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IN THE COURT OF COMMON PLEAS
FOR FRANKLIN COUNTY, OHIO

OHIO STATE CONFERENCE OF THE NAACP, *et al.*,	:	
	:	Case No. 21-CV-005692
Plaintiffs,	:	
	:	Judge Stephen L. McIntosh
v.	:	
	:	Action for Declaratory Judgment
THE STATE OF OHIO,	:	
	:	
Defendant.	:	

MOTION TO DISMISS OF DEFENDANT THE STATE OF OHIO

Now comes Defendant, the State of Ohio, and moves this Court to dismiss Plaintiffs' Complaint for failure to state a claim under Civ.R. 12(B)(6). A memorandum in support of Defendant's motion is attached.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

INTRODUCTION

Plaintiffs' challenge to S.B. 175 is long on the facts and short on the law. First, all of the Plaintiffs lack standing. The Legislator Plaintiffs lack standing to challenge a vote with which they disagreed, which is in essence their claim. The Organizational Plaintiffs fare no better, as they lack standing both in their own right and under an associational-standing theory. The Ohio Organizing Collaborative does not even list a single member allegedly harmed by the process of S.B. 175's passage. The sole member listed by the Ohio NAACP alleges harms caused not by S.B. 175's passage, but by racism. Moreover, invalidating provisions of S.B. 175 would not redress alleged injuries caused by racism. Because of this, Plaintiffs' Complaint is doomed from the outset.

Plaintiffs also fail to state a claim for three-considerations or one-subject violations. S.B. 175 takes the routine, constitutional step of addressing two handgun-related liability issues in the same bill. Nonetheless, Plaintiffs spend pages attempting to show that political strategy led to S.B. 175's enactment. But the Ohio Supreme Court has held that "[i]t is not our role to police how the amended language came into existence." *Youngstown City Sch. Dist. Bd. of Educ. v. State*, 161 Ohio St. 3d 24, 2020-Ohio-2903, ¶ 20. What matters here is not allegations of political cleverness, but straightforward legal principles. Addressing two handgun-liability issues in the same bill neither "defies rationality" nor "wholly changes" the initial version of the bill—the applicable legal standards that Plaintiffs must meet. As a matter of law, Plaintiffs' claims fail, and their Complaint should be dismissed.

FACTUAL AND PROCEDURAL BACKGROUND

Amended Senate Bill No. 175 ("S.B. 175"), provisions of which Plaintiffs challenge here, grants nonprofit corporations civil immunity related to handgun usage on nonprofit premises and

curtails potential liability for handgun usage by limiting the duty to retreat in self-defense situations. Pls' Ex. A at p.1. As Plaintiffs allege, both the Senate and the House considered the initial version of S.B. 175 three times, between July 2019 and December 2020. Compl. at p.16, 18. As initially introduced, S.B. 175 granted civil immunity to nonprofit corporations relating to handgun usage. *Id.* ¶ 38. As Plaintiffs allege, S.B. 175 was amended on December 17, 2020, to additionally curtail potential liability for handgun usage by limiting the duty to retreat in self-defense situations. *Id.* ¶ 91-93. The House subsequently passed the amended version of S.B. 175 by a vote of 52 to 31 along party lines. *Id.* ¶ 98. The Senate subsequently concurred with the House's amendments by a vote of 18 to 11. *Id.* ¶ 99.

S.B. 175 was signed into law on January 4, 2021, and took effect on April 6, 2021. *Id.* ¶ 7. As enacted, S.B. 175 provides that in determining potential civil or criminal liability related to a person's alleged use of self-defense, 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." Pls.' Ex. A at p.1, 3. Even in a criminal case, the person invoking self-defense still must present evidence supporting that defense. *See id.* at p.1-2. If the person presents such evidence, then "[a] trier of fact shall not consider the possibility of retreat as a factor in determining whether or not a person who used force in self-defense . . . reasonably believed that the force was necessary[.]" *Id.* at p.1, 3.

