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TESTIMONY OF MICHAEL R. SMALZ ON HOUSE BILL 297

Chairman Butler, Vice Chair Pelanda, Ranking Minority Member Stinziano and Committee Members:

My name is Michael R. Smalz. I am a senior staff attorney with the Ohio Poverty Law Center (OPLC). The Ohio Poverty Law Center is the legal aid state support center, and it also pursues statewide policy and advocacy to protect and enforce legal rights of low income Ohioans. I chair our statewide legal aid Family Law Task Force and have served as a member and Chair of the Supreme Court of Ohio Advisory Committee on Domestic Violence. I also serve as the current chair of the Family Violence Prevention Center Advisory Council at the Ohio Department of Public Safety. Over the years I have also litigated many domestic relations and housing cases involving domestic violence.

We strongly support HB 297. It increases safety for victims and survivors of domestic violence by enacting key housing and employment protections for tenants or employees who are victims of domestic violence and face ongoing danger from their abusers. This bill also supplements the federal Violence Against Women Act (VAWA), which provides housing protections for domestic violence victims who live in low income public housing or federally subsidized private housing, but does not cover residential tenants in most private rental housing. During the last 11 years, many states across the nation have enacted similar laws. Nearly 30 states have enacted housing protections for victims of domestic violence, and at least 15 states have enacted employment protections for victims of domestic violence. Some of those statutes provide more expansive legal protections and options—e.g., prohibiting employment discrimination against victims of domestic violence or requiring employers to provide reasonable accommodations to protect employees who are victims of domestic violence—as compared to the very limited unpaid leave provisions of HB 297. HB 297 also has stricter requirements for the corroboration of domestic violence than the laws of some other states. For example, only tenants who have already recently obtained a legally valid protection order can invoke the remedy for early termination of a rental lease in HB 297.

Having access to stable housing or any source of income are two of the biggest barriers most domestic violence victims face when trying to stay safe and keep their children safe. For low-income domestic violence victims these barriers are exacerbated by their limited housing mobility and the fact that their jobs are more likely to be low-skilled jobs with less stability and little or no paid time off or other benefits. They may also live in less safe or more isolated housing. HB 297 will make it easier for victims of domestic violence to move to safer housing and to achieve independence from their abusers.

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The proposed legislation carefully balances the interests of employers, landlords, tenants, and victims. Moreover, it reflects and incorporates all of the recommendations of Senator Bill Seitz, former Chair of the Senate Judiciary Committee, after his extensive discussions with the Ohio Chamber of Commerce and victim advocates concerning similar legislation, HB 167, which was easily passed by the House in 2010 but ran out of time in the Senate shortly after Senator Seitz presented his recommendations. For example, HB 297 requires tenants who terminate their lease early to forfeit their security deposit and pay an additional one month's rent. In addition, most people, including domestic violence victims, do not want to move or uproot their families by moving. Moving is the last resort for many domestic violence victims and is a step that will usually be taken only after the abuser disregards the protection order and continues to abuse, harm, stalk, harass, threaten and/or refuse to stay away from the victim.

Moreover, the stay-away provisions of a protection order are sometimes insufficient to protect victims of domestic violence. In fact, judges and magistrates routinely warn victims, after granting the requested protection order, that a court order is just "a piece of paper" and that she must take other steps on her own to remain safe. HB 297 will enhance victims' safety by allowing victims to escape their abusers, move to a safer location, and not have to rely solely on a piece of paper for their protection.

It is unlikely that the enactment of HB 297 will generate many lawsuits. For example, Illinois was one of the first states to pass laws protecting domestic violence victims' jobs (2003) and housing (2006), and, as of October 2010, only a small number of lawsuits had been filed in Illinois under that state's employment and housing protection laws for domestic victims.¹ In most instances, these laws simply provided victims and landlords or employers with a better negotiating framework to reach mutually acceptable arrangements.

In summary, HB 297 increases victims' safety, mobility and ability to separate from their abusers by providing key legal protections for victims of domestic violence. It mirrors housing and employment laws successfully enacted by many other states. Above all, it will provide new options to victims of domestic violence at a time in their lives when most of the choices available to them put them in extremely risky situations.

Thank you for your consideration of my testimony. I would be happy to answer any questions.

¹ Study by Sergeant Shriver National Center on Poverty Law, Chicago, Illinois, October 2010, finding a total of 130 lawsuits filed statewide over a 7-year period from 2003 through 2010.

EMPLOYMENT AND HOUSING PROTECTIONS IN ILLINOIS HAVE BENEFITTED DOMESTIC VIOLENCE VICTIMS AND DO NOT HARM EMPLOYERS AND LANDLORDS

Sarah Biehl
Staff Attorney
Ohio Poverty Law Center

I am pleased to be able to speak to you today in support of H.B. 167 and to tell you about some of my previous experiences representing domestic violence victims in Illinois. Illinois is one of more than 15 states that already has a law protecting domestic violence victims' economic security and one of more than 30 states that already has a law protecting domestic violence victims' housing.

