

House Civil Justice Committee
Tuesday, May 28, 2019
HB 209 – Opponent Testimony

My name is Phyllis Carlson-Riehm and I represent ACTION OHIO Coalition For Battered Women, a statewide domestic violence coalition. ACTION OHIO's mission is to promote quality programs, services and resources to survivors of domestic violence. Our vision is the elimination of family violence. My testimony is in opposition to HB 209, the Abolition of Dower Bill.

Domestic violence is all about power and control in an intimate partner relationship. Abusers typically begin a relationship as loving and attentive, but gradually exert more and more control over a victim's life. As the relationship further develops, the abuser demands more and more attention and obedience from the victim. Whether she has a job and goes to work or stays home with children, he will monitor what she is doing, where she is going and all of her interactions with friends, family and co-workers. He will also begin to put a wedge between her and the people who are important to her. His goal is to isolate her and make her dependent on him for all her needs.

At the same time, abusers belittle and demean their victim's intelligence, appearance and her actions, including her parenting of the children. If she seeks to get an education or obtain or keep a job, the abuser sabotages her efforts. If she is able to maintain employment, the abuser will harass her on the job and demand her paycheck, controlling all finances and purchases, even if he is unemployed and dependent on her income. Typically, an abuser will threaten the victim throughout the relationship, often putting a gun to her head, strangling her until unconsciousness and beating her until medical services are necessary. Bouts of violence and threats keep victims under the abuser's control. The presence of a child or children add to her fears about leaving.

In Ohio, marriage is a legal contract and even common law marriage (in effect until 1991) includes legal obligations and benefits. In Ohio, marriage partners both have obligations of mutual respect, fidelity and support of each other out of their respective property or by their respective labor. And the duty to support extends to the parties' biological and adopted children. Failure to provide support to your spouse or your dependent may result in a civil action to recover the cost of necessities, or a criminal charge for non-support of dependents.

ACTION OHIO's opposition to HB 209 is based on the fact that the abused spouse's name may not be included on the deed for the marital home. That may happen even when the non-titled spouse's income or assets have contributed to the purchase of the family home and monthly mortgage payments. Our primary concern is that the abolition of dower would allow a titled spouse, without the knowledge or consent of the non-titled spouse, to transfer or mortgage the primary residence of the spouses and their dependents.

The overwhelming majority of states prohibit transfers or encumbrances of the primary residence without spousal consent. The states replaced dower with a much simpler mechanism that both protects the non-titled spouse from losing the marital home and facilitates the transfer of non-homestead real estate by the titled spouses. For example, Alabama law (Ala. Code Section 6-10-13) prohibits any "mortgage, deed or other conveyance of the homestead by a married person . . . without the knowledge or consent of the non-titled spouse."

With the passage of HB 209, a domestic violence victim in a long term relationship and minor children could end up losing their home when the abusive partner decides to sell the property, or borrow from the property's equity, or dies, leaving property to someone other than the victim. For these victims, HB 209 could cause homelessness at a time in their lives when they are disabled or ill, as result of the abusive relationship, and/or elderly and unable to begin life over again.

HB 209 does not take into consideration the significant value of financial benefits that are expected to be available to both parties of a marriage, including at the end of that contract due to death, dissolution or divorce. The bill also eliminates essential protections for a spouse who is not included on the property deed in spite of the contributions – financial and otherwise – that spouse made to the household. We strongly urge committee members to either defeat HB 209 or to modify it to include statutory homestead protections for non-titled spouses similar to those adopted by most states.

Thank you for your consideration of our viewpoint.

Phyllis L Carlson-Riehm, Executive Director
ACTION OHIO Coalition For Battered Women
PO Box 423, Worthington OH 43085-0423
614 825-0551 / actionohio@wowway.biz