



**Opponent Testimony submitted to the
Ohio House Civil Justice Committee
House Bill 508
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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 regarding House Bill 508. As Ohio's federally-designated statewide sexual violence coalition, the Ohio Alliance to End Sexual Violence (OAESV) advocates for comprehensive responses and rape crisis services for survivors and empowers communities to prevent sexual violence.

As this committee is aware, this bill would make numerous changes to Ohio custody laws by prioritizing shared decision-making and parenting time as the central considerations in determining the child's best interest. We acknowledge that there are situations where shared parenting truly is the best case for a specific child and family, and many children may benefit from having consistent access to more than one adult caregiver. Indeed, sharing custody of a child is not inherently harmful and can work well in certain situations; particularly those in which families self-opt into shared parenting agreements, with little conflict, no history of violence, and where both parents collaboratively commit and demonstrate an ability to work together.¹

A presumption of shared parenting in all cases has the opportunity to cause more harm than good for children and families in our state. This presumption supplants the child from the central focus in custody cases, instead placing the parents' interests ahead of the best interests of the child – the most vulnerable party. In this way, the presumption of joint custody indiscriminately elevates the rights of parents – even abusive parents – over the safety and well-being of the children. It will permit courts to reach conclusions about the well-being of the child until proven otherwise, which is a dangerous assumption in cases where any violence or harm is occurring to the child or in the child's environment. It also enforces a structure wherein people with resources to navigate the legal system fair far better than those without.

Abusers can use a survivor's lack of knowledge or resources to exert power and reestablish control long after a relationship has ended. In fact, custody litigation is one of the most common legal processes through which abusers prolong contact with survivors.² Despite claims that the presumption for shared parenting can be rebutted if there is evidence of domestic violence and/or child abuse, reports from states with shared parenting presumptions illustrate a different picture in implementation. For example, an analysis of Wisconsin's shared parenting presumption law revealed that only 8% of custody cases had a domestic violence finding, in a sample where all cases had previous felony and misdemeanor domestic violence convictions prior to the initiation of a custody

¹ Jennifer McIntosh & Richard Chisholm, Cautionary Notes on the Shared Care of Children in Conflicted Parental Separation, 14 J. FAM. STUD. 37, 38 (2008). See, also, Christy M. Buchanan & Parissa Jahromi, A Psychological Perspective on Shared Custody Arrangements, 43 WAKE FOREST L. REV. 419, 424 (2008).

² Mary Przekop, *One More Battleground: Domestic Violence, Child Custody, and the Batterers' Relentless Pursuit of their Victims Through the Courts*, 9 Seattle J. Soc. Just. 1053 (2011).

case. Instituting monumental changes to our family courts should take time and be informed by best practices and evidence-based research; not by unverified claims that domestic violence and child abuse will be reduced as a result of this legislation.

Several myths and misconceptions exist in our society regarding sexual and domestic violence, leading to inaccurate figures and narratives about survivors and the rates and impact of false reporting. Research demonstrates that the prevalence of false reporting of rape is about the same as it is for other felonies – between 2% and 8%. A large, multi-year, study of sexual assault cases found only a 5.9% rate of false reports.³ Additionally, research shows that false allegations are no more common in divorce or custody disputes than any other time⁴ - the actual problem that is much more prevalent is the low reporting rate for survivors of abuse.⁵ It is also essential that we acknowledge that unfounded or unsubstantiated claims are often confused with or mislabeled as a false allegation. Unfounded cases include those that may not meet the legal criteria for a specific crime, or there may be unsubstantiated claims that cannot provide sufficient evidence to determine whether or not a crime has occurred. Neither “unfounded” nor “unsubstantiated” mean that a crime did not occur.

This bill creates an avenue for the court to impose monetary sanctions on parents who have been found to have intentionally made a false allegation of child abuse or neglect against the other parent – given what we know, this provision has the potential to negatively impact protective parents who may not have adequate evidence to show that abuse has occurred. We already know that protective parents face significant barriers to keeping their children safe over the course of a custody dispute and we should seek to minimize these barriers as much as possible.

Ultimately, House Bill 508’s provisions will obstruct survivor safety – whether it be a survivor of rape and/or intimate partner violence forced into co-parenting with their abuser, or a child survivor of abuse forced to continue contact with the abusive parent. For these reasons, I urge you to reject this bill. Thank you for the opportunity to testify. In addition to my testimony, I am available for any questions from committee members via email at rbeltre@oaesv.org.

³ Lisak, D., Gardinier, L., Nicksa, S. C., & Cote, A. M. (2010). False allegations of sexual assault: an analysis of ten years of reported cases. *Violence against women*, 16(12), 1318–1334. <https://doi.org/10.1177/1077801210387747>

⁴ Brown, Federico, Hewitt, & Sheehan, “Revealing the Existence of Child Abuse in the Context of Marital Breakdown and Custody and Access Disputes,” 24(6) *Child Abuse & Neglect* 849-85 (2000).

⁵ Shaffer, M., and N. Bala. (2003). Wife Abuse, Child Custody and Access in Canada. In R. Geffner, R. S. Ingelman, & J. Zellner (Eds.), *The effects of intimate partner violence on children* (pp. 253-276). New York: Haworth Maltreatment & Trauma Press.