

TESTIMONY OF ALEXANDRIA RUDEN,
ON BEHALF OF THE LEGAL AID SOCIETY OF CLEVELAND ON HB 3
TO HOUSE CRIMINAL JUSTICE COMMITTEE

Chairman Lang, Vice Chairman Plummer, Ranking Member Leland, and Committee Members:

My name is Alexandria Ruden. I am an attorney with the Legal Aid Society of Cleveland. I have been a practicing attorney in the area of domestic violence since the Ohio Domestic Violence Act was enacted by the Ohio General Assembly in 1979. I have represented thousands of survivors of domestic violence in divorce and protection order proceedings. I train attorneys, advocates, judges, police officers and other professionals on Ohio domestic violence law. In addition, I am a member of the Supreme Court's Advisory Committee on Domestic Violence and the Ohio Department of Public Safety's Family Violence Prevention Center Advisory Council. I also write *Ohio Domestic Violence Law* with Judge Ronald Adrine, a yearly publication.

All professionals who play a role in the criminal and civil justice systems need a comprehensive understanding of domestic violence. To meet the goal of enhanced safety for an ever-increasing number of victims, it is crucial to identify the most dangerous offenders and manage the risks posed to these victims. In response, domestic violence risk assessment tools have been developed to assess both an offender's risk of re-offending and a victim's risk of lethal assault. Risk assessment

is a procedure whereby we measure some characteristics of a person and then use that information to predict the likelihood of some negative event such as re-assault or homicide. While there is no single cause or factor which leads to domestic homicide, a number of risk factors or markers-the characteristics that increase the likelihood of re-assault or death-have been identified as being associated with perpetrators of domestic violence.

Screening for risk should always be the first step in the criminal justice process. Screening is, thus, a safety precaution and not only supports identification of those at risk but may also enable early intervention through identification of high-risk with immediate referrals and supportive services.

A primary goal of these tools is for first responders, such as law enforcement officers, to identify high-risk victims in order to reduce and prevent future domestic violence injury or death and to ensure the safety of survivors, their children and the communities where they live. The benefits of using a risk assessment tool will assist victims in developing more realistic safety plans. Additionally, it is designed to help the criminal justice system identify which offenders need higher bail, inform conditions of release, and craft enhanced supervision strategies. It also helps to educate the criminal justice system about domestic violence and provide a shared language about risk factors. Moreover, validated risk assessment tools combined with a coordinated community response and referrals to victim services agencies and

other supportive services have been identified as being predictive of re-assault and domestic homicide.

Meet Lisa-she was offered services from a domestic violence advocacy organization after a violent attack from an abusive boyfriend. Even as she was telling her story to the advocate she never considered that she was a victim of domestic violence. It wasn't until a law enforcement officer screened her using a validated assessment tool that she realized the danger she was in, living with an abusive partner. Lisa utilized the services offered by the shelter which included a referral for trauma informed counseling and housing accommodations.

I am here to strongly offer my support for House Bill 3. Since the passage of Ohio's Domestic Violence Act in 1979, our collective understanding about the dynamics of domestic violence, the protections it affords, and the enforcement of the laws have led to an ever-expanding evolution in the efforts to reduce domestic homicide, and HB 3 is designed to achieve that goal.

This bill will ultimately reduce domestic homicide in the state of Ohio because it will act as an educational tool for law enforcement and other justice system partners within the criminal justice system, thus enhancing survivor safety and holding offenders accountable.

Studies demonstrate that the effectiveness of these models. The ultimate objective the various validated risk assessment models is to prevent murder before

it happens. The detrimental consequences of not moving this bill forward would leave many victims at risk and an unwillingness to place victim safety above other considerations.

By including strangulation as an enhancement to both charging and sentencing under the domestic violence statute, Ohio has demonstrated an understanding of the danger and enhanced probability of lethality to victims of domestic violence. The studies show that 1 in 4 women will experience IPV in their lifetime. Of women at high risk, up to 68 % will experience near fatal strangulation by their partner. Oftentimes, even in fatal cases there are no external signs of injury. The absence of external or visible signs of injury does not indicate the level of harm or lethality after strangulation occurs. Additionally, Ohio is only one of 3 remaining states that does not have legislation. This legislation has defined strangulation and has recognized that it is a red flag for future homicides.

This bill seeks to make important changes to the Rules of Evidence. Many states have relaxed their evidentiary standards or created new standards to allow the admission of domestic violence evidence. Some states have amended both their statutes and evidentiary codes to permit character evidence in domestic violence prosecutions. Others have expanded these changes to include certain civil cases.

Domestic violence creates a unique type of prosecution where physical evidence is often lacking and the victim often recants, refuses to cooperate or is made

unavailable. Difficult prosecutions can be linked to an increase in already-disturbing domestic violence statistics. Changes to these rules as set forth in HB 3 would permit prior acts evidence allowing courts to consider past acts of domestic violence to provide context to the controlling and cyclical nature of an abusive relationship and to show the offender's propensity to batter. Such evidence should also be permitted in the civil context as well because context is important when considering the past history of domestic violence relative to a recent threatening act. To combat defense arguments that such an expansion implicates a defendant's right to due process, the bill is replete with evidentiary and foundational criteria and each inquiry would still require levels of analysis. Balancing the probative value of the evidence versus its prejudicial effect still provides jurists with the discretion necessary to accurately address the issues presented.

To permit out of court statements and character evidence, already being used in sexual assault cases, by adopting new evidentiary exceptions in domestic violence cases will have a great impact on the success or failure of future domestic violence court cases.

The evidentiary trends of the past few years reflect an increasing response on the part of the legislature and judiciary to society's interest in the prevention of domestic violence. As concern over domestic violence continues to grow, as the number of women killed continues to grow, it is likely jurisdictions will continue to

review their rules and statutes. It is essential that Ohio do the same.

Thank you for the opportunity to provide testimony.

Alexandria M. Ruden