TO: House Community and Family Advancement Committee

FROM: Terry Lee Hamilton, Attorney, Lighthouse Legal Ministries, Ashtabula, OH

DATE: February 21, 2017

RE: In Favor of House Bill 36

To Chairman Ginter, Vice Chair Conditt, Ranking Minority Member Boyd, and members of the House Community and Family Advancement Committee, my name is Terry Lee Hamilton, attorney with Lighthouse Legal Ministries, Ashtabula, OH, and I appear to present testimony in favor of House Bill 36, commonly known as the Pastor Protection Act.

Baptists have been strong advocates of both civil and religious liberty for nearly 400 years in America. I represent over 500 Independent Baptist churches throughout the State of Ohio. From the earliest days of American history in Massachusetts and other colonies, Baptists were denied religious liberty and were discriminated against and oppressed by colonial governments and their official state churches. In accordance with their Biblical beliefs in freedom of conscience and separation of church and state, Baptists became the leading advocates in America for both civil and religious liberty.

On a personal level, my entire career has been devoted to defending both civil and religious liberty. Beginning in 1970 in the early years of the Equal Employment Opportunity Commission, I spent 14 years as an investigator, analyst, and civil rights attorney fighting discrimination in employment on the basis of race, color, sex, national origin, and religion. Then, as an attorney in Ohio since 1984, I have been defending religious liberty all over America.

In light of my personal and Baptist background of advocating for both civil and religious liberty, I am somewhat dismayed that **some opponents of House Bill 36 have wrongly and unfairly mischaracterized the bill as "discriminatory legislation."** Consider the following testimony.

•   "If we **codify discrimination** in Ohio through this bill, . . ."
•   "This legislation in terms of its reactionary and aggressive tone and **possible** discriminatory effects, . . ."
•   "This bill would leave open the **possibility** of just such discrimination and oppression."

Contrary to the opponents' list of **"possibles,"** House Bill 36 promotes religious liberty in Ohio.

Some opponents have misconstrued House Bill 36. One opponent testified before this committee that "HB 36 adds that 'religious societies' can refuse service to gay marriage ceremonies." To the contrary, House Bill 36 never mentions "gay marriage ceremonies."

Another opponent told this committee that "Members of the clergy who also hold secular positions could easily use this law as a defense for denying public services such as providing or affirming marriage licenses under the language of 'solemnizing the marriage.'" While House

Bill 36 does authorizes a judge, mayor, and superintendent of the state school for the deaf to "solemnize any marriage allowed by law," House Bill 36 does not authorize any of those government officials, in their official capacity, to deny marriage licenses.

A major theme of the opponents is that House Bill 36 is "unnecessary" and "redundant."
• "This bill that I believe to be **unnecessary**, purporting to protect religious leaders who already have Constitutional standing to freely express and follow their decisions regarding marriage ceremonies."
• "The 'Ohio Pastor Protection Act' is **redundant** as ministers, pastors, and priests are covered under the 1st Amendment religion clause."
• House Bill 36 "is **unnecessary** and a complete waste of taxpayers' time and money."

Opponents of both civil and religious liberty have been using the "unnecessary and redundant" arguments since the founding of our great nation. Two examples suffice.
• When the U.S. Constitution was ratified in 1789, Baptists were leading advocates for adding the Bill of Rights to prohibit government from oppressing civil and religious liberties. There were many **opponents to the Bill of Rights, arguing that it was "unnecessary"**. Would opponents of House Bill 36 argue that the Bill of Rights was unnecessary?
• When Congress passed the **Civil Rights Act of 1964**, discrimination was prohibited on the basis of race, color, sex, national origin, and **religion**. Would opponents of House Bill 36 have joined the opponents of the Civil Rights Act, arguing that the inclusion of religion was "**unnecessary** and a complete waste of taxpayers' time and money?"

In support of their "unnecessary" and "redundant" arguments, opponents also argue that House Bill 36 "seeks to solve a problem that literally does not exist, a fact to which the bill's sponsor has as much admitted by acknowledging there have been **no lawsuits in Ohio**." Please consider:
• The purpose of House Bill 36 is to assure that there will be "no lawsuits in Ohio."
• In Supreme Court arguments in the *Obergefell* case, when Justice Alito asked the U.S. Solicitor General if a Bible college could lose its tax-exempt status if it opposed same-sex marriage, he replied: "It's certainly going to be an issue. I -- I don't deny that. I don't deny that, Justice Alito. It is -- it is going to be an issue."
• In his dissent in *Obergefell*, Justice Thomas noted that "In our society, marriage is not simply a governmental institution, it is a religious institution as well. . . It appears all but inevitable that the two will come into conflict, particularly as individuals and churches are confronted with demands to participate in and endorse civil marriages between same-sex couples."

Notwithstanding the guarantees of religious liberty in the 1st Amendment and in Article I of the Ohio Constitution, local, state, and federal governments have frequently overreached their statutory authority in depriving individuals and churches of their religious liberty. Accordingly, I ask this committee and legislature to vote YES on House Bill 36 in accordance with your constitutional duty to "pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship."

Thank you for your consideration. I am happy to answer any questions that you may have.