as Exhibit J). Then-Representative Steve Hambley (R-District 69) joined the bill as a cosponsor.

49. On December 2, 2020, S.B. 175 came up for third consideration in the House and was informally passed by a vote of 85 for and 7 against—with all nay votes cast by Republican members—and was set to be taken up for consideration again on December 8, 2020. *See* Ohio House of Representatives Journal, 2538–39 (Dec. 2, 2020) (attached as Exhibit K). On December 8, 2020, then-Representative Jim Butler (R-District 41) moved that the bill again be informally passed and be taken up for consideration on December 16. The House agreed to the proposal without objection. *See* Ohio House of Representatives Journal, 2614–15 (Dec. 8, 2020) (attached as Exhibit L).

¹ Underline in original.

² Underline and bold in original.

II. November and December 2020 and earlier: two Stand Your Ground bills, Senate Bill 383 and House Bill 796, were introduced and considered, but, like other past Stand Your Ground bills, failed to pass after meeting strong opposition.

50. While the original S.B. 175 moved through the House three-considerations process, two Stand Your Ground bills—S.B. 383 and H.B. 796—were introduced in the final days of the 133rd General Assembly.

51. Both bills proposed amendments to R.C. 2307.601 and 2901.09 that would eliminate the duty to retreat before using force in self-defense in public and prohibit the trier of fact from considering the possibility of retreat as a factor in determining whether a person reasonably believed that their use of force was necessary.

52. Neither of these Stand Your Ground bills passed out of either house. Each bill met with passionate opposition from civil society organizations and members of the public and received scant support. And yet, the rejected Stand Your Ground provisions contained in S.B. 383 and H.B. 796 are identical to those pasted at the last minute into the amended S.B. 175.

53. These two Stand Your Ground bills represented only the latest incarnation of legislation designed to upend Ohio self-defense law by eliminating the duty to retreat. Such legislation had been introduced starting in 2013. While such bills typically receive some support, as with the two bills introduced in late 2020, every one of these Stand Your Ground bills failed to pass the General Assembly.

A. *Background: Several Stand Your Ground bills failed to pass the General Assembly between 2013 and 2019.*

54. In the 130th General Assembly, House Bill 203 was introduced on June 11, 2013, and proposed, in part, to amend R.C. 2901.09 to provide that “a person has no duty to retreat before using force in self-defense, defense of another, or defense of that person’s residence if that person is in a place that the person lawfully has a right to be.” House members spoke out against the bill

as a Stand Your Ground or “kill at will” bill and blasted the legislation for the “devastating impact” it would have. Jeremy Pelzer, *Ohio House passes gun bill with “stand your ground” provision after lengthy debate*, Cleveland.com (Nov. 20, 2013), <https://bit.ly/3kmy0pD> (accessed Sept. 8, 2021). Plaintiffs the Ohio NAACP and the OOC joined with other groups to denounce the bill by holding a joint press conference, delivering petitions and municipal resolutions opposing the bill to the Governor, Senate President, and House Speaker, lobbying state legislators, and hosting a faith rally. Ohio House of Representatives Democrat Newsroom, *OLBC, Ohio Community Leaders Take Action Against Stand Your Ground*, (Oct. 3, 2013), <https://bit.ly/3sNvkoz> (accessed Sept. 8, 2021). The bill passed the House on November 20, 2013, but did not pass the Senate.

55. The 132nd General Assembly saw three failed attempts to pass Stand Your Ground legislation. House Bill 228 was introduced on May 16, 2017, with sections proposing to eliminate the duty to retreat and prohibit the trier of fact from considering the possibility of retreat as a factor in determining whether a person’s use of defensive force was lawful. These Stand Your Ground provisions passed the House and were referred to the Senate Government Oversight and Reform Committee. Tom Roberts, the President of Plaintiff the Ohio NAACP, submitted written testimony to the committee to explain why these laws threaten the well-being of Black men in particular: “Black men are often perceived as being more suspicious, threatening and dangerous than people of other races ... [T]his type of implicit bias will, predictably, result in the slaughter of more African Americans based solely on the fact that they are perceived as being a threat, regardless of whether that perception is based in reality.” The Stand Your Ground provisions were defeated when the committee substituted H.B. 228 with a version that omitted the Stand Your Ground provisions.

