

**Before the House Judiciary Committee,
Subcommittee on Family Law**

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**House Bill 1250
House Bill 983**



Thank you, Chairman Marsico and Chairman Petrarca, and members of the House Judiciary Committee Subcommittee on Family Law. I am pleased to be here this morning, representing the Pennsylvania Coalition Against Domestic Violence and its 60 community-based programs, to discuss two important measures that will have generally positive impact on survivors of domestic violence who are separating from an abusive spouse and engaged in divorce proceedings.

The Pennsylvania Coalition Against Domestic Violence ("PCADV") is a private, nonprofit organization that provides services and advocacy on behalf of victims of domestic violence and their minor children. PCADV was established in 1976 and, 40 years later, supports a network of 60 community-based domestic violence programs serving victims in every county in Pennsylvania. Our programs provide a range of holistic services, including emergency hotlines, shelters, counseling programs, safe home networks, legal and medical advocacy, economic justice and transitional housing. These services help victims rebuild their lives with safety and economic measures that empower them to say no more to domestic violence. In FY 2015, our programs served over 88,000 victims of domestic violence – including over 7,300 children.

Domestic violence is fundamentally about an abuser's self-proclaimed entitlement to exercise their power and control over another – typically their current or former spouse or intimate partner.

While many of us here today are most familiar with the physical violence that is associated with domestic violence, economic abuse is a frequent, yet often overlooked or underestimated means by which an abuser maintains control over their victim. In fact, research indicates that 99% of all domestic violence victims experience financial abuse. It most often manifests by keeping victims from completing their education or job training and certifications; applying for or maintaining gainful employment; having access to family bank accounts or building their own financial assets with the wages they earn. Survivors often end up leaving abusive relationships with few financial resources, even if they are employed at a living-wage job. They may be left to contend with poor credit ratings as the result of their abusive partner's poor financial decisions. And, they may be left struggling to keep and rebuild careers that have been negatively impacted by the toll that being in, and eventually leaving, an abusive relationship takes on them and their children.

As we move survivors toward long-term security, it is critical that we support their move to financial stability. Our goal is to put the best tools and options in the hands of

survivors to enable them to escape abusive relationships and make a new start, free of violence. Court-ordered spousal support and alimony pendente lite provide lifesaving stability for victims who might otherwise have to return to abusive relationships because they cannot survive and support their children on their own.

While spousal support is available to someone to whom a duty of support is owed pursuant to rigid income-based guidelines, the courts are clear that APL is equitable relief designed to help a dependent spouse to survive financially while the divorce proceedings wend their way through the courts. That means that it should be awarded judiciously, but with great flexibility in order to ensure that justice is done.

Alimony pendente lite and spousal support play out in domestic violence cases in two ways. Most often, the abused spouse has few resources and is the lower wage earner. It should make perfect sense that once a dependent survivor of domestic violence makes the courageous decision to leave their abusive relationship, their first stop may be in a domestic relations office and then on to family court. They come to court seeking a means to survive as they separate from their abuser and proceed to a divorce.

But we know of cases where the abused spouse is actually the higher wage earner and has access to greater financial resources than the abuser. Awarding the abuser spousal support or alimony pendente lite in these cases is the ultimate indignity. Asking a victim to financially contribute to a spouse who has brutalized them in the course of the marriage stands in absolute contradiction of sound public policy. Yet, under current law, these awards are entered and very few courts use their judicial discretion to deny such requests from abusers.

House Bill 1250, introduced by Representative Delozier, proposes a generally common-sense approach to deciding whether an individual is entitled to alimony pendente lite or spousal support. While HB 1250 is not intended to specifically address the plight of a victim's limited financial resources, giving the courts greater discretion and flexibility can be helpful. We are hopeful that if enacted, the bill will give the courts opportunity to look outside of the guidelines to award sufficient funds to make it financially viable for an abused victim to leave their abuser.

