**TESTIMONY IN SUPPORT OF HB3**
**To address making changes to civil and criminal law regarding domestic violence, address State Highway Patrol arrest authority, name the act Aisha's Law, and to make an appropriation**
**Sponsors: Representative Boyd and Representative Carruthers**

Chairman LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the Criminal Justice Committee, thank you for the opportunity to testify in support of House Bill 3, legislation that would amend sections 109.744, 109.803, 2903.01, 2919.25, 2919.27, 2929.12, 2929.13, 2929.14, 2929.22, 2935.03, 2935.032, 2937.23 and 3113.31; to amend, for the purpose of adopting a new section number as indicated in parenthesis, section 2935.033 (2935.034); and to enact new section 2935.033 and section 2919.261 of the Revised Code to make changes to civil and criminal law regarding domestic violence. This legislation has the potential to positively influence the culture surrounding domestic violence in Ohio and ultimately help reduce domestic violence in our communities.

I joined the practice of law in May, 2009, and I began a career in criminal law in June, 2010. I served as a staff attorney at the Stark County Public Defender Office until March, 2014 when I began service as an assistant prosecuting attorney at the Wayne County Prosecutor's Office. From February, 2017 to September, 2018, I prosecuted all misdemeanor and felony domestic violence cases and misdemeanor sexual assault cases as the designated Violence Against Women Act (VAWA) prosecutor. During that time, I prosecuted 290 cases, and I met extensively with 253 victims. I participated in domestic violence and sexual assault training, and I trained law enforcement officers, SANE nurses, EMT's, and victim advocates in these areas as well. I am currently employed as the assistant law director in the City of Tallmadge in Summit County where a significant percentage of the cases I prosecute are misdemeanor domestic violence charges.

As an assistant prosecutor, I face significant challenges specific to crimes of violence against family and household members. Of those I prosecuted as the VAWA prosecutor, victims were cooperative in about 47% of cases. Although due to the grant program, we increased the number of evidence-based prosecutions, many of the cases with uncooperative victims were still pled down and a small percentage dismissed. Victims have many valid reasons to hesitate to cooperate with prosecution; however, it is more difficult to hold the offender accountable without the victim's cooperation. A victim's hesitance to cooperate is strongly encouraged by the judicial system and its treatment of victims.

The most challenging aspect of prosecuting domestic violence is the pervasive culture and stigma surrounding domestic violence in the community. It is communicated strongly in prospective juror comments, jury verdicts, judicial comments and rulings, and sentences. In general, the public and the bench do not appear to view domestic violence as a social problem and either do not view it as dangerous or do not care, even when the violence involves strangulation. Oftentimes, victim blaming is rampant and more influential than the defendant's actions. A lack of education about strangulation and its effects often results in unjust outcomes in court. In one

misdemeanor domestic violence jury trial, the jury found the defendant not guilty after he struck, strangled, and pushed his ex-wife in front of a group of people including two of their minor children. The jurors reported they did not believe the defendant acted knowingly; he was only acting out of anger after the victim engaged him in an argument. I have heard prospective jurors say they will not convict unless they see bloody pictures. I have heard jurors explain a not guilty verdict of domestic violence by strangulation because the victim did not sound afraid enough on the 911 call. Perhaps the most disconcerting is the attitude of many judges toward domestic violence. In one case, the defendant pled guilty to felony domestic violence. The victim was not cooperative despite overwhelming evidence of the assault including photographs of her black eye and independent witnesses. After hesitantly accepting the defendant's guilty plea, the judge ignored the state's recommendation of a prison sentence and sentenced him to pay a fine and court costs. The judge cited the victim's failure to cooperate as the reason. In another case, the common pleas judges made premature judgments during pre-trials about the strength (or lack thereof) of the state's cases without knowing the facts. During one pre-trial the judge laughed at the state's recommendation of a 15-year minimum prison sentence stating "15 years will be the ceiling." After finding the defendant guilty of most charges after trial, the judge sentenced him to 20 years in prison. Had we heeded to the judge's pressure, that dangerous defendant who almost killed his ex-wife would have been out of prison much sooner. The same judges discouraged us from pursing evidence-based prosecutions by making disparaging comments and accusing us of wasting the jury's time. I have stood next to victims of domestic violence who are still black and blue while the judge interrogates them about why they stay, why they never called the police, and places equal blame on them, in front of the abuser, for the violence perpetuated against them. Recently, I recommended a 30 day jail sentence for a defendant who strangled his girlfriend. Knowing this particular court and its hesitance to order jail sentences, I reduced my initial recommendation by half. The judge scolded me for several minutes about recommending incarceration when the jail was full and repeatedly demanded I tell him where to incarcerate the defendant. "How dare you put this on me," he said.

These are a few examples from the trenches demonstrating why the judicial process is often dangerous, humiliating, and futile for the victim and empowering for the abuser. Holding abusers accountable is a vital ingredient to reducing domestic violence, and the current ignorance and/or apathy of the public and bench hinder the effort greatly. Strangulation is the most dangerous domestic violence act, and continuing to classify it as a misdemeanor without mandatory incarceration is irresponsible.

Strangulation is more prevalent in domestic violence cases than the public is aware. Unfortunately, there lacks consistency in abuser accountability from jurisdiction to jurisdiction. In more progressive and populated communities, strangulation has been tried successfully as felonious assault. In more traditional communities, it is nearly impossible to successfully prosecute strangulation as a felony. This inconsistency is injustice. Victims, law enforcement, and prosecutors should be given the opportunity to try strangulation as a felony in every jurisdiction in Ohio despite the reluctance on the part of the bench and jury to accept it.

Strengthening domestic violence laws, criminalizing strangulation specifically, increasing education and training, and using the danger assessment more consistently will send a message to the public and bench that Ohio does not tolerate domestic violence. Based on my professional experience, there is a hesitance based on archaic cultural and social norms to acknowledge domestic violence and strangulation, prioritize its prevention, and treat victims with dignity and respect. Finally, we as a nation are beginning to acknowledge domestic violence strangulation as dangerous problem. Ohio is the only state holding back national progress in this regard. We should not adopt this legislation solely because forty-nine other states recognized the importance of strangulation prevention. We should adopt it because it is the right thing to do. With this bold statement, the culture may change, and we may finally be able to reduce domestic violence in our communities and save lives.

Sincerely,

Melody L. Briand
Assistant Law Director
City of Tallmadge