56. In the 132nd General Assembly, Senate Bill 180 was introduced on August 15, 2017, with Stand Your Ground provisions. The Senate Judiciary Committee held four hearings on the bill on September 19, November 14, and December 12, 2017, and April 10, 2018. Eleven witnesses provided testimony opposing the bill, and 7 witnesses, including the 2 primary sponsors of the bill in the Senate, provided testimony in support. The bill did not receive a vote by the committee.

57. In the 132nd General Assembly, House Bill 590 was introduced on April 9, 2018, with Stand Your Ground provisions. The bill was referred to the House Criminal Justice Committee but proceeded no further.

58. In the 133rd General Assembly, House Bill 381 was introduced on October 23, 2019, with Stand Your Ground provisions and other changes to self-defense laws. The House Criminal Justice Committee held four hearings on the bill on January 30, February 26, June 9, and June 10, 2020. More than 120 witnesses provided testimony opposing the bill, and 15 witnesses, including the 2 primary sponsors of the bill in the House, provided testimony in support. The bill did not receive a vote by the committee.

59. In the 133rd General Assembly, Senate Bill 237 was introduced on November 12, 2019. The bill proposed eliminating the duty to retreat and further modifying self-defense laws. The Senate Government Oversight and Reform Committee held four hearings on the bill on November 20, December 3, and December 11, 2019, and on January 21, 2020. Fourteen witnesses provided testimony opposing the bill and 26 witnesses provided testimony in support, but the bill never proceeded to a vote by the committee. In testimony to the committee, Brandi Slaughter of the Columbus branch of Plaintiff the Ohio NAACP voiced her organization's view of S.B. 237 "as

open season on Black lives. Enacting SB 237 would present a license to target and kill black people.”

B. *Senate Bill 383.*

60. In the 133rd General Assembly, S.B. 383 was introduced on November 17, 2020, and was referred to the Senate Committee on Government Oversight and Reform the next day. (S.B. 383 is attached as Exhibit M). The bill was titled, misleadingly, “the Ohio Duty to Retreat Act,” but proposed to eliminate the duty to retreat:

To amend sections 2307.601, 2901.05, and 2901.09 of the Revised Code to enact the Ohio Duty to Retreat Act providing an expansion of the locations at which a person has no duty to retreat before using force under both civil and criminal law.

61. The Ohio Legislative Service Commission summarized the bill by noting that it accomplished the following:

Expands the circumstances under which a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person’s residence, so that a person has no duty to retreat before using force for such a purpose if the person is in a place in which the person lawfully has a right to be.

Ohio Legislative Service Commission, S.B. 383 Bill Analysis (Dec. 4, 2020).

62. The Senate Committee on Government Oversight and Reform held two days of hearings on S.B. 383 on December 2 and 9, 2020. More than 80 witnesses submitted statements opposing S.B. 383, while only 4 witnesses provided testimony in support.

63. Proponents characterized S.B. 383 as a gun-rights bill. A representative of the National Rifle Association noted that “self-defense is the ‘central component’ of the right protected by the Second Amendment” while asserting that “[a] robust right to keep and bear arms means little without strong legal protections for those forced to defend themselves against unlawful violence or aggression.” Buckeye Firearms Association, an Ohio gun rights group, hailed the legislation as fulfilling “one of the two highest priorities of Second Amendment advocates,” while

noting that “[t]his concept has been heavily debated for several sessions,” and urging legislators “to take action on this clean and clear-cut proposal now.”

64. Opponents of S.B. 383 warned against rushing the legislation towards passage. Chief Bruce Pijanowski of the Ohio Association of Chiefs of Police recommended that the bill “be dealt with at a time when the discussion is not rushed due to the end of legislative session and when there is an opportunity for a full discussion,” warning that “[a]nything short of that is simply opportunistic and unhealthy for the State of Ohio.” Another opponent thought that “[t]he rush must be to please the gun lobby during this short lame duck session.”

