



Senate Judiciary Committee
Proponent Testimony for Senate Bill 237
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Chair Manning, Vice Chair Reynolds, Ranking Member Hicks Hudson, and members of the Senate Judiciary Committee, thank you for the opportunity to provide testimony in support of Senate Bill 237. As Ohio's statewide 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. Our work, and the work of our 36-member rape crisis programs, includes helping survivors report sexual violence to schools, employers, and law enforcement agencies. Sexual violence and other forms of interpersonal violence, including domestic violence, are prevalent yet vastly underreported. When survivors do come forward, they commonly face retaliation, whether at school, in the workplace, or in the larger community.

Only about one in five sexual assaults and about half of domestic violence incidents are reported to law enforcement.¹ There are many reasons why survivors do not feel safe reporting; fear of retaliation is a commonly cited concern for victims of sexual violence in both educational and workplace settings.² Similarly, the top reason sexual assault survivors do not report to law enforcement is fear of reprisal.³ These concerns about retaliation are well-founded. Abusers frequently weaponize institutional and legal processes against their victims. Despite the extreme prevalence of and harm caused by sexual and domestic violence, *choosing not to report* remains the safest choice for many victims. To further complicate matters, abusers are increasingly filing defamation suits and other Strategic Litigation Against Public Participation ("SLAPPs") to retaliate against victims for coming forward or threatening to file such suits in order to prevent them from speaking out.⁴

I would like to share with you OAESV's particular interest in this legislation, which, if passed, will create a deterrent for retaliation that is desperately needed in Ohio. OAESV established its legal department in

¹ Bureau of Justice Statistics. (2019). *Criminal victimization, 2019*. U.S. Department of Justice. <https://bjs.ojp.gov/content/pub/pdf/cv19.pdf>

² Tucker, J. & Mondino, J. (2020). *Coming forward: Key trends and data from the TIME'S UP Legal Defense Fund, Nat'l Women's Law Center*. <https://bit.ly/4abJog7>

³ Bureau of Justice Statistics. (2016). *Female victims of sexual violence, 1994–2010*. U.S. Department of Justice. <https://bjs.ojp.gov/content/pub/pdf/fvsv9410.pdf>

⁴ Kingkade, T. (2017). *As more college students say "Me Too", accused men are suing for defamation*. BuzzFeed News. <https://bit.ly/4acCs2p>

2015, with the goal to provide representation to survivors in landlord/tenant disputes, protection order matters, Title IX issues, crime victim visa applications, and more. These legal areas matched the needs of survivors who called our resource line, and also aligned with the areas of need identified by the federal government and supported by federal grants. Our legal clinic is typically able to meet the needs of the vast majority of survivors who reach out to us requesting these legal service offering types and some additional areas of practice. Since 2017, our clinic has worked with clients who filed Title IX claims against alleged offenders, only to be threatened with a retaliatory suit—we have even worked with clients who were sued for defamation after a result in favor of the survivor. Although we are able to support our legal clinic clients in many ways, defense attorneys have learned that our funding expressly forbids us from providing civil defense, so they know that the survivor will be left without legal assistance. We are then left with little time and options for survivors to defend against these types of suits. Following the threat of a SLAPP, five of our clients have either dismissed or settled their Title IX complaints in a way that allowed the respondents (alleged abusers) to continue to stay at their college or university, and at least three of those survivors withdrew or transferred to another school as a result.

By inflicting or threatening litigation, and by continuing the abuse through the litigation process itself, abusers effectively silence and bar victims from public participation, even when the abuser has filed or would file a legally insufficient claim. Abusers do not typically expect to win their SLAPPs. These suits are meritless, but the financial and practical costs of defending against them are used to suppress the survivor's ability to publicly speak about the violence or to seek help from their school, employer, or the civil and criminal legal systems. Notably, reporting to police is covered by judicial privilege, and reporting to a campus is covered by quasi-judicial privilege. Procedurally, these suits should be dismissed early in the process, but this has not uniformly been the case.

Even if a survivor can eventually recover litigation costs at the end of a SLAPP, most do not have the resources to litigate cases to their conclusion, particularly against abusers with significant resources.⁵ A typical meritless defamation lawsuit costs around \$21,000–\$55,000 to defeat, but the cost of a legal defense can easily soar into the six figures, and legal bills can run in the millions of dollars. Survivors are particularly less able to shoulder the costs of defending against SLAPPs because they must also contend with the overwhelming economic costs of the underlying abuse. The lifetime cost of rape—including medical care, lost work productivity, and other economic consequences—is estimated at \$122,461 per survivor, resulting in a lifetime economic burden of \$3.1 trillion for all rape survivors.⁶

Under existing Ohio law, survivors can be subjected to months or even years of this litigation. Though they will most certainly win, they still have to pay for and endure a defense. This bill would be beneficial to survivors because it creates an expedited motion to dismiss these claims. Importantly, this bill also

⁵ Keating, D. (2022). *Estimating the cost of fighting a SLAPP in a state with no Anti-SLAPP law*. Institute for Free Speech. <https://www.ifs.org/blog/estimating-the-cost-of-fighting-a-slapp-in-a-state-with-no-anti-slapp-law/>

⁶ Peterson, C., DeGue, S., Florence, C., & Lokey, C. N. (2017). Lifetime Economic Burden of Rape Among U.S. Adults. *American journal of preventive medicine*, 52(6), 691–701. <https://doi.org/10.1016/j.amepre.2016.11.014>

creates pathway in which the survivor may recover court costs, attorney fees, and other reasonable litigation expenses. This bill not only brings a mechanism that will expedite survivor dismissal from SLAPP suits, it will send a message to law firms increasing this practice model for their own profit—an egregious abuse of the court system and survivors.

Ultimately, SLAPPs censor, chill, intimidate and punish survivors who speak out about their abuse in any form, whether that be reporting to police, reporting to campus officials, or seeking medical care. OAESV does not want to see an Ohio where survivors of sex crimes are silenced and offenders are free to continue abuse. SB 237 is critical to protecting survivors' ability to report and shield them from further harm, and we fully and enthusiastically support its passage. Thank you for the opportunity to provide testimony and to Senators Manning and Gavarone for their sponsorship of this bill. I am available to answer any questions at egemar@oaesv.org.