Further, giving the courts authority to order exclusive possession of a marital residence is a critical tool for victim safety and stability. Far too many victims of abuse find themselves homeless upon leaving an abusive relationship. For those with children, the impact of leaving without adequate resources has more devastating and long-term impacts. The eviction provision in this bill mirrors the authority of the court in a PFA

proceeding to award exclusive possession of a marital residence to a victim. It is sound public policy and we should empower our courts with similar authority in appropriate cases.

House Bill 983, introduced by Representative Lawrence, will undoubtedly have a positive impact on some survivors. Applying the current, rigid APL guidelines has meant that even though someone was physically abused and degraded by their spouse, they suffer yet another indignity when ordered to pay APL to the abuser. By way of example, we heard from a York County attorney whose client, a victim of documented domestic violence, was ordered to pay her abuser APL. On appeal, the court was reluctant to vacate the order, even after hearing testimony of daily physical abuse, including being thrown to the ground and having her stomach stomped upon when she was a few weeks pregnant. A victim with this kind of evidence, including police reports, medical records and a final PFA, should not have to pay an attorney to appeal a domestic relations order and proceed to a de novo hearing before the court.

In this particular York County case, the victim did press charges and the abusive spouse was convicted of an assault. This is precisely the scenario that HB 983 is designed to address. An abuser should not be able to collect spousal support or APL from their victim, regardless of the disparity of their incomes.

We recommend that to the extent the bill references "personal injury crimes," that the term be defined. Accordingly, we suggest that the term be consistent with the definition of "personal injury crime" found in the Commonwealth's Crime Victims Act, 18 P.S. §11.103.

Further, we believe that the bill does not go far enough. Limiting relief from an APL order to only those cases where there is a conviction for a personal injury crime poses barriers to the relief the bill intends.

First, for those cases where charges are even filed, the time between when the charges are filed to the time of prosecution and conviction can be up to six months. If you can imagine a victim leaving their abuser following an incident of physical assault, it is possible that the abuser could immediately file for spousal support or APL if either party files for divorce. As the case is making its way through the criminal justice system, the inevitable time lag means that the victim will have to wait months for a conviction before they can contest the entry of an APL order against them.

Second, limiting relief to only those cases where there is a conviction places a victim in

an untenable situation. Not all victims wish to seek justice through the courts. They do not want their abuser, who is often their children's father, to be prosecuted with the risk of a criminal record and incarceration. This is particularly true in communities of color where the rate of conviction and incarceration is disproportionately high. Victims want the abuse to stop. They also want the abuser to be able to continue to earn a living wage; something they cannot do if they are in jail or have a criminal record. It is contrary to public policy to force victims to have abusers charged and prosecuted when all they may want is to see the violence stop and opportunities to move forward in a safe and economically stable manner. At minimum, the entry of a final Protection From Abuse Order should be adequate evidence of abuse to counter any request for spousal support or APL.

Domestic violence is real and pervasive in our Commonwealth. We hear time and again that women make up domestic violence so as to get the proverbial leg-up in family court. While we could debate these offensive and over-reaching assertions, I would defy anyone to look in the bruised and bloodied faces of the victims, or in the eyes of the children who have witnessed these horrors and suggest that they only wanted to win a better award in court. It's offensive. But I understand I'm not going to win that debate here or with any member of the family bar who represents individuals accused of abuse, particularly when those clients have the means to pay for legal representation.

Trust our judges to do the right thing. Give them all of the tools they need to hear the evidence and make well-reasoned decisions. Victims of abuse need resources to leave abusive relationships and find safety and security for themselves and their children. Abusers should not have the ability to take hard-earned resources out of the hands of their abuse victims just because they earn less than the person they have brutalized. It is the ultimate offense and this committee has the opportunity to put an end to it. We ask that you support these two bills and further amend HB 983 to include a definition of "personal injury crime" consistent with the definition found in the Crime Victims Act and also consider expanding the exceptions to APL and spousal support to include the entry of a final Protection From Abuse Order.

Thank you.