65. Opponent witnesses also included many private individuals, civic organizations, representatives of city governments, and criminal justice professionals. For example, the Executive Director of the Ohio Prosecuting Attorneys Association, Louis Tobin, opposed the Stand Your Ground legislation in favor of maintaining a duty to retreat:

Ohio prosecutors have been in the past and continue to oppose repealing the duty to retreat in areas outside the home or vehicle. We think the current policy, that one should take advantage of a reasonable opportunity to retreat, is a good policy that prevents needless confrontation, helps lead to de-escalation, and potentially prevents the unnecessary loss of life.

Mr. Tobin also criticized S.B. 383’s evidentiary exclusion of the possibility of retreat:

There is no way for a jury to determine whether a person who used force in self-defense reasonably believed that force was necessary if the jury can’t also consider whether it was possible for the person to safely retreat from the situation. In a truth-based justice system, we should want juries to have as much truthful information as possible.” Tobin feared that by preventing juries from hearing relevant evidence, S.B. 383 “could result in injustice.

66. Many witnesses voiced concerns that enacting a Stand Your Ground law would lead to more violence and have a disproportionately adverse effect on Black Ohioans. Shannon G. Hardin, Columbus City Council President, wrote that “Senate Bill 383 will only increase the incidents of violence in Ohio cities . . . [and] will disproportionately affect people of color and

women.” Shela Blanchard opposed S.B. 383 because “[a]s a mother of [a] black son,” she worried about the consequences for her child and others whose “lives continue to be cut short, unjustifiably killed or attacked because of the color of their skin.”

67. Witnesses supported those concerns about S.B. 383 with references to academic studies and research showing that Stand Your Ground laws are associated with increases in firearm violence and homicides and have a disproportionate impact on Black people.

68. Witnesses cited evidence from Florida’s experience with its Stand Your Ground law, which “saw a 32% increase in firearm homicide rates.”

69. The study supporting this statistic was written by a team of academic researchers at Oxford University and the University of Pennsylvania and published in the *Journal of the American Medical Association: Internal Medicine*. See 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*, 177 *JAMA Intern Med.* 44 (2017). The authors examined Florida’s firearm homicide rates between 1999 and 2014. The authors found a significant difference in firearm homicide rates after the Stand Your Ground law took effect in 2005. The law was associated with a 24.4% increase in monthly homicides—including a 31.6% increase in monthly firearm homicides.

70. Witnesses providing testimony to the committee also cited a related study for the point that Florida “saw a 75% increase in justifiable homicide rates” following the implementation of the Stand Your Ground law.

71. This follow-up study, also authored by David K. Humphreys, et. al., examined Florida’s monthly homicide rates between 1999 and 2015, and found a 75% increase in justifiable homicides and an estimated 21.7% increase in unlawful homicides after the Stand Your Ground

law was implemented in 2005. David K. Humphreys, et al., *Association Between Enactment of a “Stand Your Ground” Self-defense Law and Unlawful Homicides in Florida*, 177 JAMA Intern Med. 1523 (2017).

72. Witnesses providing testimony to the committee also cited research for the points that, in the majority of Florida Stand Your Ground cases, the person who claimed Stand Your Ground could have retreated to avoid the confrontation, and that “in 68% of the cases, the victim was unarmed.”

73. This support for these points comes from political scientist Robert J. Spitzer, who drew on investigative research by the Tampa Bay Times on the effects of Florida’s Stand Your Ground law through mid-2012. Spitzer asserted that Stand Your Ground claims “succeeded 67 percent of the time,” and that, in a majority of the cases, “the assailant could have retreated to avoid the confrontation. In 68 percent, the person killed was unarmed.” Robert J. Spitzer, *Stand Your Ground Makes No Sense*, N.Y. Times (May 4, 2015), <https://nyti.ms/3Ds9Ant> (accessed Sept. 8, 2021).

74. Multiple witnesses stated Stand Your Ground laws have a disproportionate effect on Black people based on research showing that, in states with Stand Your Ground laws, homicides involving a white perpetrator and Black victim are far more likely to be deemed justifiable than homicides involving a Black perpetrator and white victim.

75. The study uncovering this racial disparity in criminal justice outcomes analyzed homicide data from the Federal Bureau of Investigation. John K. Roman, *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data*, Urban Institute (2013), <https://urbn.is/38MVYVt> (accessed Sept. 8, 2021).

76. Witnesses cited a RAND Corporation meta-study of existing research that studied the impact of various firearm policies.

