

OPPONENT TESTIMONY-HB508

TESTIMONY of Brittany Whitney

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CIVIL JUSTICE COMMITTEE

OHIO HOUSE OF REPRESENTATIVES, 134th GENERAL ASSEMBLY

May 17, 2022

Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski and members of the House Civil Justice Committee, thank you for the opportunity to provide opponent testimony on HB508.

My name is Brittany Whitney, and I am a prosecutor in Knox County. Specifically, I am First Assistant Director of Law for the Mount Vernon Law Director's Office and the Director of the Mount Vernon Domestic Violence Special Prosecution Unit, which I formed in 2019. I have prosecuted hundreds of Domestic Violence, Menacing by Stalking, and Violation of Protection Order cases.

Of those hundreds of cases, several have left a profound imprint on my heart and mind. One such case underscores why I sit before you today: A domestic violence charge against a man for punching his six-year old daughter in the mouth, loosening her front teeth after she disclosed sexual abuse to a school counselor. As the case wound its way to a jury trial, defense counsel repeatedly told me, and the presiding judge, that the charged suspect had not caused injury to his daughter or committed the abuse reported to the counselor. Parental alienation was the constant refrain. All of these allegations, according to the attorney, were simply part of a nasty custody dispute. Our victim advocate and I met alone with the six-year old child multiple times; we spent time with the mother; we traveled to the little girl's school and spoke with her teachers. And, after all that, we *knew* she was telling the truth. The case went to trial, and eight out of eight jurors found the man guilty of domestic violence beyond a reasonable doubt. On the year anniversary of the trial date, I received a card that I still keep on the bookcase in my office, it says, "brittany I love you for helping me stay away from my dad you mean so much to me i dont know what I would have done without you" (Exhibit 1).

My concern today is victims like that six-year old little girl will suffer unintended consequences from HB508. The vast majority of Ohio custody cases are decided by parental agreement and without court intervention. The remaining 10% of custody cases, those impacted by HB508,

often reflect complex family dynamics with a high propensity for domestic violence.¹ These are precisely the cases that need a discretionary child-centric custody model, not a parent-focused one.

In the domestic violence world, we often help victims contextualize their experiences by pointing them to the Duluth Model Power and Control Wheel, which I have included as a supplement to my written testimony (Exhibit 2). Not surprisingly, “Using Children” is an independent category of coercive power and control. I have worked with many victims who stayed with an abuser because they feared what custody allocation might look like. Further, I have observed abusers, particularly those with a predilection to stalk, pursue custody arrangements for their children primarily for continued access to their victim, rather than to build a relationship with their child.

In my experience, false allegations of domestic violence for custody purposes is exceedingly rare. Even in situations where I decline criminal charges and believe the complainant to be partially motivated by custody concerns, inappropriate parental behavior, properly considered by domestic relations and juvenile courts, is almost always present.

What is *far* more common is for me to sit with a domestic violence victim who refuses a desperately needed protection order because she or he does not want to interfere with the abuser’s parental relationship with their children, even when that relationship is unhealthy.

When prosecuting domestic violence cases, it is not uncommon to learn of custody arrangements that, from my perspective, do not seem to take account of the abuse occurring. I have had a number of heartbreaking conversations with both mothers and fathers in anguish as they consider whether to send their child to an unsafe visitation or risk the consequences of withholding parenting time. These experiences suggest our current custody system would benefit from additional safeguards to protect children in vulnerable situations. Instead, HB508 will make the existing safeguards even more difficult to access.

Ideally, every child will have two loving and supportive parents engaged in their upbringing. However, of the 10% of Ohio custody cases affected by HB508, a disproportionate number come from circumstances that are far from ideal. Our laws should reflect that reality, not pretend otherwise.

Mr. Chairman and members of the committee, thank you again for allowing me to provide testimony. I am happy to answer any questions you may have for me.

¹ Mary Schuermann Kuhlman, “Ohio Bill Would Make Shared Parenting the Default for Child-Custody Cases,” Public News Service, April 19, 2022, <https://www.publicnewsservice.org/2022-04-19/family-father-issues/ohio-bill-would-make-shared-parenting-the-default-for-child-custody-cases/a78761-1>.