



**State Representative Derek Merrin  
District 47**

**House Bill 391 – Sponsor Testimony  
Criminal Justice Committee  
November 14, 2017**

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Chairman Manning, Vice-Chairman Rezabek, Ranking Member Celebrezze, and members of the Criminal Justice Committee: thank you for the opportunity to present testimony on House Bill 391. This straightforward bill expands the definition of *economic loss* to include accounting costs to determine the extent of the victim's financial loss in criminal cases. With this bill, judges would have the ability to take into consideration the accounting costs a victim has incurred when determining restitution.

Judge Michael Goulding, Lucas County Common Pleas Court, brought this issue to my attention following the Fifth District Court of Appeals ruling in *State v. Cook*, 2017-Ohio-1503. The case involved an employee convicted of theft for stealing \$3,804 from a physician's office. The office had to pay \$2,500 in overtime costs to do accounting work to determine the amount of the theft. The judge ordered restitution for the \$3,804 and for the additional \$2,500 incurred for accounting costs. The Court of Appeals ruled the trial court erred by including the \$2,500 in the ordered restitution, because the accounting costs are not included in the definition of economic loss and were not the direct and proximate result of the commission of the theft.

This legislation is about holding criminals accountable for their crimes and the financial losses they force onto their victims. When a crime is committed, especially with theft cases, victims can incur significant accounting expenses to ascertain the true amount stolen. Criminals should not be able to escape paying the full-costs of their crimes. The current loophole the appeals court discovered needs to be closed. House Bill 391 will provide clarity and end unnecessary ambiguity regarding economic loss.

It is important that criminal cases involving restitution be efficiently handled within criminal court. If not, a separate civil case may have to incur, which increases judicial workloads and legal costs for all parties involved. By providing judges the discretion to consider accounting accosts, it will assist in streamlining the legal process in restitution cases. Hopefully, this will lead to cost savings for the victims with their attorney fees. Taxpayers could potentially save money, as many criminals have to be

represented by public defenders, which would then have to be paid to represent them in a separate civil trial.

In closing, I want to emphasize this bill is not a mandate on judges, but expands their discretion when determining economic losses, and logically extends this judicial discretion already permitted in civil court. This legislation seeks to hold criminals accountable, which is an underlying duty of government. Our laws should ensure victims have a fair opportunity to recover their financial losses and not have to jump through additional hurdles to be granted fair restitution. I hope to have your support for House Bill 391 and am willing to answer any questions at this time.