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Sponsor Testimony
House Bill 518
House Civil Justice Committee
December 3, 2020

Chairman Hambley, Vice Chair Patton, Ranking Member Brown, and members of the House Civil Justice Committee: thank you for the opportunity to testify today regarding HB 518 with my joint sponsor, Representative Boggs.

Ohioans expect that our laws will hold people fully accountable if they victimize a child or willfully endanger a child. Under current Ohio law, a child rapist can be criminally penalized, but there is virtually no criminal action that can be taken against other adults who are simply complicit in allowing the most horrific crime against a child to occur. For the victims, and their families, there is little distinguishment between the adult who committed the crime, and the adults that looked other way while it happened.

But in Ohio, our laws actuality shield those who look away from being held fully accountable. The law, as applied by the Supreme Court in the Jessica Simpkins decision, protected the rapist, the employers who gave him unfettered access to children knowing his history of sexual abuse, and the organization whose leaders made the a decision that is was better to allow the sexual abuse of children to continue, rather than exposing an employee as a rapist.

Unfortunately, this is not an uncommon story. But what is uncommon is having a state law circumvent the full measure of justice for a child victim of rape and her family. While Jessica's rapist was criminally convicted, the only recourse Jessica and her family had for seeking justice against the other adults, who essentially set the stage for her rape to occur, was to bring a civil suit. The jury for that civil lawsuit was in the best position to determine the culpability of the adults who could have prevented Jessica's rape. They determined, after hearing evidence that the employer's leaders openly discussed the importance of prioritizing "protecting their brother" over the safety of children congregants, that Jessica's verdict should include several million dollars for her emotional and psychological distress that she must live with for the rest of her life.

There is a special place in hell for a person who would rape a child, and there is a seat next to that person for any adult who chooses to protect a rapist instead of choosing to protect children. However, the unintended consequences of Ohio's cap on non-economic damages leaves no consideration for victims like Jessica, who are the victims of vicious criminal acts including rape and assault. Our Supreme Court couldn't even consider the culpability of the adults who protected Jessica's rapist because Ohio's law had already made that determination by capping non-economic damages and preventing Jessica's verdict from being fully administered.

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In 2005, the Ohio General Assembly enacted Senate Bill 80, which included tort reform¹ to promote “a fair, predictable system of civil justice.” The non-economic damages cap was originally intended to protect doctors, insurance companies and pharmaceutical manufacturers from exceptionally large verdicts in civil cases involving claims like medical malpractice or defective drugs and devices. We now know that reform failed to account for the devastating consequences these measures would have on rape and assault victims, especially those bringing other types of civil lawsuits. In fact, even the sponsor of the original tort reform legislation, now Congressman Steve Stivers, said “I would welcome the state senators and state representatives taking another look at Senate Bill 80 to say, 'Gee, how can we make it better?'”

We don't believe this policy, decided by a long-ago General Assembly, ever contemplated the injustice it would be serving to victims like Jessica. We don't believe this body wants Ohio to be a state that would show leniency to the kind of people who would allow these horrific crimes to be perpetrated against children. H.B. 518 is a forthright plea for justice, for children like Jessica and their families, who have suffered and continue to work through the most traumatic situation imaginable. It's for those who bravely seek justice against the people who have caused insurmountable pain, only to find out that many years ago Ohio legislators already configured a dollar amount for what they have endured.

We will never know how many other child victims Jessica Simpkins saved from being raped or sexually abused. She potentially saved many, but our justice system severely failed her. We ask this body to support H.B. 518 to fix these failures and provide the justice victims, like Jessica, deserve.

Chairman Hambley, Vice Chair Patton, Ranking Member Brown, and members of the House Civil Justice Committee, thank you for your time and the opportunity to testify. We are happy to answer any additional questions the Committee might have.

¹ R.C. 2315.18(B)(2)