Plaintiffs do not cite to a single instance since S.B. 175 went into effect where the law was invoked by a handgun user to avoid liability. Nor did Plaintiffs file a temporary restraining order or motion for preliminary injunction prior to S.B. 175 taking effect. Instead, in September 2021, Plaintiffs filed this lawsuit alleging that the General Assembly violated the Ohio Constitution's three-considerations and one-subject doctrines in passing S.B. 175. Compl. ¶ 107-29.

LEGAL STANDARD

Dismissal under Civ.R. 12(B)(6) is warranted if "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *O'Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, 245 (1975). The court accepts the factual allegations of the complaint as true and make all reasonable inferences in favor of the non-moving party. *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192 (1988). "Unsupported *conclusions*," however, do not suffice. *Id.* at 193.

ARGUMENT

I. Plaintiffs Lack Standing.

A. The Organizational Plaintiffs lack standing.

Ohio NAACP and Ohio Organizing Collaborative ("OOC") (collectively, "the Organizational Plaintiffs") lack associational standing. "An association has standing on behalf of its members when (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claims asserted nor the relief requested requires the participation of individual members in the lawsuit." *State ex rel. Am. Subcontractors Ass'n v. Ohio State Univ.*, 129 Ohio St. 3d 111, 2011-Ohio-2881, ¶ 12 (quotations omitted). "[S]tanding to attack the constitutionality of a legislative enactment exists only where a litigant has suffered or is threatened with direct and concrete injury in a manner or degree different from that suffered by the public in general, that the law in question has caused the injury, and that the relief requested will redress the injury." *Cuyahoga Cty. Bd. of Comm'rs v. State*, 112 Ohio St. 3d 59, 2006-Ohio-6499, ¶ 22 (quotations omitted). Here, Ohio NAACP brings this lawsuit on behalf of Denise Williams. Compl. ¶ 17. Ms. Williams is a member and the

President of the Springfield, Ohio chapter of the NAACP. *Id.* ¶ 16. But because she lacks standing to sue in her own right, so too does Ohio NAACP.

1. Ms. Williams's injury is neither direct, concrete, nor different than that of the public in general.

There can be no doubt that the racist treatment of which Ms. Williams has been a victim is abhorrent. The State condemns it, and it has no place in society. But, fear that S.B. 175 *might* cause further treatment does not give Ms. Williams—or anyone else—standing to challenge S.B. 175. Plaintiffs allege that racial tension is growing in Springfield and that Ms. Williams believes, in other words speculates, that S.B. 175's challenged provisions will only make matters worse. *See id.* However, Plaintiffs acknowledge that "[e]ven before S.B. 175's Stand Your Ground provisions became law, Ms. Williams received [racial] hate mail to her home." *Id.* Plaintiffs further claim that Ms. Williams had to alter her behavior in public in an effort to avoid any confrontations, after the passage of S.B. 175. *See id.* ¶ 17.

But, Ms. Williams's speculation that S.B. 175 will be applied by the general public in a racially discriminatory manner such that violence *might* occur and that she *might* have to alter her behavior in public to avoid confrontation are not cognizable injuries. "A bare allegation that plaintiff fears that some injury will or may occur is insufficient to confer standing." *Wurdlow v. Turvy*, 2012-Ohio-4378, ¶ 15 (10th Dist.) (citation omitted). Additionally, altering one's behavior because of how a private citizen *might* react is not a cognizable injury. To the contrary, an injury sufficient to confer standing must be "concrete and not simply abstract or suspected." *State ex rel. Food & Water Watch v. State*, 2018-Ohio-555, ¶ 20 (quotations omitted).

