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Testimony of Lisa DeGeeter, Systems Advocacy Director of the Ohio Domestic Violence Network (ODVN), regarding HB 508 to the House Civil Justice Committee.

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Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski, and members of the House Civil Justice Committee,

Good afternoon and thank you for the opportunity to provide Opponent testimony on HB 508.

My name is Lisa DeGeeter and I am the Systems Advocacy Director at the Ohio Domestic Violence Network. I am here today representing 74 local domestic violence organizations across the state. In 2021, ODVN programs sheltered more than 9,118 domestic violence survivors and their children and provided nearly 81,000 survivors and their children with supportive services, including legal advocacy on civil issues such as divorce, custody, and safe parenting time. Many of these survivors and their children were residing in a domestic violence shelter in an effort to keep themselves and their children safe during court proceedings.

ODVN appreciates the conversations we have had with the Sponsors on HB 508. However, the language in this bill, even with amendments, does not serve the best interests of children and would especially hurt domestic violence survivors and their children. ODVN supports joint custody only when the parties enter into such an arrangement voluntarily and with the necessary commitment and resources to accomplish the goal of serving the **best interests** of the child. We oppose a rebuttable presumption of joint custody, a concept based on an ideal that is inconsistent with the conflict that pervades the relationships of many parents who seek a judicial determination of custody.¹ Cooperation and communication are essential to the success of a joint custody arrangement; such an arrangement is incompatible with domestic abuse survivors who are in conflict with the other parent.

For decades, ODVN, our programs and community, and legislators, including many on this Committee, have worked tirelessly to build safer options for survivors and their children. Our efforts have been focused on prioritizing safety in our laws and there is a strong public policy interest in supporting survivors in their efforts to break free from abuse and rebuild their lives. A law such as HB 508 would effectively force domestic violence survivors to have ongoing contact and interaction with their abusers, which contradicts public policy interests in ensuring victim safety and instead allows an abusive parent continuing opportunities for destructive and potentially lethal contact.² In Ohio, 25% of all children will be exposed to domestic violence before they turn 18 years old.³ Legislation upholding parental rights over best interests of the child could prolong children's exposure to an abusive parent,⁴ as batterers generally continue their abuse and violence and, if they lack access to the primary victim, children often become the main conduit for violence.⁵

¹ The Women's Law Project has a long history of advocating in Philadelphia's Family Court. For more information, please visit <https://www.womenslawproject.org/domestic-sexual-violence/philadelphia-family-court/>

² Ibid.

³ The HealthPath Foundation of Ohio (2017). Impact of Domestic Violence Exposure: Recommendations to Better Serve Ohio's Children. Cincinnati, OH. Available from <http://www.healthpathohio.org/dvimpact>.

⁴ K.M. Kitzmann et al., Child Witnesses to Domestic Violence: A Meta-analytic Review, 71 J. OF CONSULTING & CLINICAL PSYCHOL. 339 (2003); D.A. Wolfe, The Effects of Children's Exposure to Domestic Violence: A Meta-analysis and Critique, CLINICAL CHILD & FAM. PSYCHOL. REV. 171 (2003).

⁵ Janet Johnston et al., Ongoing Postdivorce Conflict: Effects on Joint Custody and Frequent Access 59 AM. J. OF ORTHOPSYCHIATRY 576

Every year, over 100 people die in our state due to domestic violence.⁶ Many of these reported cases involved custody disputes or occurred during a scheduled visitation/exchange. Most cases involved history of past incidents of domestic violence and/or child physical or sexual abuse. In ODVN's most recent fatality report data from this past year, 15 young people were killed, the highest ever reported.⁷ In the previous five reporting years, 23 children were killed by domestic violence abusers. In at least 27% of these fatality cases, the victim of intimate partner violence had ended the relationship or was in the process of ending the relationship.⁸ These cases demonstrate that, even after survivors leave their abuser, they, and their children, are often still in danger due to exposure from custody/visitation arrangements.^{9,10}

A presumption of joint custody also inappropriately gives the batterer an advantage in the custody dispute and unfairly burdens the victim of domestic violence with rebutting the presumption. Considering the incidence of domestic violence in custody disputes, this burden weighs heavily on domestic violence survivors, many who may find themselves filing the wrong papers, missing court deadlines, unable to get key evidence admitted at a court hearing, or misunderstanding the law if they cannot afford to retain an attorney.¹¹

Furthermore, many parents may be afraid to present evidence that the other parent is unfit, fearing that their reports of domestic violence or child abuse will be ignored or used against them by the other parent who perceive allegations of domestic violence in a custody battle as "false and asserted solely as a strategic maneuver to gain custody."¹² Family courts are widely skeptical of mothers' and children's reports of family abuse by a father. A recent national study of 10 years of published court opinions found that courts only believed women's claims of abuse 36% of the time; this dropped to 16-21% for child abuse claims.¹³ In February, ODVN released a statewide survey analyzing marginalized survivors' experiences with getting help from the systems. Data results included Black and African American women being over-represented among the participants who felt their concerns were not taken seriously by the courts and male survivors were three times less likely to be believed by the systems when they raised concerns of abuse.¹⁴ Again, HB 508's equal parenting time presumption can only be challenged through extensive and complicated litigation which further endangers survivors representing themselves in court.¹⁵

Ohio's children deserve safety focused legislation that preserves the court's discretion on a case-by-case basis as to the best interest of the children. Replacing the current best interests of the child standard with a presumption of joint custody in all cases is a dangerous proposal, particularly for domestic violence survivors and their children. On behalf of the Ohio Domestic Violence Network, our member programs, and the countless domestic violence survivors and their children, we ask that you oppose HB 508. Thank you for your time.

⁶ Since the Covid epidemic began through 2021, Ohio domestic violence fatalities have increased substantially. See a complete compilation of ODVN's Annual Fatality Reports here <https://www.odvn.org/media/>

⁷ Ohio Domestic Violence Network, Ohio Domestic Violence Fatalities July 1, 2020 – June 30, 2021. Available from https://www.odvn.org/wpcontent/uploads/2021/10/ODVN_FatalityReport_2020-2021.pdf

⁸ Ibid.

⁹ WomensLaw.org, Danger Assessment. Available from <https://www.womenslaw.org/about-abuse/am-i-being-abused/danger-assessment>.

¹⁰ Daniel G. Saunders. State Laws Related to Family Judges' and Custody Evaluators' Recommendations in Cases of Intimate Partner Violence: Final Summary Overview. Available from <https://www.ojp.gov/ncjrs/virtual-library/abstracts/state-laws-related-family-judges-and-custody-evaluators>.

¹¹ Self Help Legal Manual for Survivors of Domestic Violence, Sexual Violence, and Stalking, (2019). https://www.odvn.org/wp-content/uploads/2020/07/Self_Help_Legal_Manual_General_7_21_2020_web.pdf

¹² The Women's Law Project has a long history of advocating in Philadelphia's Family Court. For more information, please visit <https://www.womenslawproject.org/domestic-sexual-violence/philadelphia-family-court/>

¹³ Meier, supra n. 15 at 19.

¹⁴ Seeking Safety, Equity, and Justice. 2021 Ohio Statewide Survey Results: Domestic Violence Survivors; Experiences with Law Enforcement, Courts, Child Welfare, and Social Service Systems. https://www.odvn.org/wp-content/uploads/2022/02/Seeking_Safety_Equity_and_Justice_Appendices.pdf.

¹⁵ Maritza Karmely, Presumption Law in Action: Why states Should Not Be Seduced into Adopting a Joint Custody Presumption, 30 ND J. L. ETHICS & PUB POL'Y 321, 341-42 (2016).