



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Opposition of HB391 Restitution-Cost of Accounting Sponsors Representative Merrin

Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze and members of the House Criminal Justice Committee. My name is Niki Clum, and I'm the Legislative Liaison for the Office of the Ohio Public Defender. Thank you for the opportunity to testify in opposition of HB391.

As this committee knows, HB391 allows "the cost of any accounting done to determine the extent of loss" included in the restitution amount ordered by the court. The phrase "cost of any accounting" is very broad. OPD is concerned that insurance companies will use this broad term to collect the cost of insurance assessments done in relation to criminal cases. This amount should not be included in restitution because performing an assessment is within the insurance company's ordinary course of business, and insurance companies should not have their business subsidized by criminal defendants. OPD recommends that the language of HB391 be narrowed to avoid this absurd outcome.

OPD agrees with Representative Seitz's suggestion that the bill should contain a limit on the amount of accounting cost that can be collected. It is not uncommon to see forensic accountants charge \$300 an hour or more. If an individual is convicted of the theft of \$3,000, it is unreasonable to ask that individual to pay another \$10,000 or more in additional restitution for the cost of accounting. In theory, the individual should be able to reimburse the \$3,000 benefit they received from the theft. But how is that individual supposed to obtain another \$10,000 for the accounting fees? Not surprisingly, individuals that commit a \$3,000 theft usually do not have an extra \$10,000 laying around the house that they can use to pay restitution. If the goal of this legislation is for companies to collect some of the accounting cost, then the court must impose a restitution amount that the individual could reasonably pay.

Thank you for the opportunity to speak today before your committee. I am happy to answer questions at this time.

