Ohio Judicial Conference

The Voice of Ohio Judges

Chair Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, I thank you for this opportunity to testify on behalf of the Ohio Judicial Conference as an interested party on House Bill 1.

I am Judge Debra Boros, formerly of the Lorain County Domestic Relations and Juvenile Court. I recently retired after serving the Court for 18 years. I am currently sitting by assignment in the Court of Common Pleas Juvenile and Domestic Divisions and at the Municipal Court level. As a judge, I have served as Chair of the Supreme Court of Ohio's Domestic Violence Advisory Committee, Co-chaired the Supreme Court's Judicial Advisory Group, and served as a past President of the Ohio Association of Juvenile Court Judges. I also developed and implemented a Family and Juvenile Drug Court, a Success for Youth Program to address juveniles with developmental delays in the court system, and helped to improve treatment for juveniles in residential and detention home facilities in the county. Prior to joining the bench, I worked as an Assistant Prosecutor for Lorain County.

I support protecting victims, as I know the members of this Committee do, too, and I understand the difficulty in crafting policy to create solutions, which is why I want to respectfully suggest a way that H.B. 1 can be further improved to address the sponsors' goals of expanding protection order coverage while addressing the concerns raised by the Ohio Judicial Conference.

This bill was already amended in the House Civil Justice Committee to remove juvenile court jurisdiction. Including juveniles in H.B. 1 was unnecessary because our current juvenile protection order statute, R.C. 2151.34, already protects victims with a more victim-friendly procedure. Like H.B. 1, the juvenile protection order statute was originally created in response to dating violence. Under R.C. 2151.34, victims can petition for a protection order when there is an allegation that a juvenile has committed felonious assault, aggravated assault, aggravated menacing, menacing by stalking, menacing, aggravated trespass, or a sexually oriented offense. Current R.C. 2151.34 requires only the "allegation" of conduct, which provides the broadest possible coverage for anyone seeking a protection order against a juvenile. No one is denied coverage under the juvenile protection order statute because they cannot establish the facts of a dating or other relationship.

Our suggestion for H.B. 1 is to amend the bill to expand coverage under the menacing by stalking and sexually oriented offenses protection order statute (R.C. 2903.214) by simply and cleanly adding more offenses to the framework of that statute, which, like the juvenile statute, focuses on the respondent's conduct and does not require evidence of any type of relationship. As written, H.B. 1 would have the unintended consequence of making it difficult for many victims to get a protection order by requiring proof of a "dating relationship." That proof would be impossible for many casually-dating couples. The

problem is solved by expanding the protection in R.C. 2903.214, as we suggest, to help not only dating violence victims, but other potential petitioners as well.

The current Domestic Violence Protection Order Statute (R.C. 3113.31) provides expansive protection for "family or household members," which explicitly includes victims who are "living as a spouse," defined as "a person who is living or has lived with the respondent in a common law marital relationship, who otherwise is cohabiting with the respondent, or who otherwise has cohabited with the respondent within five years prior to the date of the alleged occurrence of the act in question." By definition, the Domestic Violence Protection Order Statute already covers the petitioners in intimate and substantial dating relationships the sponsor seeks to protect.

The Supreme Court of Ohio has provided even broader coverage under R.C. 3113.31. In *State v. Williams*, 79 Ohio St.3d 459 (1997), a case where the victim and defendant were not sharing a home, the Court interpreted the requisite "cohabitation" as requiring two factors: 1) "sharing of familial or financial responsibilities" and 2) "consortium." *Williams* at 465. Later, *in State v. McGlothan*, 138 Ohio St.3d 146 (2014), the Court held that if the offender and victim lived in the same residence, the two required factors are satisfied.

Thus any gaps in current protection order coverage would not be for significant intimate dating partner relationships, but for victims in casually dating relationships. Casually dating victims would not only have difficulty proving they were "living as a spouse" under the current Domestic Violence Protection Order statute and expansive case law, but it would be nearly impossible for them to prove the "existence of a dating relationship" based on the current two factors in proposed R.C. 3113.311, while filing as pro se litigants. This is why we respectfully suggest amending the bill to expand protection under R.C. 2903.214 to ensure victims in casual dating relationships are protected, along with neighbors, former co-workers, and anyone else needing protection.

Since I have mentioned expanding protection under R.C. 2903.214, I should be clear that moving the definition of a "dating relationship" from Title 31 to Title 29 does not solve the problem with the definition's current problematic factors. The language is the issue, not where it is placed. If the definition of a "dating relationship" must stay, then our hope is that it can be improved before becoming law. We also believe the best place for a dating relationship determination, if needed, is in the Domestic Relations Court. However, it is nearly certain that some victims will be denied a protection order under this current definition because they will not be able to prove a dating relationship existed based on only the two listed factors. That is the problem we seek to avoid by focusing on the respondent's conduct, as in current R.C. 2903.214.

In addition to the expansion of R.C. 2903.214, the Judicial Conference has proposed the inclusion of an uncodified policy statement in H.B. 1 to express the State's condemnation of dating violence and to modify the title of R.C. 2903.214 to include the words "dating violence." Along with the name, "The Dating Violence Bill," the uncodified statement would reflect the sponsor's concerns, without creating a complicated new procedure that would make getting a protection order more difficult for many victims. The Judicial Conference is also in favor of keeping the bill's addition of dating violence victims to the domestic violence shelter statute (R.C. 3113.33). This is consistent with our overriding concern for the victims, and making sure they get the help they need.

The Judicial Conference respects the sponsors' concerns and wants to be certain all victims are able to get the protection order they need. We believe our amendments would create a solution for both our concerns with the bill as currently written and the sponsors desire to expand protection order coverage. We respectfully suggest amending H.B. 1 to expand protection order coverage without the possibility of unintended consequences created by the "dating relationship" definition. I thank you for your time and consideration of this issue.