77. The RAND Corporation study identified six studies meeting certain methodological criteria that estimated the effects of Stand Your Ground laws on homicide rates. Based on those studies, the RAND Corporation concluded, “There is supportive evidence that stand-your-ground laws are associated with increases in firearm homicides.” Andrew R. Morral, et al., *The Science of Gun Policy: A Critical Synthesis of Research Evidence on the Effects of Gun Policies in the United States, Second Edition*, RAND Corporation xxiv (2020).³

78. Witnesses also pointed to a study finding that “Florida Stand Your Ground cases with minority victims are half as likely to lead to conviction, compared to cases with white victims.”

79. This study was published by several academic researchers and examined 204 Florida criminal court cases involving a claimed Stand Your Ground justification, finding that, controlling for other factors, cases with white victims are twice as likely to lead to conviction as cases with non-white victims. Nicole Ackermann, et al., *Race, law, and health: Examination of ‘Stand Your Ground’ and defendant convictions in Florida*, 142 Soc. Sci. & Med. 194–201 (2015).

80. During a committee hearing, Plaintiff Senator Cecil Thomas worried that eliminating the duty to retreat would be “planting in the minds of people that ‘I don’t have to walk away’” from a confrontation. He asked testifying proponents of the Stand Your Ground law to cite a single incident in Ohio where they thought a defendant was unjustly prosecuted for using self-

³ In the study, “supportive evidence” denotes that “at least three studies not compromised by serious methodological weaknesses found suggestive or significant effects in the same direction using at least two independent data sets.” *Id.* at xviii.

defense in public. When they were unable to do so, Plaintiff Senator Thomas said, “I’m afraid that if this law was passed . . . one person would be still around to tell what happened and the other person would not.”

81. On December 10, 2020, the committee voted in favor of passing S.B. 383 with all 8 Republican members in support and all 3 Democratic Senators opposed. But S.B. 383 did not receive a vote from the full Senate.

C. *House Bill 796.*

82. H.B. 796 was introduced on November 24, 2020, and was referred to the House Committee on Civil Justice on December 1, 2020. (H.B. 796 is attached as Exhibit N). H.B. 796 was yet another unsuccessful attempt to enact a Stand Your Ground law; the House Committee on Civil Justice never voted on recommending passage. The bill’s title reflected that it would eliminate the duty to retreat:

To amend sections 2307.601, 2901.05, and 2901.09 of the Revised Code to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law.

83. The Ohio Legislative Service Commission’s summary of the purpose of House Bill 796 provided as follows:

Expands the circumstances under which a person has no duty to retreat before using force in self-defense, defense of another, or defense of the person’s residence, so that a person has no duty to retreat before using force for such a purpose if the person is in a place in which the person lawfully has a right to be.

Ohio Legislative Service Commission, H.B. 796 Bill Analysis (Dec. 2, 2020).

84. The House Committee on Civil Justice held three days of hearings on H.B. 796 on December 3, 8, and 16, 2020. More than one hundred witnesses gave written testimony opposing H.B. 796. Only four witnesses, including the bill’s primary sponsor in the House supported H.B. 796 in written testimony, while one interested party submitted testimony.

85. Many of the same witnesses who submitted testimony opposing S.B. 383 also submitted testimony opposing H.B. 796. Witnesses cited the same studies showing that Stand Your Ground laws are associated with increases in homicides, firearm homicides, and disparate criminal justice outcomes depending on the race of the perpetrator and victim.

86. The Chiefs of Police of Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown wrote the committee to oppose Stand Your Ground legislation on the grounds that “[i]t would threaten public safety by encouraging armed vigilantism and allow a person to kill another person in a public area even when he or she can clearly and safely walk away from danger.”

87. During the December 3 hearing, Representative Kyle Koehler (R-District 79) described H.B. 796 to the House Civil Justice Committee as necessary to protect “law abiding citizens who choose to exercise their Second Amendment rights by carrying a firearm” who “should not, in a life or death situation, need to decide if they can run away from a place where they are lawfully allowed to be.”

88. Dion Green—whose father died in his arms in the 2019 mass shooting in Dayton—observed that proponents had failed to identify a single case of the kind described by Representative Koehler and charged that “to stand here before you today and fight against a bill that would justify killing Black and brown people is ridiculous. I thought the great people who are presiding in these seats are here to protect citizens of all color, but it’s really not looking like that and it saddens [] my heart.”

