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## Testimony to the House Civil Justice Committee regarding HB 518

Konrad Kircher, Esq.

December 3, 2020

Chairman Hambley, Vice-Chair Patton, Ranking Member Brown and members of the House Civil Justice Committee,

Thank you for the opportunity to provide testimony in support of House Bill 518. My name is Konrad Kircher. I am a lawyer in private practice for nearly 30 years, having represented over 300 victims of child sex abuse in civil claims against their perpetrators and persons or entities who failed to protect them from the abuse. I am a member of the Legislative Committee of the Ohio Association for Justice (OAJ), an organization which protects Ohio citizens' rights to a trial by a jury of their peers under the Seventh Amendment of the United States Constitution. I am also President-Elect of the National Crime Victim Bar Association (NCVBA), and chair of its Child Sex Abuse Section. NCVBA is an organization which seeks to protect and advocate for the rights of crime victims in criminal and civil courts.

Sex offenses have a unique effect on victims, especially on children but also on adults. It is typically not physical injuries which linger or cause continuing distress throughout the victims' lifetimes. Indeed, oftentimes there are no physical injuries. Rather, the injuries are psychological in nature, extremely devastating, and long-lasting. Medical providers can readily treat most physical injuries. But the mind is different. Mental health providers struggle with various modalities and medications to address the psychological injuries to a victim of sexual exploitation, often by someone in a position of authority over the victim. The effects can last decades, and are often characterized by Post-Traumatic Stress Disorder and Depression. Many of my clients have endured years of substance abuse, are unable to maintain healthy relationships with partners and family members, and cannot hold jobs due to distrust of authority figures. Many of my clients have dropped out of school and some end up homeless at some point in their lives.

Current law limits a jury's noneconomic award to a victim to \$250,000, or three times economic damages not to exceed \$350,000. In other words, if a jury determines that a victim's psychological

anguish, likely to endure for decades, is worthy of an award of \$3,000,000, for example, then the judge must reduce that amount to about 10% of the jury's verdict. What a sexual assault victim needs so badly from a civil lawsuit is validation, that feeling of being believed, understood and empowered. Instead, what the victim hears from the judge's mandatory reduction of the verdict, is minimalization, trivialization, disrespect and rejection. The victim is traumatized again.

On the other hand, what the perpetrators of heinous crimes and the persons or entities which failed to protect the victim from those crimes deserve from a civil lawsuit is accountability. Instead, what they receive from the judge's mandatory reduction of the verdict is a free pass. This mockery of accountability undermines the deterrent effect of sex offenses, as the worst-case outcome of a trial is perhaps one or two years of salary for the authority figures who committed the offenses and a painless check from the entities (or their insurers) which failed to protect the victim.

It is an abhorrent concept to sex assault victims and their advocates that an arbitrary cap can be placed on the value of the devastating effects of sex offenses. Juries are in a far better position to evaluate the effects and to place a fair and reasonable value on compensation for noneconomic damages.

Accordingly, on behalf of so many worthy and courageous victims whom I have had the honor to represent, and for those who are unfortunately yet to come, I humbly request your support of HB 518.

/s/ Konrad Kircher