These alleged injuries are also highly speculative. Courts have continuously found that plaintiffs lack standing where the alleged injuries were only speculative in nature. *See, e.g.*, *Preterm-Cleveland, Inc. v. Kasich*, 153 Ohio St.3d 157, 2018-Ohio-441, ¶ 31. In *Preterm-*

Cleveland, the Supreme Court of Ohio dismissed a surgical facility's constitutional challenge to provisions in a 2013 budget bill for lack of standing because the facility merely "offered unsubstantiated, conclusory averments about those provisions. . . . [A]nd it only speculates that it might be injured." *Id.* at ¶ 22. Regarding the facility's alleged fear of future harm, the Court found that "although [the facility] presented evidence that it altered its conduct due to its fear of criminal and civil liability pursuant to those provisions, it neither suffered nor is threatened with a direct and concrete injury because of them." *Id.* at ¶ 26. Ms. Williams's "injuries" are no different and require numerous steps to be completed prior to the feared injury happening. Her argument requires assuming (1) that an aggressor will be more likely to confront her because of her race due to S.B. 175 being in effect; (2) that the aggressor will believe (correctly or incorrectly) that Ms. Williams's response to the confrontation threatens the aggressor's life or physical safety such that self-defense is required; (3) that, because of S.B. 175's passage, the aggressor will shoot her during the confrontation; (4) that the aggressor will claim self-defense if charged; and (5) that the aggressor would then be acquitted. This "injury" requires a multi-step assumption—in other words, speculation.

Plaintiffs' speculation that S.B. 175 will somehow embolden the general public to orchestrate self-defense in a racially discriminatory manner is not only speculative, but it completely ignores how the law actually works. S.B. 175 provides that a *trier of fact* may not consider the possibility of retreat in determining whether an individual acted in self-defense. *See* Pls. Ex. A at p.1, 3. But, it does not eliminate the need for the individual to *still* present evidence supporting the self-defense claim. *See id.* at p.1-2. Based on Plaintiffs' example, the person *confronting* Ms. Williams would be considered the aggressor, making it extremely unlikely that the aggressor was acting in self-defense. Moreover, Plaintiffs have not cited a single instance in

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which S.B. 175 was used in a racially discriminatory application. This further underscores the speculative nature of Ms. Williams's claimed injury.

2. S.B. 175 did not cause Ms. Williams's alleged injuries.

Plaintiffs are clear about the cause of Ms. Williams's speculative fears—racism. That is, Ms. Williams fears how a private citizen might react to her because she is African American. Plaintiffs allege that Ms. Williams received threatening letters before the enactment of S.B. 175 and is afraid of becoming a victim to *racial* confrontations. *See* Compl. ¶ 16-17. She does not claim that S.B. 175 *caused* any of the confrontations. Nor could she, because S.B. 175 is a law that applies equally to all, regardless of race. It addresses handgun-liability issues. Racial injustice is indisputably a problem. But, Plaintiffs have not shown—and cannot show—that "the law in question has caused the injury[.]" *See Cuyahoga Cty. Bd. of Comm'rs*, 112 Ohio St. 3d 59, ¶ 22. Failure to show causation alone dooms Ohio NAACP's standing.

3. Ms. Williams's requested relief will not redress her alleged injuries.

Because S.B. 175 did not cause racial injustice, striking it down will not redress that injury. As Plaintiffs allege, that injury existed long before S.B. 175 was passed. Striking down provisions of S.B. 175 will not redress Ms. Williams's alleged injuries, as it will not prevent people from harboring racist views. For this additional reason, Ms. Williams lacks standing to bring this suit, and therefore the Ohio NAACP lacks associational standing.

Any associational-standing claim by OOC fails immediately. OOC does not identify a single member of its organization that has been injured by the passage of S.B. 175. *See* Compl. ¶ 18. Accordingly, OOC lacks associational standing too.

4. The Organizational Plaintiffs lack standing in their own right.

Ohio NAACP and OOC also lack standing in their own right. Here, the Organizational Plaintiffs offer two alleged injuries—the diversion of organizational resources and the denial of the opportunity to participate in the legislative process. *See* Compl. ¶ 14-15, 19-20. Yet, "ideological opposition to a program or legislative enactment is not enough" to confer standing under Ohio law. *ProgressOhio.org, Inc. v. JobsOhio*, 139 Ohio St.3d 520, 2014-Ohio-2382, ¶ 1. An organization's voluntary expenditure of its time and resources on a particular topic is that organization's choice, not an injury. To hold otherwise would allow any organization to challenge *any* law it opposes simply because it chose to expend resources fighting against it. It is very clear that the Organizational Plaintiffs diametrically oppose *any* kind of stand-your-ground law, regardless of how that law is passed. *See, e.g.*, Compl. ¶ 10. Yet, this is insufficient for standing.

