

HB 391 RESTITUTION – PROPONENT TESTIMONY

JAN. 16, 2018

Sharon Montgomery, victim

Chairman Manning, Vice Chair Rezaback, Ranking Member Celebreeze, and members of the House Criminal Justice Committee, I have first hand experience with the issue of victim financial losses and I strongly support Rep. Merrin's HB 391 to expand losses eligible for restitution.

In 2000, I was a victim of a serious three-car crash caused by a driver using his phone. The driver of the other victim car is now permanently partially disabled. My husband died after six weeks in ICU. I had life-threatening complications with my injuries, continued to have crash-related physical medical problems for three more years, and am still being treated for PTSD. The offender and his passenger were not injured. He mailed in his \$75 fine for ACDA. The prosecutor refused my request to review the charges after John died. Our losses, NOT counting John's future earnings (he was 51 when he died) were about one-half million dollars.

Restitution in ORC is complicated. The use of the terms “reparations” and “restitution” confuse me. Restitution as a means of victim compensation is addressed in various ORC sections, each of which is long and involved. I just got your revised agenda adding this bill this morning so I haven't had time to review all of ORC about restitution. However, I think I remember correctly that HB 490 in 2003 added provisions that might have helped us if it had been in effect in 2000.

Our law suits went nowhere because there is no one to sue; after the limits of car and health insurance—often too low—the victim is solely responsible for his or her own losses. SB 80 in 2005 did not correct this problem. Even if we had won an award in our suit, it would not have included our legal expenses. The offense committed against us wasn't considered serious enough to be part of the victim compensation law. HB 108 in 2006 did not correct this problem.

On paper, there are a number of resources for victim compensation. In real life, many victims fall through the cracks and are not able to use any of those resources. In the big picture, we need to review and revise a number of laws: insurance including subrogation, tort, restitution, sentencing, and victims' rights.

For now, you have the opportunity to begin to address restitution. A victim's losses can include a myriad of expenses. Keeping careful track of all of them while recovering physically and/or emotionally from the impact of the offense is very difficult. Then they have to be matched to the eligible and ineligible expenses in the law. It is very likely a victim would need help with this accounting. This bill VERY REASONABLY would allow compensation for the cost of that help.

I don't see anything in the bill that specifies what the cost would include. I suggest that be clarified and that it include a means to calculate and include the victim's time and efforts if s/he does the accounting without hiring help.

I thank Rep. Merrin for bringing you this bill and I thank you for your attention to the bill and to my testimony. I would be happy to answer any questions.

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