89. Mr. Green implored legislators to give him an explanation as to why the Stand Your Ground law was necessary, and failing that, to defer “discussion until next legislative session, please.” Other witnesses similarly urged caution in proceeding with H.B. 796 and objected to the committee’s rushed hearings on the bill. One witness advised that “much more discussion is

warranted and no version of this bill should be rushed through in the waning days of this session, in a pandemic when most witnesses do not wish to testify at the statehouse, as I did on Dec. 3.” Another witness asked “Doesn’t a bill with such serious ramifications deserve more time for consideration than a few rushed weeks at the end of legislative term.”

90. H.B. 796 did not receive a vote by the committee.

III. December 17 and 18, 2020: the House adds the Stand Your Ground provisions to S.B. 175 and the bill passes the General Assembly.

91. S.B. 175 was scheduled for consideration on December 17, 2020. At this time, S.B. 175 still pertained exclusively to civil immunity for nonprofit corporations. Representative Butler moved that the bill be informally passed and retain its place on the calendar for later consideration; it passed without objection. *See* Ohio House of Representatives Journal, 2677–78 (Dec. 17, 2020) (relevant pages attached as Exhibit O).

92. As the session stretched into the night, Representative Koehler moved to amend S.B. 175 with Amendment 3883 around 10:30 p.m. *See* Ohio House of Representatives Journal, 2731–36 (Dec. 17, 2020) (Exhibit O).

93. Amendment 3883 inserted new provisions that shared no common purpose with the existing provisions of S.B. 175. The amended S.B. 175’s revised title made clear there were now two distinct purposes of the bill:

To amend sections **2307.601, 2901.05, 2901.09, and 2923.126** of the Revised Code to grant civil immunity to nonprofit corporations for certain injuries, deaths, or losses resulting from the carrying of handguns **and to expand the locations at which a person has no duty to retreat before using force under both civil and criminal law.**⁴

(S.B. 175 as passed by the House is attached as Exhibit P).

⁴ Bolded text indicates text added by Amendment 3883.

94. The content of the new provisions added by Amendment 3883 did not amend, affect, or relate to the subject of S.B. 175 in the form in which the bill had been considered by the Senate and the House Civil Justice Committee.

95. Instead, Amendment 3883 inserted the Stand Your Ground provisions of S.B. 383 and H.B. 796 into S.B. 175's existing text.

96. The amendment met with outraged opposition from House members. Representatives excoriated the majority's unwillingness to meaningfully debate the merits of the Stand Your Ground laws through the legislative process: "What I want is to have conversations—real meaningful conversations—about the lived experiences [of people of color] and how people of color die disproportionately from this amendment," said then-Representative Erica Crawley (D-District 26). Questioning whether members of the majority had spoken with any of their Black constituents about the Stand Your Ground bills, Plaintiff Representative Howse said that she "would strongly encourage this body to have the courage to have real conversations around race and guns."

97. Other House members opposed to the Stand Your Ground provisions pointed out the dangers posed by the legislation. Representative Jeffrey Crossman (D-District 15) explained, "[A]ll the evidence points to the fact that this type of legislation incentivizes violence. It disincentivizes what Ohio law currently does which is encourages avoidance of conflict, to preserve human life."

98. But the House voted in favor of the motion to amend S.B. 175 by a vote of 52 to 31, then voted 51 to 31 to close debate on all amendments and motions on the bill, and then followed with a 52 to 31 vote to pass the amended bill, at each stage passing those measures without a single Democrat in support. *See* Ohio House of Representatives Journal, 2734–36 (Dec.

17, 2020) (Exhibit O). The House took little more than an hour—from approximately 10:30 p.m. to 11:40—to proceed from introduction of Amendment 3883 to the final vote. Among those who voted against agreeing to the amendment and against passage of the amended bill was S.B. 175’s one-time cosponsor, Representative Hambley.