Moreover, the Organizational Plaintiffs' complaint about not being able to participate in the legislative process fails because this claimed injury is not "*different from that suffered by the public in general*[.]" (Emphasis added.) *Cuyahoga Cty. Bd. of Commrs.*, 112 Ohio St.3d 59, ¶ 22. Assuming for the sake of argument that all of Plaintiffs' factual allegations are true, everyone was prohibited from participating in the passage of S.B. 175, not just them. Thus, the Organizational Plaintiffs have not suffered a concrete injury "different from that suffered by the public in general." *Id.* This failure to show a cognizable injury alone defeats the Organizational Plaintiffs' standing.

Separate and independently, the Organizational Plaintiffs cannot show causation sufficient for standing. Neither Ohio NAACP nor OOC is required to expend *any* of its resources related to provisions of S.B. 175, nor anything else for that matter. Rather, they allegedly have chosen to expend time and money fighting the passage of such laws and educating their members regarding the same. *See, e.g.*, Compl. at p.5-8. Policy opposition—not S.B. 175's passage—has caused the

Organizational Plaintiffs to allegedly focus resources on stand-your-ground issues. Indeed, they allege they have been doing this well *before* S.B. 175's passage in 2020. *See id.* ¶ 10 ("the Ohio NAACP has submitted testimony in opposition to Stand Your Ground legislation in Ohio, including in 2018"); *see also id.* ¶ 19. Thus, the Organizational Plaintiffs fail both to plead a cognizable injury and to show how S.B. 175 caused their "injury."

B. The Legislator Plaintiffs lack standing.

1. Representative Howse and Senator Thomas lack legislative standing to challenge S.B. 175.

Neither Representative Howse nor Senator Thomas ("the Legislator Plaintiffs") can overcome "the general rule against legislative standing." *Crawford v. U.S. Dep't of Treasury*, 868 F.3d 438, 453 (6th Cir. 2017). Legislators lack standing to challenge the passage of a bill they opposed or the defeat of a bill they supported where they "simply lost that vote." *Raines v. Byrd*, 521 U.S. 811, 824 (1997). A narrow exception exists where legislators sue "to prevent nullification of their individual votes." *State ex rel. Ohio Gen. Assembly v. Brunner*, 114 Ohio St. 3d 386, 2007-Ohio-3780, ¶ 22. Under this vote-nullification exception, "'legislators whose votes *would have been sufficient to defeat* . . . a specific legislative Act have standing to sue if that legislative action goes into effect . . . , on the ground that their votes have been completely nullified.'" (Emphasis added.) *Id.* at ¶ 20, quoting *Raines*, 521 U.S. at 823. For example, in *Brunner*, the court determined that the senate president and the speaker of the house had standing to sue because they "voted with the majority" in favor of a bill but argued that their votes were improperly nullified because the newly elected governor then attempted to veto the bill after it had already become law. *Id.* at ¶ 22; *see also id.* at ¶ 3, 20.

Plaintiffs here do not allege (nor could they) that Representative Howse and Senator Thomas's votes against the final version of S.B. 175 would have been "sufficient to defeat" it. *Id.*

at ¶ 20, quoting *Raines*, 521 U.S. at 823. Instead, "their votes were given full effect. They simply lost that vote." *Raines*, 521 U.S. at 824 (legislators lacked standing to challenge the Line Item Veto Act). Plaintiffs allege the House voted to pass the challenged bill by a vote of 52 to 31, and the Senate by a vote of 18 to 11. Compl. ¶ 98-99. Thus, Representative Howse and Senator Thomas lack standing to sue. *See Brunner* at ¶ 20; *see also Baird v. Norton*, 266 F.3d 408, 412 (6th Cir. 2001) ("For legislators to have standing as legislators, then, they must possess votes sufficient to have either defeated or approved the measure at issue.").

