Ohio Prosecuting Attorneys Association

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House Bill 343
Interested Party Testimony
February 25, 2026

Chair Thomas, Vice-Chair Swearingen, Ranking Member Synenberg and members of the House Judiciary Committee, I appreciate the opportunity to provide interested party testimony on House Bill 343 that As Introduced seeks to require mandatory dispositions for certain repeat juvenile theft and vandalism offenses. The bill sponsor and the proponents are rightfully concerned about the issue of repeat juvenile offenders. It is a concern that our Association shares and that we would also like to address.

We have three concerns, however, with the As Introduced version of House Bill 343. First and foremost, the legislation is limited to mandatory dispositions for repeat theft and vandalism offenses. As serious as these offenses are, there are juveniles in communities across Ohio who are committing even more serious crimes, sometimes even violent crimes, and who will not face the same mandatory disposition as a repeat theft or repeat vandalism offender. One of the proponents of the legislation described how her colleague's 72-year-old mother was mugged and had her purse stolen. This is a strong-arm robbery, a violent offense that is a felony of the second or third degree. This would not count as a prior adjudication under House Bill 343 for purposes of a mandatory disposition and may not even count as a offense that would subject a juvenile who did have prior theft or vandalism adjudications to a mandatory disposition.

Second, I understand that a lot of the concern, especially among the business groups is with the motor vehicle break-ins and thefts and with "smash and grab" break-ins where multiple vehicles are broken into as part of one event. Again, however, the As Introduced version of the bill might not lead to the types of mandatory dispositions that are envisioned because these types of motor vehicle break-ins are often charged as criminal damaging, which prohibits causing physical harm to any property of another, rather than vandalism which prohibits causing physical harm to business property. Criminal damaging of a motor vehicle is a misdemeanor offense. There could be a smash and grab event where 20 or 30 cars are broken into and all we have available to us are 20 or 30 separate misdemeanor criminal damaging charges. Unless stolen from the vehicle is a gun or is worth $1,000 or more, there might not be a theft that rises to the level of a felony either. Because House Bill 343 only requires a mandatory disposition for felony theft or vandalism when there are prior felony theft or vandalism adjudications, it will not capture prior misdemeanor criminal damaging or theft and might not address these smash and grab break-ins.

Finally, we are aware that some juvenile judges will use Juvenile Rule 9 to handle cases informally and use diversion and Juvenile Rule 29(F)(2)(d) that allows a juvenile court to dismiss a complaint even following a determination of the issues if the court determines that dismissal is in the best interest of the child and the

community. Both of which will make it more difficult to determine which juveniles have previously been involved with these types of acts and to ensure that mandatory dispositions are entered in the current case.

None of this is intended to be critical of the sponsor who, again, rightfully wants to solve this problem. We just believe that there are solutions to the problem of repeat juvenile offenders that are broader based and will do more to increase accountability for all serious juvenile offenders. While there are multiple prongs to this, in terms of motor vehicle thefts and breaks-in we would like (1) to make breaking and entering into a motor vehicle with intent to commit a felony or theft offense a felony in its own right and (2) to provide for graduated penalties for criminal damaging based on the aggregate amount of damage to all property in a series of violations. This at least will ensure felony level responsibility, not just for juveniles but for adults as well, who break into a single car looking to commit a theft or who engage in these smash and grab events.

Everyone wants juvenile offenders to be rehabilitated so that they can grow up to become productive members of society. But accountability should be part of that rehabilitation. When juvenile offenders are repeatedly caught stealing cars, breaking into cars, and sometimes committing even worse offenses and repeatedly released into the community they are learning is that there isn't any accountability. Not only is this bad for victims and for public safety, it is bad for the juvenile who eventually goes on to do something even more serious thinking that there won't be consequences for that either.

We believe that House Bill 343, if amended, is one step toward addressing these issues. I would be happy to answer any questions that the committee has.