

To: Ohio House Criminal Justice Committee
From: Suzanne Lachapelle, Ohio Crime Victim
Date: March 24, 2022
Re: H.B. 343 Proponent Testimony

Chairman LaRe, Vice Chair Swearingen, Ranking Member Leland, and members of the Ohio House Criminal Justice Committee:

I am here today to offer testimony in support of House Bill 343 and share with you why this legislation is important to me. As a survivor of domestic violence, I am speaking from personal experience after navigating what seems like a never-ending criminal justice process.

My story begins back in October 2018. This was the first time I had the strength to stand up to my then live-in boyfriend by reporting a domestic dispute that left me physically injured. The abuse had been ongoing for years, both emotionally and physically. In October 2018, I obtained a Domestic Violence Civil Protection Order that ordered my abuser to move out of our shared home and granted me full possessory rights for the time being. After obtaining the protection order, the police pressed criminal charges for domestic violence.

I have had to relentlessly fight to exercise my rights as a victim throughout the case. Back in April of 2019, my abuser's defense counsel requested that they be allowed access to my home to take photographs, because this is where the crime took place. Defense counsel requested this access in a side-bar conversation that I was not immediately privy to. Even though I was in the courtroom, no one asked if I was present or if I had an opinion on defense counsel's request, even though I would be the person directly impacted by his request. No one considered how my safety would be put at risk if this access was granted. No one cared to bring the request to my attention and no one cared to hear my objections. Nonetheless, the judge, without much consideration at all, said he would allow defense counsel and my abuser access to my home, even though there was a contrary court order in place through the civil protection order stating he was not to access the home. The first time the request was brought to my attention was when the prosecutor called me to see what date and time would work best for me to allow my abuser back into my home.

I stridently objected to the access, but no one seemed to care or listen. I was lucky enough to find a non-profit organization that assists domestic violence victims and they quickly referred me to Ohio Crime Victim Justice Center for assistance. Ohio Crime Victim Justice Center provides free legal representation to victims of crime throughout the criminal justice process. OCVJC has been working diligently for over a year to assist me in exercising my constitutional rights as a victim.

Following defense counsel's request for access to my home and the judge's initial granting of the requested access, OCVJC filed a motion exercising my right to refuse a discovery request under Marsy's Law. Defense counsel responded by filing a motion to compel access to my home and the judge ultimately granted his motion, despite my objections vocalized through OCVJC's representation. I was beginning to lose hope at this point. Next, OCVJC filed a motion to stay the trial court proceedings and filed a Petition for a Peremptory Writ of Prohibition in the First District Court of Appeals, because at the time, the limited case law in Ohio held that victims did

not have the right to appeal, leaving me with no other option than an extraordinary writ to exercise my constitutional rights. Luckily, the First District granted my motion to stay the trial court proceedings quickly. If the First District had not granted the stay as quickly as it did, the trial court would have ignored my writ and let the abuser access my home.

Despite OCVJC's best efforts to have the extraordinary writ resolved in a timely manner, it took nearly 10 months to obtain a decision from the First District Court of Appeals. Now that the First District has granted the writ of prohibition, prohibiting defense counsel and my abuser from accessing my home, I should be preparing to be a witness in the trial. I should be celebrating the First District win and feeling confident in my constitutional rights as a victim and that the system worked to protect my rights.

Unfortunately, I'm not. Defense counsel for my abuser threatened throughout the appellate case's litigation to file a Motion to Dismiss the criminal case against my abuser based on speedy trial violations once the case was back in the jurisdiction of the trial court, and this is exactly what we expect to happen. In fact, if it weren't for a continuance due to the COVID-19 pandemic, this likely would have already happened. This is frustrating and terrifying for me to comprehend. If my abuser's Motion to Dismiss is filed and granted, I will have forfeited justice and the possible conviction of my abuser because I chose to exercise my rights as a victim to protect the sanctity of my home. How could it be that a victim who is thrust into the criminal justice system by no choice of their own must choose between justice and protection of her rights? This seems unfair. This seems unjust. This is exactly why I am asking you to pass House Bill 343 to bolster the rights of crime victims like myself.

This implementing legislation affords victims the right to appeal a violation of their rights. I was not afforded this same right when navigating the criminal justice system, and thus, I was forced to pursue an extraordinary writ as my only option for protection. Because of this, I am now facing the possibility of having my abuser's criminal case dismissed entirely. This legislation will allow victims in the future, in similar situations to my own, to meaningfully exercise their constitutional rights without jeopardizing justice in a criminal case against their offender. Victims need a justice system that does not require them to choose between their safety and seeking justice. This Bill would afford victims the justice they deserve.

I support House Bill 343 and I hope you do too. Thank you.