



**HB 5296 – Divorce Filings  
Written Testimony on Behalf of Michigan Poverty Law Program  
February 20, 2020**

I am Rebecca Shiemke, the family law attorney-specialist with the Michigan Poverty Law Program. Michigan Poverty Law Program (MPLP) provides advocacy, legal support and training to poverty law advocates statewide, including attorneys who provide free legal assistance to indigent Michigan families and individuals in a host of legal issues. In that capacity, I have consulted or co-counseled on hundreds of family law matters, with a priority on assistance to survivors of domestic violence. I have personally represented hundreds of survivors in court proceedings over the past 20 years. On behalf of MPLP, I ask that you support the draft 2 substitute for House Bill 5296.

The bill provides that “a complaint for divorce filed with the court shall not be made available to the public until the proof of service has been filed with the court.” It is designed to prevent third parties from accessing new divorce filings in order to provide defendants with advance notice of the action, including any protective orders, before proper service. It maintains control of the process with the plaintiff, including control over when and how the defendant is served.

This bill will protect survivors of domestic violence by providing them with an opportunity to develop a safety plan and serve protective orders along with the divorce complaint before the defendant learns of the filing through other means. Often the most dangerous time for survivors is when they leave the

relationship because it is the time that the abuser loses control; and power and control over an intimate partner is the primary aim of the abuser. Filing a divorce is a clear message to the abuser that the survivor intends to leave the relationship and doing so puts the victim at risk of retaliation, manipulation and further violence. Even in situations where past abuse has been emotional, the filing for divorce may be the tipping point and cause a violent response. Specifically, in a divorce action the abuser could hide marital and other financial assets from the survivor during the time the abuser learns of the filing and is properly served.

Additionally, not all risks are foreseeable. While many attorneys who represent survivors do assess the risk an abuser poses and develop a practical plan to keep their client safe, not all survivors disclose the abuse to their attorneys, or are represented by attorneys. The abuser may have threatened to hurt the survivor if the survivor tells others about the abuse. The survivor may not identify as a "victim" of abuse. Or, the attorney may have dissuaded the survivor from disclosing to reduce the conflict in the case. If attorneys are not aware the client is a survivor, they are unable to plan for the client's safety prior to filing. A violent or harmful response by an abusive spouse cannot always be prevented by good lawyering.

Thus, a brief window of time to arrange service in a safe matter, such as that provided by HB 5296, is reasonable given the serious potential risks involved

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