Washington, D.C. Offices:
1901 Pennsylvania Avenue NW
Suite 201
Washington, D.C. 20006

Michigan Offices:
P.O. Box 131098
Ann Arbor, Michigan 48113

Arizona Offices:
123 W. Chandler Heights Road, #11277
Chandler, Arizona 85248-11277

New York Offices:
640 Eastern Parkway
Suite 4C
Brooklyn, New York 11213

California Offices:
21731 Ventura Boulevard
Suite 180
Woodland Hills, California 91364

Main Tel: (855) 835-AFLC (2352)
FAX: (801) 760-3901
Email: rmuise@americanfreedomlawcenter.org

Writer's Direct Tel: (734) 635-3756

David Yerushalmi, Esq.: Licensed in Washington, D.C., New York, California & Arizona
Robert J. Muise, Esq.: Licensed in Michigan

March 13, 2013

Judiciary Committee
124 N. Capitol
Anderson House Office Building, Room 521
Lansing, MI 48933

Re: House Bill No. 4139

Dear Chairman Cotter and Members of the Judiciary Committee:

I am writing in support of House Bill No. 4139, which would appropriately repeal Michigan's "peace bond" statute.[1]

As the attorney who represented Pastor Terry Jones and Mr. Wayne Sapp in their successful appeal of the recent judgment entered against them under the Michigan peace bond statute, I have witnessed firsthand the abuses to our constitutional freedoms this statute permits. The case against Pastor Jones and Mr. Sapp (hereinafter "Defendants") was a gross miscarriage of justice that was made possible by this statute. In that case, the Wayne County Prosecutor instituted proceedings against private, law-abiding citizens under this statute because these citizens "*threatened*" to engage in peaceful, unpopular speech in a public forum near a mosque in the City of Dearborn.

Defendants' speech activity—a peaceful protest of "sharia and jihad"—caused a reaction that included a proposed counter-demonstration and threats of violence *against* Defendants. Because

[1] M.C.L. § 772.1, *et seq.*, "Complaint for Proceedings to Prevent Crime."

of this *reaction*, the prosecutor instituted proceedings under the "peace bond" statute, resulting in the trial court issuing a speech-restricting injunction and jailing Defendants. These proceedings plainly violated Defendants' First Amendment right to freedom of speech. Indeed, it is well established that speech cannot be "punished or banned, simply because it might offend a hostile mob." *See Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 134-35 (1992). Consequently, the fact that certain "hecklers" may have objected to Defendants' speech (and threatened violence or a disruption as a result) did not license the prosecutor to prohibit Defendants' speech through a "peace bond" proceeding. *See e.g., Tx. v Johnson*, 491 U.S. 397 (1989) (rejecting the claim that the government's interest in preventing breaches of the peace justified a conviction for engaging in unpopular speech).

The Sixth Circuit has warned on previous occasions that Michigan's "breach of peace" statute is prone to abuse. *See Leonard v. Robinson*, 477 F.3d 347, 360–61 (6th Cir. 2007) (rejecting district court's dismissal of § 1983 false imprisonment claims because there was a material question of fact as to whether plaintiff was merely engaging in protected First Amendment activity, as opposed to creating a threat to public safety, when he was arrested under Michigan's "breach of peace" statute at a public meeting). As evidenced by this case, Michigan's "peace bond" statute is capable of even greater abuse such that it has no place in the law and should be repealed. Consequently, I urge you to support House Bill No. 4139.

Sincerely,

Robert J. Muise, Esq.
Senior Counsel
American Freedom Law Center