2. The Legislator Plaintiffs otherwise lack standing because their asserted injuries are neither cognizable nor redressable.

Moreover, Representative Howse and Senator Thomas lack standing even apart from the legislative-standing issue. First, both fail to allege any "direct and concrete injury" sufficient for standing. *See Cuyahoga Cty. Bd. of Comm'rs*, 112 Ohio St. 3d 59, ¶ 22. Plaintiffs allege that the timing of S.B. 175's passage "prevented Representative Howse from providing timely and informative updates on Stand Your Ground legislation to her constituents and local leaders" and "prevented Senator Thomas from meaningfully communicating the substance of pending legislation with his constituents." Compl. ¶ 24, 28. But legislators have no constitutional or statutory right to update their constituents at their preferred pace.[1] Nor can Representative Howse or Senator Thomas show they have been "singled out for specially unfavorable treatment as opposed to other Members of their respective bodies." *Raines*, 521 U.S. at 821. Indeed, if the timing of S.B. 175's passage violates constitutional guarantees (as Plaintiffs allege), that violation would injure *all* legislative members—and indeed the general public—and thus could not be a

[1] As for the allegation (Compl. ¶ 31) that S.B. 175's passage "diminish[es] the institutional roles" of Representative Howse and Senator Thomas, "[a]fter *Raines* and [*Virginia House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945 (2019)], only an institution can assert an institutional injury." *Blumenthal v. Trump*, 949 F.3d 14, 19 (D.C. Cir. 2020).

"direct and concrete" injury sufficient for standing. *Cuyahoga Cty. Bd. of Comm'rs* at ¶ 22; *see also Baird*, 266 F.3d at 411 ("Because of this denial of procedural safeguards, then, Baird and Peters have, at most, a generalized grievance shared by all Michigan residents alike. Such a grievance does not give them standing to sue."). "It would be improper to consider a member of the [legislative body] as a person 'aggrieved' when a decision of the [legislative body] is contrary to his personal opinion or the position for which his vote was cast." *Control Data Corp. v. Controlling Bd. of Ohio*, 16 Ohio App. 3d 30, 34 (1983) (legislators lacked standing to challenge decision of the Controlling Board of the State of Ohio).

Second, the Legislator Plaintiffs' requested relief will not redress the injuries alleged. The redressability prong of standing requires plaintiffs to show that "the relief sought would alleviate the harm alleged." *State ex rel. Food & Water Watch*, 2018-Ohio-555, ¶ 12, 21 (individual lacked standing because "smell[ing] hydrocarbon stenches from the plant" would not likely be redressed by rules that were not required to deal with odors). Here, none of the legislators' alleged harms are redressable by the requested relief. Invalidating part of S.B. 175 would not change past-legislative appearances or give the legislators time to communicate with constituents about the bill before its passage. That ship has sailed. "In such circumstances, legislators' remedy lies not with the courts but with the legislative process, for, as the Supreme Court noted in *Raines*, the legislature could simply 'vote to repeal' offending legislation." *Crawford*, 868 F.3d at 454, quoting *Raines*, 521 U.S. at 824. For this additional, independent reason, the Legislator Plaintiffs lack standing.

II. Plaintiffs Fail To State Any Claim.

A. The three-considerations claim fails, as S.B. 175 was not "wholly changed."

A statute may be declared unconstitutional "only if [the court] concludes that it is unconstitutional beyond a reasonable doubt." *State ex rel. Ohio Civil Serv. Emples. Ass'n v. State*,

