

## A Statement from the Ohio Aspiring White Allies Committee in Response to SB 308 and HB 606



The statewide Aspiring White Allies Committee has proudly worked in connection with the statewide Anti-Oppression Committee since 2014. This committee's mission is to advocate for leaders and people of color in anti-violence work through actively addressing individual and institutional oppression. Oppression occurs when economic, political, legal, and social systems increase the power of one group at the expense of another. Forms of oppression can include unfair treatment based upon: ability, age, country of origin, ethnicity, gender, gender identity, immigration status, physical abilities, mental health, race, religion, sexual orientation, and/or socioeconomic class. Guided by our Anti-Oppression focus, we speak out against legislation when it collides with our core purpose of reducing barriers, increasing access, and cultivating inclusion. It is our opinion that Senate Bill 308 will increase healthcare, income, workplace safety, and other disparities already impacting people of color, persons with disabilities, LGBTQ, and many more groups.

If passed, Senate Bill 308 will expand civil immunity for health care providers during the COVID-19 disaster period. Numerous academic studies<sup>1</sup> report that implicit and explicit bias<sup>2</sup> result in medical decision making across specialties resulting in significantly worse health outcomes for people of color.<sup>3</sup> Among widely published findings are reports that, even after controlling for other factors, health care providers are less likely to deliver effective treatments to people of color when compared to white patients.<sup>4</sup> Attributed primarily to both implicit and explicit bias, this result has devastating impacts for people of color in Ohio.

As drafted, Senate Bill 308 provides nearly blanket protection for implicit<sup>5</sup> bias-based treatment decisions for a still undetermined period of time. Though healthcare workers are undoubtedly working tirelessly through an unprecedented situation, Senate Bill 308's reach extends so far as to render people of color, persons with disabilities, persons lacking health insurance, and others with barriers to

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<sup>1</sup> See, e.g., Kelly M. Hoffman, Sophie Trawalter, Jordan R. Axt, and M. Normal Oliver, *Racial bias in pain assessment and treatment recommendations, and false beliefs about biological differences between blacks and whites*, Proceedings of the National Academy of Sciences of the United States of America (April 4, 2016), available at <https://www.pnas.org/content/113/16/4296/tab-article-info>; Marianne Bertrand, Dolly Chugh, Sendhil Mullainathan The American Economic Review, Vol. 95, No. 2, Papers and Proceedings of the One Hundred Seventeenth Annual Meeting of the American Economic Association, available at [http://pages.stern.nyu.edu/~dchugh/articles/2005\\_AER.pdf](http://pages.stern.nyu.edu/~dchugh/articles/2005_AER.pdf).

<sup>2</sup> U.S. Department of Justice Community Relations Service. (2015). *Understanding Bias: A Resource Guide*. [PDF file] ("With explicit bias, individuals are aware of their prejudices and attitudes toward certain groups. Positive or negative preferences for a particular group are conscious. Overt racism and racist comments are examples of explicit biases. Implicit bias involves all of the subconscious feelings, perceptions, attitudes, and stereotypes that have developed as a result of prior influences and imprints. It is an automatic positive or negative preference for a group, based on one's subconscious thoughts.")

<sup>3</sup> See, e.g., Khiara M. Bridges, *Implicit Bias and Racial Disparities in Health Care*, American Bar Association, Vol. 43, No. 3 The State of Healthcare in the United States.

<sup>4</sup> *Id.* ("For example, one study of 400 hospitals in the United States showed that black patients with heart disease received older, cheaper, and more conservative treatments than their white counterparts. Black patients were less likely to receive coronary bypass operations and angiography. After surgery, they are discharged earlier from the hospital than white patients—at a stage when discharge is inappropriate.")

<sup>5</sup> Explicit decisions would likely be excluded from immunity.

equitable health care without redress for treatment decisions that are ineffective, make them sicker, or worse, kill them.

Senate Bill 308, along with House Bill 606 (which focuses on service providers only) provides broad immunity for employers providing services needed to keep our economy and society functioning. Though this arguably reduces risk factors inhibiting the continuation of necessary services, the bill's verbiage reduces incentives to protect workers and takes redress from those without safer workplace alternatives. Specifically, low-wage workers, already less likely to receive paid leave or health insurance, are a significant portion of "Essential Business and Operations" workforces.<sup>6</sup> As jobs dwindle in the COVID-19 landscape, low-wage workers are less likely to take time off if they show symptoms, leave their employment if they feel unsafe, or have insurance coverage should they acquire COVID-19. Notably, people of color are more likely to maintain positions that require potentially hazardous contact with members of the public, without access to PPE.<sup>7</sup> If passed, this bill will thus increase harm to communities of color, who already suffer greater impacts from COVID-19 in tandem with already existing systemic racism.<sup>8</sup>

### **How & When to Act:**

Contact your representative to demand amendments to House Bill 606 and Senate Bill 308 to avoid potentially fatal results for people of color and persons with disabilities, who need equal access to healthcare and workplace safety.

This bill is moving quickly through committee, we recommend contacting your members as soon as you see this message, but no later than Tuesday, May 26.

Find your representative here: <http://www.ohiohouse.gov/members/district-map>

Find your senator here: <https://www.ohiosenate.gov/senators/district-map>

Learn more about the [Aspiring White Allies here.](#)



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<sup>6</sup> Martha Ross and Nicole Bateman, *COVID-19 Puts America's low-wage workforce in an even worse position*, The Brookings Institute (March 19, 2020), <https://www.brookings.edu/blog/the-avenue/2020/03/19/covid-19-puts-americas-low-wage-workforce-in-an-even-worse-position/>.

<sup>7</sup> Catherine Powell, *The Color of COVID: The racial justice paradox of our new stay-at-home economy*, CNN, (April 18, 2020), <https://www.cnn.com/2020/04/10/opinions/covid-19-people-of-color-labor-market-disparities-powell/index.html>.

<sup>8</sup> See, e.g., Bureau of Labor Statistics, *The Employment Situation – April 2020*, U.S. Department of Labor (May 8, 2020), <https://www.bls.gov/news.release/pdf/empsit.pdf> (reporting that Black and Latinx workers reported the highest rates of unemployment for April 2020); Elise Gould and Heidi Shierholz, *Not everybody can work from home - Black and Hispanic workers are much less likely to be able to telework*, Economic Policy Institute (March 19, 2020), <https://www.epi.org/blog/black-and-hispanic-workers-are-much-less-likely-to-be-able-to-work-from-home/> (reporting that where 37% of white workers can telework, only 19.7% of Black workers and 16.2% of Latinx workers have access to the same privilege).