



Ohio Victim Witness Association

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Dear Civil Justice Committee Chair Hillyer, Vice Chair Grendell, Ranking Member Galonski, and Reps. Brown, Crossman, Cutrona, Kick, Lampton, Leland, Merrin, Seitz, Skindell, Stewart, Swearingen, and White:

On average, when both parents are involved in the lives of their children, the children do better in several key measures. They statistically get better grades; are less likely to smoke, get drunk, and use drugs; and are less susceptible to anxiety, depression, and stress-related illnesses.ⁱ However, there is a major caveat to that—one that House Bill 508 does not adequately account for—and that is that is in cases of domestic violence, child abuse, and neglect. According to the Centers for Disease Control and Prevention, when children receive or witness abuse, they are at higher risk for poor long-term health, impaired mental health, and negative social consequences.ⁱⁱ

According to Section 3109.04 of the Ohio Revised Code, in the case of parents who do not live in the same household, if neither parent files for Shared Parenting, Sole Custody is the default custody arrangement.ⁱⁱⁱ In recent years, Shared Parenting has become the most common type of custodial arrangement in Ohio, with many courts appearing to give unstated preference to this custody arrangement.^{iv} That's great, in most cases. However, not all cases should start with the presumed outcome of Shared Parenting.

What is dangerous about HB508 as it is proposed is that it would make it harder for a parent to prove the existence of domestic violence. HB508 would raise the standard of evidence for domestic violence in child custody cases from a "preponderance of evidence" to "clear and convincing" evidence. Advocates who work in this field know that proving the existence of family violence or child neglect isn't always easy. As a culture, we tend to think of domestic violence as physical abuse—but financial, emotional, and verbal abuse are more common. Isolation, belittling remarks, and threats don't always leave a mark.

In situations where family violence is occurring, victims are often isolated from others, meaning that witnesses outside of the household are sparse. Some of the most horrific instances of family violence also have the least amount of evidence outside of the family. Judicial rulings in domestic violence, child abuse and neglect cases must take into account the secret and hidden nature of these crimes, as well as use criteria for ruling on these cases that match the covert reality of the crime, not an impossible standard that will serve to further isolate victims and leave the vulnerable exposed to further abuse and threats. Passing this bill as it is written will directly impact victims of abuse by adding additional barriers to safety through the legal system. The additional requirement to prove domestic violence would be almost insurmountable for many victims, according to the Ohio Judicial Conference.

When making decisions about parental custody, our primary focus should be on the safety and well-being of children. Children have the right to be protected, and it would be unethical to subject victimized children to unnecessary testimony in order to establish “clear and convincing” evidence of abuse. It is essential that judges retain the ability to review the available evidence and exercise discretion on a case-by-case basis to keep kids safe—and that means maintaining the “preponderance of evidence” language regarding family violence.

Sincerely,



Elyse McConnell, MBA
Executive Director

ⁱ https://law.ubalt.edu/academics/publications/lawreview/volumes/6_Warshak.41.1.pdf

ⁱⁱ <https://www.cdc.gov/violenceprevention/aces/index.html>

ⁱⁱⁱ <https://codes.ohio.gov/ohio-revised-code/section-3109.04>

^{iv} <https://www.jdsupra.com/legalnews/ohio-house-bill-508-a-potentially-6831528/>