



Ohio Crime Victim Justice Center

To: Ohio House Criminal Justice Committee
From: Elizabeth Well, Legal Director, Ohio Crime Victim Justice Center
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:

Good morning. My name is Elizabeth Well, and I am the Legal Director at Ohio Crime Victim Justice Center. OCVJC provides free legal representation to victims of crime during the criminal justice process. OCVJC has existed for over twenty years with the mission of ensuring that the constitutional and statutory rights of Ohio's crime victims are protected and enforced.

I am here today on behalf of OCVJC to offer proponent testimony for House Bill 343 because the will of Ohio's voters must be implemented consistently across the state to ensure every victim can exercise every right every time.

With the passage of the Marsy's Law amendment to the Ohio Constitution, the will of the people was made clear—victims' rights must be both meaningful and enforceable. HB 343 furthers this goal.

Key provisions provide the clarification and guidance sought by criminal justice system officials and the consistency victims desperately need.

First—and critically important to crime victims—House Bill 343 provides victims meaningful privacy protections. For the first time, Ohio crime victims are constitutionally guaranteed the right to privacy. To implement this guarantee, House Bill 343 provides victims the ability to seek redaction of their names and identifying information from any public record.

This right is crucial for many victims, including child victims and victims of violent crimes. Just last year, a case came before the Ohio Supreme Court where the father of a convicted sex offender sought records of the offenses his son had committed—and pled guilty to—against this child victim. The father created a Facebook page and was posting any records he received there, including video interviews in which the child victim described the sex crimes committed against her in detail, images of the child victim, and her contact information. The Ohio Supreme Court held that the father was entitled to these records, and there was nothing the child victim could do to stop this man's disgusting campaign against her.



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If she had the right to seek redaction from the beginning, she would have never been put into that position because none of her identifying information would be a part of public record.

House Bill 343 also guarantees that victims will have the meaningful opportunity to exercise their rights, by creating the victims' rights form. Since 1996, R.C 2930.04 has required law enforcement to inform crime victims of their rights in writing. However, many crime victims report they never received notification of their rights. Currently, there is no delineated process for a victim to follow to inform law enforcement and the prosecutor that they are asserting their rights. The form will ensure victims have been notified of their rights and provide victims a mechanism to request their rights in a uniform and written manner. The form will follow the case ensuring there is a record of the request or waiver as the case moves through the system.

In addition, law enforcement will be required to inform victims of arraignment procedures in each jurisdiction, giving victims the ability to attend arraignment and exercise their right to be heard concerning release terms for offenders. Without the form and this notification from law enforcement, victims are often left unaware of arraignment and are stripped of any opportunity to seek protection from courts and provide courts with information when courts decide whether to release offenders pretrial and under which terms to release them. Without the protection of the courts, our clients are often left in a dangerous situation when offenders are released. Use of the form and this notification will keep victims and communities safer.

House Bill 343 also provides direction on how to implement Ohio's constitutional guarantee that victims be treated with fairness and respect for their safety, dignity, and privacy. For Ohio's children, this includes special accommodations in our courtrooms. My office represented a child victim in a particularly heinous case, in which the child was abducted, brutally assaulted, and left in the woods to die by his offender. The victim was terrified that he would have to walk past his offender entering the courtroom, just inches from his reach, to take the stand and testify a few feet away. He wanted to testify to ensure that he did everything he could to hold the offender accountable and protect others from harm. My office was able to ensure this child could testify via closed circuit television. However, currently, not every child victim is afforded this option by law. HB 343 will change that for every child victim and every victim with developmental disabilities in Ohio.

House Bill 343 provides direction on how to implement the constitution's guarantee of full and timely restitution. Restitution is often critical to the victim's financial well-being in the aftermath of a crime. Unfortunately, even after restitution became constitutionally mandated, many Ohio courts ignored this right and refused to order offenders to compensate victims for their losses. My office recently represented a victim of grand



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theft, where her vehicle was stolen and totaled by the offender. Even though the victim submitted a written victim impact statement, including receipts and estimates, requesting restitution for her economic loss, the court did not award any restitution. Through our representation, the victim was able to get an order that the trial court must re-open sentencing and hold a restitution hearing. The trial court ordered the defendant to pay the victim back for her stolen vehicle, but the defendant appealed and the appellate court overturned the restitution order in large part due to the confusion around proper appellate enforcement mechanisms for victims provided by the constitution. House Bill 343 is necessary to ensure that the guarantee of restitution becomes more than a mere paper promise to Ohio's victims.

Finally, House Bill 343 provides victims with the meaningful ability to enforce their rights. Without this key provision, the rights provided in Marsy's Law and the remainder of this bill could be rendered meaningless. House Bill 343 explicitly provides victims of crime with appellate options provided to any person in Ohio who has a constitutional or statutory right. Specifically, victims of crime can file an interlocutory appeal, a direct appeal after the conclusion of the case, or a complaint for an extraordinary writ. Each of these means to seek appellate review is different, and each may be applicable in different situations.

But all of them have one thing in common, HB 343 appellate actions will be resolved quickly, with the bill incorporating an aggressive appellate schedule to ensure the rights of everyone in the criminal case.

The ability to seek meaningful appellate review is so important, especially for Ohio's most vulnerable crime victims. For instance, my office often represents victims who are seeking to protect their privacy from offenders who are seeking private victim information and access to victim homes to humiliate, harass, and abuse victims. It is, shockingly, very common for a defendant in a sex crimes cases and even attempted murder cases to seek pretrial access to the victim's home, phone, computer, or counseling records. My office once helped a victim in a case where the defense issued 27 subpoenas for the victim's private records, including school records, housing records, employment records, medical and counseling provider records, and even the adult victim's mother's employment and cell phone records.

Interlocutory appeals, especially, are critical for these victims, in that they pause the trial court proceeding, thus stopping the trial court from enforcing an order against a victim while the appeals court is considering the case. While the 8th District Court of Appeals recently invited these victims to assert their Marsy's Law rights after being held in contempt, the Supreme Court rejected that harsh outcome—holding that a victim has the right to an interlocutory appeal any time a right will be denied in a way that constitutes a



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bell that cannot be “unrung.” In many ways, HB 343 simply codifies this decision and the intent behind it.

Ohio Crime Victim Justice Center supports House Bill 343 because it provides crime victims with meaningful, enforceable rights and provides criminal justice system officials with the necessary guidance to comply with Ohio’s Constitution.