



**Representative Robert R. Cupp**

**4<sup>th</sup> House District**

**SPONSOR TESTIMONY – HB 610**

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Good afternoon Chairman Lang, Vice Chair Plumber, Ranking Member Leland, and members of the committee.

I appreciate the opportunity to offer sponsor testimony on HB 610, which updates, clarifies, and synchronizes Ohio’s crime victims’ rights laws. HB 610, “The Ohio Crime Victim Bill of Rights,” statutorily implements the enhanced rights of crime victims contained in the “Marsy’s Law” Crime Victims Amendment to the Ohio Constitution. Ohio voters overwhelmingly (83%) approved the amendment in November, 2017. The amendment is located in the Ohio Bill of Rights at Article I, Section 10a.

As a result of the amendment, the Ohio Constitution now requires that a victim of crime shall have their rights protected in a manner no less vigorous than that of a person accused of

committing the crime. With this bill, these constitutional protections for crime victims will be fully enabled with workable statutory provisions to achieve justice for victims.

The bill defines “criminal offense” broadly as “an alleged act or omission committed by a person that is punishable by incarceration and is not disposed of by the traffic violations bureau serving the court under Traffic Rule 13.” (The violations excluded from disposition by a traffic violations bureau are specified serious violations.)

“Victim” is defined broadly and the same as in Art. 1, Sec. 10a: “a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act....”

The main goals of HB 610 are to ensure that crime victims are able to understand, able to exercise and able to enforce the various rights accorded to them by the Ohio Constitution. To achieve that end, it is important to provide some uniform procedures and to fill in some of the general details necessary and helpful to fully implementing the constitutional provision. This will assist law enforcement and the courts in ensuring and protecting the rights of crime victims in criminal justice proceedings. H.B. 610 will better enable the entire criminal justice system – from the first contact with local law enforcement to the final court decision in the case -- to implement the constitutional and statutory rights of crime victims equally and uniformly across the state. Victims of a crime are not always aware of the rights available to them. To create greater awareness, one change in law made by HB 610 is to require that all crime victims receive a “rights request form” along with the currently required attorney general’s pamphlet listing the rights of victims at the earliest contact with law enforcement. The card will inform crime victims

of their rights, at the very beginning of the criminal justice process, and must also include contact information for various resources that a victim of a crime may find beneficial.

A major requirement of the Crime Victims Amendment to the constitution is to protect the victim against public disclosure of personal information. Some victims will not press charges against a perpetrator because of fear of retaliation. To respect the victim's safety, dignity and privacy, as required by Art. I, Sec. 10.1(A)(1), Ohio Constitution, personal information about the victim located in records relating to the case would be protected from public disclosure when the victim requests such protection. This provision limits the ability of a criminal to further intimidate or harasses a crime victim. Exceptions are provided for when the victim consents to release or a court finds that a compelling need exists to disclose the victim's information.

The existing crime victim statute provides a victim with the right to give a Victim Impact Statement at sentencing and at parole hearings. HB 610 expands the right of the victim to be present and to make a statement to the court in more proceedings and at more stages in the criminal case. These include arraignments; post-arrest release; hearings to revoke, terminate or modify the existing terms of probation and community control; early release hearings, and hearings to seal or expunge criminal records. Victims will have the right to be present and heard at all hearings involving the crime committed against them. Before a pardon, commutation of sentence, or reprieve is granted to an offender convicted of an offense of violence, the governor will be required to provide an opportunity for the victim or victims of the offender's crimes to submit a written statement to be considered.

Victims sometimes feel left out of judicial process, and their unique perspective ignored when plea negotiation get underway. HB 610 ensures the prosecutor must confer with the victim on this matter and that victims and/or their representative will have the opportunity to be present and, if they choose, to voice their thoughts at any proceeding in which a negotiated plea is presented to the court. And, generally, at each designated stage of a criminal or juvenile case, the court is required to ascertain before proceeding whether the prosecutor has conferred with the victim and, if the victim is not present in court, that the victim has received the notice required or has waived the right to be present for the proceeding.

The Crime Victim Constitutional Amendment, for the first time, provides the crime victim with the right to “petition the court of appeals for the applicable district” to enforce the crime victim’s rights. However, there is no mechanism specified in the constitutional amendment for exercising this right. Consequently, a goal of HB 610 is to provide a workable procedure for the crime victim to petition the appropriate appellate court when necessary to enforce a crime victim’s rights in a particular case.

The mechanism included in HB 610 requires the victim (or their representative or attorney) to first seek to have the trial court correct any denial. If that is not successful, then the victim who’s right has been denied could appeal if that will provide a meaningful remedy, or, if not, petition the appropriate appellate court or the supreme court for a writ directing the trial court to afford the victim their right. The proceedings in the underlying criminal case would be put on hold while the appellate court decides the petition on an expedited basis.

This overview contains just some of the updates to crime victim rights and procedure contained in HB 610. Testimony from experienced crime victim advocates will fill in more of

the details in future hearings. Over the last 2 years practitioners and experts in this process have worked diligently to identify areas in need of clarification in Ohio's Crime Victims' Rights laws and are in support of the bill.

In summary, this is an important measure for the protection the rights of crime victims – those who bear the brunt of criminal offenses. And, because it implements the people's will, as expressed through the adoption of the constitutional amendment, it is also essential legislation which I ask you to support.