Illinois was one of the first states to pass a law protecting domestic violence victims' jobs; the Victims' Economic Security and Safety Act, or VESSA,¹ was passed in 2003, right before I moved to Illinois. It prevents victims from being fired or retaliated against because of their status as domestic violence victims and allows victims to take unpaid leave to attend court hearings or medical appointments. Illinois' Safe Homes Act² was passed in 2006 and is very similar to the housing provisions in H.B. 167, allowing tenant-victims to end their leases early and change their locks.

While in Illinois, I worked at the Legal Assistance Foundation of Metropolitan Chicago (LAF). While there, I ran a legal clinic inside a high school in inner city Chicago, helping teens and their families with a variety of legal issues, including, very prominently, domestic and dating violence. I also ran a domestic violence project providing free representation to domestic violence victims in the western suburbs of Cook County. I represented many victims, and I was able to take advantage of both VESSA and the Safe Homes Act to help many of my clients. These laws were valuable tools that made a big difference for domestic violence victims trying to escape very difficult, complicated situations.

For example, I represented a domestic violence victim in the western suburbs of Cook County who was trying finally to leave her abusive husband. Her husband had bipolar disorder and a drug problem and had been abusive to my client for a long time. He started out with verbal and emotional abuse and escalated to periods of intense physical violence, including raping her. They had two young children, both girls. At one point, while high, my client's husband kidnapped their older child and drove her to Wisconsin, leaving her in the car alone all night while he was inside a drug house. My client was at her wit's end when I met her, frantically trying to figure out how to leave her husband and make ends meet. She was working as a cashier in a grocery store, but was stressed to the point of considering a return to her husband, who made decent money, because he was threatening to cause her to lose her job, showing up unexpectedly

¹ 820 ILCS 180/1 *et. seq.*

² 765 ILCS 750/5 *et. seq.*

and staring at her through the window of the store in which she worked, and stalking her in the parking lot. Moreover, her protection order case was complicated and required her to take multiple days off to drive into the city—which in Chicago traffic, can take all day—to attend hearings. Her boss was not happy with her requesting days off to attend hearings but had been unwilling to consider moving her to evening shifts so that her daytime commitments to her court case would not interfere with her ability to work. She was terrified that she would be fired. She could not survive on her own without that job. I advised her about VESSA and told her that she could and should ask her boss to make some adjustments for her. Her boss was very resistant. I then got involved. I informed him about VESSA and its protections for domestic violence victims. I explained the requirements of VESSA, but also just explained that my client valued her job and, more importantly, that she needed the job to remain in a stable financial situation and to keep herself and her daughters safe from her husband. I tried to convey that not only was this the right thing to do, it was also the law in Illinois. After negotiating and after I sent him a letter detailing his obligations under VESSA, he agreed to make some accommodations for her at work. She was able to remain employed throughout the court case, and I was able to obtain a protection order for her and her children, finalize her divorce, and help her achieve the independence and safety she so badly needed for herself and her children.

Similarly, I was able to use the Safe Homes Act to help many of my clients achieve a sense of safety and stability at home. I remember one particular client who wanted to obtain a protection order against her ex-boyfriend, who had sexually assaulted her repeatedly while they were dating and who threatened to bring his buddies over to, in his words, “take care of her” after she decided to break up with him. He told her that they would enjoy gang raping her. He also had a key to her apartment. She asked her landlord if she could change the locks on her apartment, or even switch to another unit in the building. He refused. We obtained a protection order for her, but she was staying with a friend anyway because, although he was prohibited by the protection order from coming to her home, she was terrified that he could and would come in with his key at any time and fulfill his threat. I sent a letter to her landlord, citing the Safe Homes Act, informing him that if he did not permit the lock change, she would have no choice but to terminate her lease. As a result, not only did he permit her to change her locks, but he also repaired some exterior security lights that had been broken.

These are only two examples of many clients who were able to use Illinois’ version of this law to improve their situations. I had many more clients who benefitted from this law, and I know my colleagues at LAF also had many others. This law is working in Illinois. Also, I would like to point out that neither of these situations resulted in the victim filing a lawsuit against her employer or landlord. In both cases, and in most of which I am aware, the existence of the law provides victims with a better negotiating platform from which to work with their employer or landlord. The law provides a tool for victims of domestic violence to advocate for themselves and rebuild their lives. The existence of the law has not resulted in huge costs to employers and landlords. In fact, I talked recently to one of my former colleagues in Chicago while preparing for today’s hearing, and she told me that only 130 lawsuits have been filed under VESSA in the seven years it has been in place, and most of those have settled amicably. VESSA has not resulted in a flood of lawsuits against employers, and there is no reason to expect that would be the case here in Ohio, either.

In advocating for my clients, I have learned that having access to stable housing and a source of income are two of the biggest barriers most of my clients face when trying to stay safe and keep their children safe. For low-income domestic violence victims, these barriers are exacerbated by the fact that their jobs are more likely to be low-skilled jobs with less stability and little or no paid time off. Additionally, their housing is often less safe to begin with, even without the added threat of an abuser or stalker showing up unexpectedly. This bill will make it easier for them to achieve independence from their abusers. It will allow them to work to attain economic self-sufficiency. It will provide options at a time in their lives when most of the choices available to them require putting themselves in extremely risky situations. For these reasons and all of the other reasons you have already heard in support of this bill, I respectfully ask you to vote in favor of H.B. 167.

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