



# Ohio Prosecuting Attorneys Association

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House Bill 252  
Proponent Testimony  
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Chairman Thomas, Vice-Chair Mathews, Ranking Member Isaacsohn and members of the House Judiciary Committee, thank you for the opportunity to provide written proponent testimony on House Bill 252 to eliminate the element of “force, stealth, or deception” in aggravated burglary, burglary, trespass in a habitation, and breaking and entering.

As this committee has heard, this legislation stems from the 2023 Ohio Supreme Court decision in *State v. Bertram*, 173 Ohio St.3d 186, in which the defendant cased a house, parked his car, strolled into the garage of the house, walked out with a \$500 leaf blower, ignored the owner’s demands to put the leaf blower down, and got into his car and drove away with the leaf blower. He was charged and convicted of burglary under R.C. 2911.12(A)(2) that, in Ohio, provides that:

*(A) No person, by force, stealth, or deception, shall do any of the following:*

...

*(2) Trespass in an occupied structure or in a separately secured or separately occupied portion of an occupied structure that is a permanent or temporary habitation of any person when any person other than an accomplice of the offender is present or likely to be present, with purpose to commit in the habitation any criminal offense;*

The Supreme Court vacated the conviction finding that Bertram did not gain access to the victim’s garage by force, stealth, or deception when he openly strolled into the garage. Unfortunately, this is not an isolated incident. See *State v. Patton*, 2013-Ohio-961, where the defendant walked into an open garage in the middle of the day and stole a lawn mower; *State v. Harris*, 2008-Ohio-6168, where the defendant, after going on a spree with a co-defendant that involved an aggravated robbery and an aggravated murder, attempted to avoid detection by going in to an attached garage to hide a gun at a time when, according to the homeowner, 9 of his children were at home, and *State v. Brooks*, 1998 Ohio App. LEXIS 1491, in which the defendant walked into the victim’s unlocked apartment and walked out with her VCR.

The common factor in all of these cases, including Bertram, is that the criminal boldly walked into another’s home. The purpose of our burglary laws is to protect the occupants of homes from dangerous unwanted intrusions. The danger isn’t created by the means of entry but by the entry itself. Imagine coming home from an afternoon walk where you left your door unlocked or garage door open only to find a stranger in your home or garage attempting to steal something. Would you feel any better about it merely because the person did this in broad daylight? What if they did it while children were in the home? Our law should seek to protect the occupants of our homes and businesses from these types of intrusions. Reducing these intrusions to a misdemeanor trespass merely because some criminals are bold enough to walk into open homes in broad daylight demeans the seriousness of these intrusions for victims and their families.

House Bill 252 seeks to address this by eliminating the element of force, stealth or deception, making the entry into the home the critical factor that recognizes the increased risk of dangerousness. Ohio would not be alone in adopting this policy. States as varied as politically varied as Florida, Texas, Illinois, and California do not require force, stealth, or deception for a burglary.

Our Association would like to thank Reps. Click and Bird for their advocacy on this issue and for seeking to more appropriate consequences for these dangerous acts. We encourage the committee's favorable consideration of the bill.