146 Ohio St. 3d 315, 2016-Ohio-478, ¶ 13. Based on clear precedent, S.B. 175 is constitutional as a matter of law.

1. S.B. 175 easily satisfies the three-considerations doctrine.

Plaintiffs' three-considerations claim is quickly disposed of. Plaintiffs acknowledge that the initial version of S.B. 175 was considered three times by both the Senate and House. Compl. ¶ 44-49. So the only question is whether by amending the initial version of S.B. 175, "the subject or proposition of the bill [was] thereby *wholly changed*." (Emphasis added.) *Youngstown City Sch. Dist. Bd. of Educ.*, 161 Ohio St. 3d 24, 2020-Ohio-2903, ¶ 14. This is because the three-considerations doctrine is triggered only when an amended bill "*depart[s] entirely* from a consistent theme." (Emphasis added.) *Id.* at ¶ 15 (quotations omitted). In determining this, the "key consideration should be whether the bill maintained a common purpose both before and after its amendment." *Id.*

S.B. 175 easily passes constitutional muster. A sufficient "common purpose" can be as simple as "improv[ing] underperforming schools." *Id.* at ¶ 18. S.B. 175 grants nonprofits civil immunity related to handgun usage and curtails potential liability for handgun usage by limiting the duty to retreat. *See, e.g.*, Compl. ¶ 4-5; Pls.' Ex. A at p.1. In other words, S.B. 175's common purpose is reducing handgun-related liability. Like the challenged bill in *Youngstown*, S.B. 175 "stands in stark contrast with the bills at issue in [*Hoover v. Board of Franklin County Commissioners*, 19 Ohio St. 3d 1 (1985)],"—a case Plaintiffs rely on—"in which the themes and purposes of the bill as introduced and as enacted were entirely different and *none of the original text remained* in the final wording." (Emphasis added.) *Youngstown* at ¶ 18.

On-point Ohio Supreme Court decisions rejecting three-considerations challenges further underscore that S.B. 175's common purpose of reducing handgun-related liability is more than

sufficient. For example, the bills in both *Youngstown* and *State ex rel. Ohio AFL-CIO v. Voinovich*, 69 Ohio St. 3d 225 (1994), "underwent substantial changes" but did not offend the three-considerations doctrine. *Youngstown* at ¶ 18. In *Voinovich*, "the bill was heavily amended between readings," beginning "as a 4-page-long biennial appropriation for the Bureau of Workers' Compensation," but eventually passing with 20 pages of amendments that among other things, replaced the five-member Industrial Commission with a three-member one. *Youngstown* at ¶ 16. In *Youngstown*, not only was the bill "heavily amended," but "the House and Senate passed that amended version on the same day." *Id.* Yet in rejecting plaintiffs' three-considerations challenge, the Ohio Supreme Court in *Youngstown* reasoned that "the three-consideration rule does not require any specific level of deliberation or debate." *Id.* The same is true here. This case is even easier than *Youngstown* and *Voinovich*. S.B. 175 does not offend the three-considerations doctrine.

2. S.B. 175's legislative history is irrelevant.

Importantly, "the three-consideration rule does not allow th[e] court to consider the legislative proceedings leading to an amendment." *Youngstown City Sch. Dist. Bd. of Educ.*, 161 Ohio St. 3d 24, ¶ 20. The Ohio Supreme Court has held that "[i]t is not our role to police how the amended language came into existence." *Id.* Acting on this principle, the Court in *Youngstown* rejected as "superfluous" parts of a dissenting opinion that recounted an allegedly "clandestine" legislative process. *Id.* Similarly, Plaintiffs here fill most of their Complaint with allegations concerning the legislative proceedings leading to S.B. 175's enactment. Compl. ¶ 37-104. These allegations are irrelevant. What matters is S.B. 175's common purpose of reducing handgun-related liability. Plaintiffs' three-considerations claim fails as a matter of law.

B. Plaintiffs' one-subject claim is meritless because addressing two handgun-liability issues in the same bill does not "defy rationality."

