

HB 256 - Testimony for House Judiciary Committee Hearing Terri Weeks - June 2, 2005

Good Morning. I'm Terri Weeks, a full-time mother of three children, ages 6, 4, and 2. I'm here today from the Cincinnati area to testify about the merits of HB 256, the Family Friendly Jury Duty Bill. I would like to start by thanking you for the opportunity to testify here today. It is one thing to learn about how our government is supposed to work; it is another thing entirely to experience the process personally.

I know that Rep. Collier testified about this bill last week, so I will not review it in detail. In summary, the bill gives caregivers the ability to request to be excused from jury duty. Three categories of caregivers are specified: parents who are the primary caregivers of their young children, parents who homeschool their children, and people who are the primary caregivers of elderly or disabled family members.

Is this really an issue that needs to be addressed?

- 33 states already have some form of family friendly jury duty legislation. More states without it are pursuing it. Ohio is one of 6 states with active legislation in 2005.
- 72 out of 94 U.S. Federal District Courts, including Northern Ohio, have provisions for family caregivers.
- Some counties in Ohio already have family friendly practices. The issue is that it is inconsistent across the state.
- Problems have occurred where protection is not in place. Experiences from three women in Ohio will be entered into testimony today:
 - Stephanie Weaver is here today to testify about her experience.
 - Nerissa Foor's experience is summarized in three newspaper articles: a newspaper article by the Coshocton Tribune about her experience, the judge's response in a newspaper column, and Nerissa Foor's response to the judge's column. Nerissa Foor was unable to find childcare for her children and was advised by a Deputy Clerk of Court that it would be better to bring her children to court with her than not to appear at all. After humiliating questioning by the judge, Nerissa Foor was held in contempt of court and fined \$50.
 - Paula Goodnight has submitted written testimony. She was breastfeeding an infant and was persuaded by the judge that if she served on the jury, he would provide sufficient breaks for her to pump her breastmilk. However, the recesses were only 10 minutes long and all the jurors were confined to a single room with only one bathroom. This left her unable to pump which not only was extremely uncomfortable, it also threatened her health.
- I have read similar experiences from mothers and caregivers of the elderly in 20 other states. Many of them have received newspaper coverage. Many of these states passed legislation as a result of these problems. Clearly, problems result when there is not legislation in place to prevent them.

What is the root of the problem?

- Judge David J. Hostetler wrote a column in the Coshocton Tribune following the newspaper's coverage of Nerissa Foor's experience. In his column, he made the following statements: "Parenthood has never been considered an undue hardship or a valid reason to avoid jury service. ... If bringing small children along were known as a way to avoid jury service, some people would be borrowing children from their neighbors. ... In the broader scheme of things, that day was not about her. A young man...had elected to demand the trial by jury which is guaranteed to him by the United States Constitution. ... I concluded that her conduct was more a matter of negligence than defiance or manipulation. ... The defendant received his jury trial and Mrs. Foor received a gentle lesson in civic responsibility. I consider it a good day's work."
- I see two problems with Judge Hostetler's reasoning:
 - While Judge Hostetler correctly recognized the defendant's constitutional right to a trial by jury, he failed to recognize Nerissa Foor's children as citizens who are also supposed to be protected under the Constitution. Children are vulnerable citizens who need to be cared for, not inconveniences that need to be dealt with. In the even broader scheme of things, this issue is not only about the rights of defendants standing trial--our justice system exists to protect **all** of our citizens.
 - Judge Hostetler implied that Nerissa Foor's actions were negligent and selfish. Nerissa Foor's conclusion that quality substitute care was unavailable was viewed as "negligence". Her commitment to care for her children was viewed as a selfish attempt to avoid her civic duty. The conclusion that Nerissa Foor's actions were selfish is unsubstantiated. In fact, the very nature of the role of caregiving requires putting the needs of those you are caring for above your own. Caregivers have made a significant financial sacrifice by forgoing a paid income. Parents of infants sacrifice their own sleep needs to care for their babies. Mothers who are breastfeeding must sometimes endure pain in order to feed their babies. Caregivers sacrifice control of their own schedules and must arrange their schedules around the needs of those they are caring for. And when there is no one qualified to temporarily relieve them from their responsibilities, they continue their responsibilities without a break. The conflict is not between their call to jury duty and their own selfish needs; it is between their call to jury duty and their responsibility to those that they care for.
- While I do not have statements from the judges involved in the other cases, their actions show similarities to that of Judge Hostetler.

Is quality substitute care really that difficult to find?

The short answer is “yes”. There are several reasons.

- Many families do not live close to relatives who can provide substitute care. Even if relatives live nearby, they might not be able to provide care because they work outside the home, or are aging and unable to keep up with the demands of caring for small children.
- Some people are fortunate to have friends with whom they would be comfortable asking to care for their children for an extended period of time. However, many people are not. Even if someone had a friend who was willing, there are still logistical issues: Is the friend able to fit all of the additional child safety seats in their vehicle? If school-age children are involved, are the friend’s children on the same school bus route?
- Quality daycare centers often have a waiting list and require you to enroll your child for a minimum of several weeks. Most daycare centers do not offer last minute drop-in care. The centers that do offer drop-in care offer it on an as-available basis. Because they are required by law to maintain a certain teacher/child ratio, you need to check for availability the day before. In many counties you don’t find out if you are needed for jury service on a given day until the night before. By then, the daycare center would already be closed and you would be unable to confirm if they had availability. The cost of daycare might be an undue burden for many single-income families. I checked with one daycare center near me, and the cost for all three of my children to attend for one day is \$175. Even if daycare was available, there are still the logistical issues of transporting school age children to and from school. Even if availability and cost were not an issue many children would not react well to the sudden change. Separation anxiety is a normal part of a child’s development.
- Disabled and elderly family members might have special needs that require special training in order to care for them.

Solution – HB 256

- When caregivers are summoned to jury duty, they have conflicting responsibilities. HB 256 gives caregivers, not judges, the responsibility to determine whether quality substitute care can be found. If quality substitute care can be found, the caregiver can serve as a potential juror. If quality substitute care is not available, the potential juror can request to be excused in writing, in advance.
- Everyone benefits from HB 256:
 - While the wording of the bill necessarily addresses caregivers as potential jurors, the primary intended benefit is not for the caregivers themselves, but for those for whom they provide care. HB 256 protects our most vulnerable citizens by allowing decisions about their care to be made by the people who know their needs best.

- HB 256 protects children up to age 12. It recognizes that court hours do not necessarily coincide with school hours and prevents elementary children from being left home alone after school waiting for a parent to finish their jury service. It also allows them to receive adequate care during summer months and breaks when school is not in session.
- HB 256 protects homeschooled children of all ages by preventing disruptions in their education and by preventing older children being left at home without supervision for extended periods of time.
- HB 256 protects the elderly and disabled by ensuring continuity of care by the people who know their needs best.
- Caregivers benefit because they are excused in advance and not subjected to humiliating questioning by judges.
- The court system benefits from excusals in advance. This saves time during jury selection and increases the probability that the potential jurors that are called to court on a particular day are able to serve.
- The defendants and attorneys benefit from not having jurors who are unable to focus on the trial because they are worried about the quality of their substitute care arrangements.
- HB 256 will not cost taxpayers anything.
- HB 256 will not deplete the jury pool. Many counties, other states, and our federal court system have family friendly jury duty practices and have seen no collapse in their jury systems. HB 256 does not permanently remove anyone from the jury pool—they may serve at a later time when their caregiving responsibilities have ceased.

Rep. Thom Collier has introduced an excellent bill in support of Ohio families. Please support it!