99. The Senate took up S.B. 175 the next day, voting to concur with the House’s amendments by a vote of 18 to 11. *See* Ohio Senate Journal, 2598–99 (Dec. 18, 2020) (relevant pages attached as Exhibit Q). During the House’s discussion, Senator Schaffer described the original subject of S.B. 175—nonprofit civil immunity from injury, death, or loss resulting from third-party use of handguns. He then explained that the House’s amendments to S.B. 175 incorporated a separate “doctrine, a piece of legislation that [Senator Terry Johnson (R-District 14)] has championed for several years and I think it’s going to be very, very effective for Ohioans.” Senator Schaffer asked Senator Johnson to further explain the House’s amendments to the bill.

100. Senator Johnson then spoke about the Stand Your Ground provisions as separate legislation from the nonprofit immunity provisions originally sponsored by Senator Schaffer in introducing S.B. 175: “I very much urge your concurrence with this amendment to Senator Schaffer’s bill, which I fully support, and I think that’s another excellent bill.” Senator Johnson asserted that the committee hearings on separate bills—Senate Bill 383 and House Bill 796—sufficed for debate and public input on the Stand Your Ground provisions: “We’ve had a lot of time for witnesses to testify on this,” Senator Johnson said.

101. Senator Tina Maharath (D-District 3), who opposed the final passage of S.B. 175, also recognized the House’s amendments as a separate bill: “The original intent of the bill was completely fine, our caucus supported that. But the portion that was added last night was essentially the so-called Stand Your Ground bill.” Then-Senator Peggy Lehner (R-District 6), one

of four Republican Senators who voted against the amended S.B. 175, saw the amendments as gun rights legislation: “This bill, this amendment to this bill, is in here as a piece of symbolism. The symbolism is: don’t think for one minute that we’re going to back off from our love of our guns, or back off in any way that might suggest that there are limits to the Second Amendment.”

102. Those who voted against concurring in the amendments included the bill’s original cosponsor, Senator Eklund. He removed his name from the bill. *See Ohio Senate Journal*, 2599 (Dec. 18, 2020) (Exhibit Q). Senator Hearcel Craig (D-District 15), who had previously joined as a cosponsor, also removed his name and the names of five other Senator cosponsors from the bill. Senator Craig spoke to say that he was “extremely disappointed” that “this amendment was added to such a bipartisan bill.” Senator Vernon Sykes (D-District 28) urged his fellow Senators “to insist on the Senate’s version of this bill and not go along with the shenanigans here displayed in the lame duck session that’s going to potentially disenfranchise a significant segment of the population.”

103. Plaintiff Senator Thomas also spoke against concurring in the House amendments: “Here’s the problem: originally Senator Schaffer . . . presented to us a really good bill that we all in this chamber voted out 31 to zero, simply because the bill made sense. The bill said that we would grant civil immunity to nonprofit corporations As amended this bill seeks to solve a problem that doesn’t exist.”

104. Senator Fedor decried the abrupt inclusion of the Stand Your Ground provisions in S.B. 175: “There is no rush here! And Senate Bill 175 is a perfect example of what we hear about dangerous bills during lame duck. This is the poster child of the most dangerous bill we are enacting in the State of Ohio. I call this bill ‘Shoot First with Impunity Bill.’ This will increase murders—legal murders—in the State of Ohio.”

105. After the Senate concurred in the House’s amendments to S.B. 175, the enrolled bill was sent to Governor DeWine, who signed the bill into law on January 4, 2021. That day, the House Republicans issued a press release titled “DeWine Signs Senate Bill 175: Bill Includes Koehler’s House Bill 796 Language.” Ohio House of Representatives Republican Newsroom, Ohio House (Jan. 4, 2021), <https://bit.ly/2WYcKP2> (accessed Sept. 8, 2021). Representative Koehler was quoted to say, “From the origination of House Bill 796, to its amendment into Senate Bill 175, this pivotal legislation has come a long way”

106. S.B. 175 took effect on April 6, 2021.

CLAIMS FOR RELIEF

I. First Claim for Relief: Claim for Declaratory Judgment for Violation of the Three-Considerations Rule (Ohio Constitution, Article II, Section 15(C))

107. All other allegations in this complaint are incorporated into this claim for relief.

108. The Ohio Declaratory Judgment Act allows “any person whose rights, status, or other legal relations are affected by a constitutional provision[] [or] statute” “may have determined any question of construction or validity arising under the . . . constitutional provision[] [or] statute . . . and obtain a declaration of rights, status, or legal relations under it.” R.C. 2721.03.

