Ohio Judicial Conference

The Voice of Ohio Judges

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Good afternoon, Chairman Butler, Vice Chair Hughes, Ranking Member Boggs, and members of the House Civil Justice Committee. Thank you for the opportunity to testify as an interested party on House Bill 1. I am Judge Charles Schneider, Presiding Judge of the Franklin County Common Pleas Court.

My comments today are limited to the practical implications for Ohio courts of the bill that is before you and the probable impact that the adoption of this bill will have on courts across the state. They are made irrespective of this body's decision that it is important to express that it is the policy of the State of Ohio to offer additional protection to individuals who are or have been in a dating relationship. Ohio judges, along with prosecutors, and law enforcement are on the front lines in the battle against the type of violence that this bill intends to address. Our concerns with this bill are in no way meant to demean the very real problems of the victims of any form of violence.

Under House Bill 1, someone seeking a dating violence protection order in Franklin County would go the Domestic Relations division of our Common Pleas Court to file the petition. I feel that it is important to point out that my division of the Common Pleas Court, the General Division, already hears protection order cases involving dating violence under RC 2903.214, Ohio's Civil Stalking Protection Order law. In 2005, 442 petitions for a civil stalking protection order were filed in our court. In 2016 that number was 2453. We now have a full-time magistrate who does nothing but evidentiary hearings on civil stalking protection orders and other magistrates who handle these intermittently along with other matters. My magistrate estimates that 70% of the petitions in these cases are from individuals who have just broken up, who were in a dating relationship that went bad, or where one side thinks there is a relationship and the other does not. Additionally, she estimates that the vast majority of protection orders that we ultimately issue are from relationships – sometimes intimate, sometimes neighborhood - that have gone bad. We take these cases very seriously.

In addition, I have a twofold concern with the definition of "dating relationship" that is included in this bill. I understand that, in an effort to address concerns with the vagueness of this term, the prior version of this bill was amended to require the petitioner to set forth the facts upon which the dating relationship existed. Nevertheless, my first concern relates to the requirement that the court determine that a relationship was characterized by an

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"expectation of affection" between the two persons. I have been an active member of the Bar for over 40 years, including serving as both defense counsel and prosecutor, and 22 years as a judge at both the Municipal Court and Common Pleas Court, and I have no idea what is intended by this phrase. It remains unsuitably vague and, practically speaking, could prove difficult for courts to determine.

My second concern is with the effect of defining a dating relationship at all. Under House Bill 1, a person may not seek a dating violence protection order if that person has had only a "casual relationship" with the person against whom the protection order is sought. This is presumably because a "casual relationship" is in some way inherently different from a "dating relationship." My concern, however, is that this unnecessarily limits the court's discretion to offer protection from bad conduct. It could ultimately require a court to turn someone who has a reasonable fear of violence away due to the fact that they were only in a "casual relationship" with the person that they now fear. As I stated a minute ago, my court currently hears petitions under RC 2903.214 for relationships ranging from dating relationships to relationships between neighbors or co-workers. While these orders are not specific to those in a "dating relationship," it is important to recognize that the legal remedy is the same.

Furthermore, a General Division Common Pleas Court judge from a county that has a Domestic Relations division may determine that he does not have jurisdiction in cases where the petitioner is in a "dating relationship" and send the person to refile in the Domestic Relations division. This could cost valuable time and cause frustration for the petitioner who may decide to not follow-up with the other court. In other words, the proposal blurs the lines for General Division judges who currently offer protection to those in dating relationships. The bill may cause them to decide that they no longer have the authority to do so.

Beyond these overarching concerns with House Bill 1, I have several other drafting concerns with the bill. For example, the bill would authorize an "adult household member" to file the petition on behalf of another without any limitation as to the relationship between the petitioner and the victim, the age of the victim, or other factors. When modification or termination of a protection order is sought, the bill requires the court to take into account the views of the "petitioner" as if the person alleging dating violence and the petitioner are always one and the same. The statute requires the court, when considering whether to modify or terminate a protection order, to consider whether the respondent has participated

in "dating violence treatment" or completed a treatment program but does not specify what is meant by treatment under these circumstances.

Thank you again for the opportunity to testify today. I'd be happy to answer any questions that you might have.