Plaintiffs' one-subject claim is equally flawed. Indeed, Plaintiffs mischaracterize the one-subject doctrine in their effort to apply it here. They claim that in passing S.B. 175, "the General Assembly passed a bill *containing more than one subject*, in violation of Ohio Constitution, Article II, Section 15(D)." (Emphasis added.) Compl. ¶ 127. But "[t]he one-subject rule does not prohibit a plurality of topics, only a disunity of subjects." *Ohio Civil Serv. Emples. Ass'n*, 146 Ohio St. 3d 315, at ¶ 17. S.B. 175 "grant[s] civil immunity to nonprofit corporations for certain injuries, deaths, or losses *resulting from the carrying of handguns*" and "expand[s] the locations at which a person has no duty to retreat" before using a handgun. Pls.' Ex. A at p.1. This combination does not "def[y] rationality." *Scancarello v. Erie Ins. Co.*, 10th Dist. Franklin No. 96APE02-166, 1996 Ohio App. LEXIS 3216, at *16 (July 25, 1996), quoting *Hoover*, 19 Ohio St. 3d at 6-7. In fact, S.B. 175 has far more internal unity and cohesiveness than other statutes the Ohio Supreme Court has upheld in the face of one-subject challenges. *See infra*. Plaintiffs' one-subject theory is meritless.

1. The one-subject doctrine applies only in extremely narrow circumstances.

"[I]dentification of a bill's subject is a question of law, which depends upon the particular language and subject matter of the proposal." *Ohio Civil Serv. Emples. Ass'n* at ¶ 21 (quotations omitted) (Complaint failed to state a one-subject claim). "To avoid interfering with the legislative process, courts afford the General Assembly great latitude in enacting comprehensive legislation and indulge every presumption in favor of the constitutionality of legislation." *City of Riverside v. State*, 190 Ohio App. 3d 765, 2010-Ohio-5868, ¶ 37, 52 (10th Dist.) (rejecting one-subject challenge because statutory provision "relate[d] to the single subject of state appropriations"). Courts should "invalidate statutes as violating the one-subject rule only when they contain a

manifestly gross and fraudulent violation." *Ohio Civil Serv. Emples. Ass'n* at ¶ 17 (quotations omitted). "Neither is it necessary that the connection or relationship should be logical; it is enough that the matters are connected with and related to a single subject, in popular signification." *State ex rel. Willke v. Taft*, 107 Ohio St. 3d 1, 2005-Ohio-5303, ¶ 37 (quotations omitted).

2. S.B. 175 easily satisfies the one-subject doctrine.

S.B. 175 comes nowhere near offending the one-subject doctrine. "To accord appropriate deference to the General Assembly's law-making function, [courts] must liberally construe the term 'subject' for purposes of the rule." *Ohio Civil Serv. Emples. Ass'n* at ¶ 16. As even Plaintiffs admit, S.B. 175 grants nonprofits civil immunity related to handgun usage and generally curtails potential liability for handgun usage by limiting the duty to retreat. *See, e.g.*, Compl. ¶ 4-5; *see also* Pls.' Ex. A at p.1. Addressing two handgun-liability issues in the same bill does not "def[y] rationality"—and so does not offend the one-subject doctrine. *Scancarello* at *16.

Underscoring this point, the Ohio Supreme Court has upheld numerous statutory combinations in the face of one-subject challenges even though those combinations had far *less* cohesiveness than the handgun-liability provisions in S.B. 175. For example, the Court has rejected a one-subject challenge because it determined that the issuance of state bonds, research and development, and business-facilities projects were all "reasonably related" to the "general purpose of job creation or economic development in Ohio"—even though the Court noted that "[t]he General Assembly's combination of these three programs in one amendment" was "seemingly the product of a tactical decision." *Willke* at ¶ 38. And the Court has upheld a bill addressing both post-release control and the sealing of juvenile delinquency records on the general ground that the topics concerned "the rehabilitation and reintegration of offenders into society." *State v. Bloomer*, 122 Ohio St. 3d 200, 2009-Ohio-2462, ¶ 53, *superseded by statute on other grounds*. The "general

purpose" of S.B. 175 is clear. It is to address two handgun-liability issues in one bill. Plaintiffs' theory that this somehow "defies rationality" is meritless.

CONCLUSION

Therefore, Defendant the State of Ohio respectfully asks this Court to dismiss Plaintiffs' Complaint in its entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing ***Motion to Dismiss*** has been served upon the following by electronic mail this 13th day of October, 2021:

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