109. Article II, Section 15(C) of the Ohio Constitution requires that “Every bill shall be considered by each house on three different days, unless two-thirds of the members elected to the house in which it is pending suspend this requirement, and every individual consideration of a bill or action suspending the requirement shall be recorded in the journal of the respective house.”

110. Under this three-considerations rule, “where it can be proven that the bill in question was not considered three times, the consequent enactment is void and without legal effect.” *Hoover v. Bd. of Cty. Cmmrs.*, 19 Ohio St.3d 1, 3, 482 N.E.2d 575 (1985). A bill that is vitally altered by amendment and not thereafter considered three times in each house in its altered

form violates the three-considerations rule. *Id.* at 5.

111. In determining whether a bill has been vitally altered, a court’s “key consideration” is “whether the bill maintained a common purpose before and after its amendment.” *Youngstown City Sch. Dist. Bd. of Educ. v. State*, 161 Ohio St.3d 24, 2020-Ohio-2903, 161 N.E.3d 483, ¶ 15.

112. The three-considerations rule “safeguards against hasty consideration of legislation.” Ohio Constitutional Revision Commission, Recommendations for Amendments to the Ohio Constitution, Final Report 123 (1977), <https://bit.ly/3zJRafz> (accessed Sept. 8, 2021) (“Ohio Constitutional Revision Commission Final Report”).

113. In a broad sense, the three-considerations rule protects “the rights and opportunities of the citizens of Ohio to participate in the legislative process.” *Hoover*, 19 Ohio St.3d at 8, 482 N.E.2d 575 (Douglas, J., concurring). More specifically, the purpose of the rule

is to lessen the danger of ill-advised amendment at the last moment. The rule provides time for more publicity and greater discussion and affords each legislator an opportunity to study the proposed legislation, communicate with his or her constituents, note the comments of the press and become sensitive to public opinion.

Id.

114. The three-considerations rule makes concrete “the right to be informed” about legislation being voted on. Ohio Constitutional Revision Commission, Recommendations for Amendments to the Ohio Constitution, Part I: Administration, Organization, and Procedure of the General Assembly 43–44 (1971), <https://bit.ly/3mxx2os> (accessed Sept. 8, 2021).

115. When the House added the Stand Your Ground provisions to S.B. 175 on December 17, 2020, it vitally altered the bill. The Stand Your Ground provisions—the amendments to R.C. 2307.601 and 2901.09—had no common purpose with the nonprofit immunity provisions of S.B. 175—the amendment to R.C. 2923.126.

116. The General Assembly's failure to consider S.B. 175 three times in each chamber after the December 17 amendments violated the Ohio Constitution, Article II, Section 15(C). Neither the House nor the Senate suspended the three-considerations rule by a two-thirds majority to pass S.B. 175.

117. As described in this complaint, Plaintiffs were each harmed by the General Assembly's passage of S.B. 175 in violation of the three-considerations rule.

118. Therefore, Plaintiffs are entitled to a declaratory judgment declaring that S.B. 175's Stand Your Ground provisions violated Article II, Section 15(C) of the Ohio Constitution, and that the amendments to R.C. 2307.601 and 2901.09 are void and without legal effect.⁵

II. Second Claim for Relief: Claim for Declaratory Judgment for Violation of the One-Subject Rule (Ohio Constitution, Article II, Section 15(D))

119. All other allegations in this complaint are incorporated into this claim for relief.

120. Article II, Section 15(D) of the Ohio Constitution states that "No bill shall contain more than one subject, which shall be clearly expressed in its title."

