



**Ohio Judicial Conference**  
The Voice of Ohio Judges

**House Criminal Justice Committee**  
**Judge Kathleen M. Rodenberg**  
**Interested Party Testimony on House Bill 3**

Chair Lang, Vice Chair Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, I thank you for this opportunity to submit interested party testimony for House Bill 3, Aisha’s Law, on behalf of the Ohio Judicial Conference. I am Judge Kathleen Rodenberg from the Clermont County Domestic Relations Court, where I have served since 2011. I also serve as the Chair of the Supreme Court of Ohio’s Advisory Committee on Domestic Violence and as a member of the OJC’s Domestic Relations Law & Procedure Committee. I have previously served as a domestic relations and municipal court magistrate and maintained a private legal practice.

The OJC thanks H.B. 3’s sponsors, Representative Boyd and Representative Carruthers for their attention to the matter of domestic violence. Our Civil, Criminal, and Domestic Relations Law and Procedure Committees have all reviewed and discussed the bill. I was able to review the substitute bill just last night and it changes my testimony somewhat, but not drastically. I’d like to thank the sponsor for being willing to work with judges to produce a bill that meets its stated goals.

**Lethality Assessment Tools**

One provision the OJC strongly supports is the use of evidence-based lethality assessment screening tools. The bill’s requirement that the police screen the domestic violence victims using a lethality assessment may also be helpful to judges considering bail. The bill does not provide a mechanism, however, for the sharing of any assessment results with a bond officer or the court. We would be happy to work with the sponsors to find a way to share this information with the proper courts.

**Statutory Expansion of Evidence**

Expanding court evidence via statute is likely a violation of Article IV, Section 5(B) of the Ohio Constitution, which grants rule-making authority over courtroom procedures to the Supreme Court of Ohio. That constitutional provision provides a process by which court rules are to be adopted and approved by the General Assembly once the Supreme Court

has proposed them. Although there is nothing that prohibits the Legislature from passing a law about evidence rules, any court procedures developed solely through the General Assembly can spawn lengthy and costly litigation and are likely unenforceable.<sup>1</sup> For legal and practical reasons, then, it's a better use of resources to leave review of evidence rules to the legal experts at the Supreme Court's Commission on the Rules of Practice and Procedure.

I'd also note that the Rules Commission takes time to consider changes, much as the Legislature does. However, the Rules Commission has a strict schedule by which Rules are promulgated – unlike the Legislature – which makes it likely that the Rules Commission will complete its work on these proposed changes well before a bill is passed.

### **24/7 Court Domestic Relations and Juvenile Court Requirement**

The OJC is very concerned about the requirement for a court to be available to accept petitions for protection orders 24 hours a day and 7 days a week. Although this responsibility was shifted from domestic relations courts to criminal courts, that does not change the fact that this is a dramatic and expensive departure from current practice. I am a domestic relations judge and the fact sheet I provided to the committee with my testimony is specific to domestic relations court in Clermont County. I cannot speak to the caseload of a municipal or common pleas court, but I can say many concerns are not fully addressed in the substitute bill.

A primary concern for every judge is the safety of the victim. Instructing a victim to appear in court after regular court hours may put the victim at more risk of harm. At most, a court would have a “skeleton crew” and the courthouse, parking lots, and parking garages would be like ghost towns. Because victims are often tracked by their abusers through social media and other apps, the abusers might see it as another opportunity to harass or assault the victim again.

Although perhaps not as important as the personal safety of the victim, having courts open 24/7 is expensive. It should be noted that courts currently stay open to finish processing domestic violence protection orders that come in late in the day. Staffing a court to accept protection order petitions requires not only a judge or magistrate, but also a bailiff, clerk, and domestic violence advocate. There would be additional unfunded costs for maintenance, security and utilities. And it would have the unintended effect of making regular weekday protection order processing less effective by stretching court resources and staff too thin throughout the week.

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<sup>1</sup> See *In re Coy*, 67 Ohio St.3d 215, 218-219, 616 N.E.2d 1105 (1993) (a statute that purports to control the admission of evidence in Ohio courts is either “meaningless because the matter is already covered” by the Ohio Rules of Evidence, “or it is unconstitutional as it attempts to change the Evidence Rules”).

Instead of a 24/7 court requirement, additional resources should be allocated for law enforcement and funding domestic violence shelters so they can provide more victims with a safe place to stay in emergencies. Courts cannot guarantee anyone's personal safety, and the mere existence of a protection order cannot stop a determined offender from committing violent acts. This is true whether the protection order is issued from a domestic relations judge or a common pleas judge.

Our Committee is working on the creation of an "emergency protection order" and we'd like some time to work out the process. An emergency protection order does raise some practical and legal problems, but it could give the victim an added layer of protection. For example, if the abuser is trying to re-enter the home after bonding out on the criminal charge, the victim could call law enforcement and report that he or she has an "EPO." The responding officer would then know to serve the alleged offender with the order and force him to leave the home.

I am available to answer any questions you may have.