



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Opposition of Sub. HB 1 Dating Violence Protection Orders Sponsors Representatives Sykes and Manning

Chairman Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to testify on behalf of the Ohio Public Defender in opposition of sub. HB 1.

The Ohio Public Defender would like to thank the bill sponsors and this committee for their diligent work on this bill. OPD appreciates the changes in the substitute. However, after consulting with some of our senior trial attorneys, a few concerns about the bill remain.

Despite improvements to the definition of "dating relationship" in sub. HB1, OPD finds the definition overly broad and subjective. The substitute bill defines a dating relationship as "a relationship between individuals who have, or have had, a relationship of a romantic or intimate nature..." The perception of two individuals' interactions is extremely subjective and likely to vary from person to person. In a world of online dating and digital media, what constitutes a romantic and intimate relationship is getting coming more challenging to define. It is common for relationships, especially among younger people, to be almost exclusively digital. This could lead to divergent feelings among the parties as to the romantic and intimate status of their relationship. To be perfectly frank, this bill requires judicial officers to sort out the complicated emotional and sexual interactions of two people to determine if those exchanges were romantic or intimate.

Second, the law currently limits who can file for a protection order. It is not uncommon for a jaded individual to request a protection order without a factual basis. Sub. HB1 further opens the door to abuses of the system by any scorned ex-boyfriend or girlfriend. To obtain a protection order under sub. HB1, the petitioner need only show by preponderance of the evidence that the respondent either attempted to cause or recklessly caused bodily injury or placed the petitioner in fear of injury by threat of force. Protection order hearings can turn into cases of he said/she said where the petitioner has the benefit of first hearing, in many cases, being ex parte. Additionally, the petitioner usually has assistance from a victim's advocate and, occasionally, a free lawyer. On the other hand, the respondent does not have a right to counsel and is often unrepresented.

The Ohio Supreme Court in Scussheim v. Schussheim, 137 Ohio St.3d 133, found that despite the fact there was no statutory authority to expunge protection orders, a court may do so in "unusual and exceptional circumstance." Even when these limited circumstances are met, some courts still refuse to order the records expunged. A record that an individual was the subject of a protection order can severely hinder that individual's ability to obtain employment and housing – even long after the protection order has expired and the petitioner has moved on. Because sub. HB1 makes protection orders available to more petitioners, these negative consequences will be felt by more respondents throughout Ohio. Therefore, sub. HB1 should include language that grants respondents expungements in appropriate circumstances.

Again, OPD would like to thank the bill sponsor for all their work on this issue and thank the committee for the opportunity to express some of our lingering concerns.