121. The one-subject rule "is a constitutional limitation on the legislative power of the General Assembly." *Rumpke Sanitary Landfill, Inc. v. State*, 128 Ohio St. 3d 41, 2010-Ohio-6037, 941 N.E.2d 1161, ¶ 20. A challenge to an enactment based on a violation of the one-subject rule "is a challenge to the authority of the General Assembly to enact the bill, not a challenge to the underlying statutory provisions of the bill." *Id.*

122. Although the one-subject rule does not prohibit the General Assembly from passing a bill addressing a plurality of topics, it does prohibit the General Assembly from passing a bill

⁵ S.B. 175 includes non-substantive amendments to R.C. 2901.05. S.B. 175's amendments to 2923.126 relate to nonprofit civil immunity. Plaintiffs do not request that S.B. 175's amendments to these two provisions be declared void or without legal effect.

containing a “disunity of subject matter.” *State ex rel. Ohio Civil Serv. Employees Assn, Local 11 v. State Empl. Rels. Bd.*, 104 Ohio St. 3d 122, 2004-Ohio-6363, 818 N.E.2d 688, ¶ 28. The one-subject rule “disallow[s] unnatural combinations of provisions in acts . . . on the theory that the best explanation for the unnatural combination is a tactical one -- logrolling.” *State ex rel. Dix v. Celeste*, 11 Ohio St. 3d 141, 143, 464 N.E.2d 153 (1984).

123. The one-subject rule remains in the Ohio Constitution to “provide a minimum guarantee for an orderly and fair legislative process.” Ohio Constitutional Revision Commission Final Report at 125. The one-subject rule is intended “for the protection of a temporary minority whose rights may not be suspended by a majority willing to disregard traditional procedures.” *Id.*

124. A “significant aspect of the one-subject rule . . . is that ‘by limiting each bill to one subject, the issues presented can be better grasped and more intelligently discussed.’” *Simmons-Harris v. Goff*, 86 Ohio St. 3d 1, 16, 711 N.E.2d 203 (1999) (quoting *Dix* at 143). “This principle is particularly relevant when the subject matter is inherently controversial and of significant constitutional importance.” *Id.*

125. As enacted, S.B. 175 contains a disunity of subject matter. The primary subject is establishing civil immunity for nonprofit corporations who allow lawful concealed carry on their premises or at their events through an amendment to R.C. 2923.126. As an unrelated add-on, S.B. 175 also rewrites criminal and civil self-defense laws to eliminate a person’s duty to retreat before using force in self-defense or defense of another in public through amendments to R.C. 2307.601 and 2901.09.⁶ These two subjects were unnaturally combined in a single bill through the House’s amendments to S.B. 175 on December 17, 2020.

126. Furthermore, S.B. 175’s Stand Your Ground provisions were inherently

⁶ S.B. 175 also includes non-substantive amendments to R.C. 2901.05.

controversial as demonstrated by the opposition to the legislation, the public safety risks associated with Stand Your Ground laws, and the repeated past failures of the legislation in the face of opposition from citizens, civic organizations, and city governments.

127. In assuring the passage of the Stand Your Ground provisions by tactically inserting those provisions into S.B. 175, the General Assembly passed a bill containing more than one subject, in violation of Ohio Constitution, Article II, Section 15(D).

128. As described in this complaint, the General Assembly's violation of the one-subject rule in passing S.B. 175 harmed Plaintiffs.

129. Therefore, Plaintiffs are entitled to a declaratory judgment declaring that the enactment of S.B. 175's Stand Your Ground provisions violated the Ohio Constitution, Article II, Section 15(D) and that the amendments to R.C. 2307.601 and 2901.09 are void and without legal effect.

PRAYER FOR RELIEF

Plaintiffs request that the Court:

a. Declare, pursuant to its power under R.C. Chapter 2721, that each house of the General Assembly failed to consider the Stand Your Ground provisions of S.B. 175 on three different days following the House's amendments to the bill on December 17, 2020, that S.B. 175 was enacted in violation of the Ohio Constitution, Article II, Section 15(C), and therefore that S.B. 175's amendments to R.C. 2307.601 and 2901.09 are void and without legal effect.

b. Declare, pursuant to its power under R.C. Chapter 2721, that S.B. 175 as enacted contained more than one subject, that S.B. 175 was enacted in violation of the Ohio Constitution, Article II, Section 15(D), and therefore that the S.B. 175's amendments to R.C. 2307.601 and 2901.09 are void and without legal effect.

- c. Grant all necessary and proper relief to effectuate this declaration under R.C. 2721.09.
- d. Award the Plaintiffs their costs as the Court deems equitable and just under R.C. 2721.11.
- e. Award all other appropriate relief.

September 9, 2021

Respectfully submitted,

/s/ Rachel Bloomekatz
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**Pro hac vice applications forthcoming*

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