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**Testimony of Theresa Sidebotham, Telios Law PLLC HB20-1287 The Colorado Rights Act  
House Judiciary Committee  
March 5, 2020**

Chairman and Distinguished Members of the Committee, my name is Theresa Sidebotham with Telios Law, and I practice constitutional rights law. I cannot be here in person today to testify in favor of this important bill; so I have prepared written testimony to be shared with the committee, as well as brief remarks which Ruchi Kapoor has graciously offered to read for me.

The best way to demonstrate the need for this bill is to provide a real-life example of a family that would have benefitted had this bill been law here in Colorado. This is a case that my firm litigated.

In 2014, a four-year-old girl was at preschool when someone reported that the little girl might be a victim of abuse based on the presence of minor bumps and bruises on non-private parts of the little girl's body. The DHS caseworker arrived at the preschool and took the girl to the nurse's office. The caseworker then removed all of the girl's clothing and took photographs of the little girl naked. All of this was done over the little girl's objections. There was no parental consent sought, no court order given, and no presence of an emergency requiring immediate action. Nothing in the allegations suggested that signs of abuse would be revealed by strip searching this little girl, and no definite abuse was alleged.

The next day the caseworker went to the little girl's home, but did not disclose that she had strip searched and photographed the girl at school. The mother cooperated fully with the investigation. Eventually, the case was closed as unfounded.

Later the little girl told her mother that she didn't like it when the caseworker came to school and took all her clothes off. The girl also told her mother that they took pictures of her naked even though she told them not to. The mother tried to discover what happened and, at first, the DHS caseworker lied and denied she had performed the strip search or taken photographs. Eventually, she admitted the truth. In the months to come, the little girl appeared to be traumatized by the event, similar to how children experience sexual abuse.

The mother sued DHS on behalf of the child, alleging a violation of their constitutional rights and damage from trauma inflicted by a coercive search by an adult stranger. But the court dismissed the family's claims, holding that qualified immunity shielded the caseworker's actions. While it was devastating not to get any justice for the family, what is more concerning is that the court did not even rule on whether what happened was constitutional. Extensive evidence was gathered showing that the problem of DHS improperly strip searching and traumatizing children against their will, when there is no exigency and no warrant, is ongoing. Yet, even after this case, there is nothing to stop a DHS caseworker from traumatizing a small child in this same way today. That is how qualified immunity works. The doctrine must end.

So what does this kind of case mean for Coloradans? It means that government workers can violate the rights of citizens of this state and there is no liability, no meaningful administrative recourse, and no legal action that can be taken to hold government actors accountable for wrongdoing. This is why the passage of the Colorado Rights Act is vital.

Government accountability is fundamental to a thriving democratic republic. It is especially important to the conservative worldview. Limited government that is accountable to the people is central to conservative thought and philosophy.

Does accountability improve effective governing? Yes, because it weeds out bad actors. For instance, when cops or caseworkers are not accountable, the trust in the police force or human services goes down, and the rule of law is negatively impacted. Right now, there are mothers who don't take advantage of needed social services because they are terrified their children will be removed for no reason.

We must hold the government accountable to the people. The outcome of the case cited above may have been very different if the government hadn't been permitted to hide behind the shield of qualified immunity. Republicans and Democrats can agree that when government is left unchecked, there is no guarantee that the government will respect the constitutional rights of the people.

For these reasons, I am asking that you vote yes on the Colorado Rights Act. Thank you.