

HB 610: VICTIMS' RIGHTS PROPONENT TESTIMONY 5-19-20

PLEASE NOTE: I hope to give this testimony in person. However, the Transportation Committee meets at 10 this morning & I need to testify in support of HB 468 to upgrade our law on driving under the influence of electronics. If I am not here when my name is called, this will be the reason.

Chairman Lang, Vice Chairman Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, I am here to support HB 610 which will greatly enhance the rights of crime victims in Ohio.

I realize the purpose of this bill is to implement the 2017 constitutional amendment, known in Ohio and other states as Marsy's Law. Therefore, it focuses on victims' rights to notification, participation, and privacy throughout the legal process involving the victim's offender. This bill was obviously given a great deal of thought and is very comprehensive. It also has a lot of specifics, which should mean that it can be more easily complied with, because there is little ambiguity about exactly what is expected and by whom.

I have been educating myself and advocating for enhanced victims' rights since falling through cracks as a victim myself. Advocacy involves a lot of networking. I've met several victims who were supposed to be covered by the victims' rights laws but who weren't given all their rights, usually by inadvertent acts of omission. Sadly, I met one victim who was an attorney. She knew her rights and requested them when they weren't forthcoming. In this case, it appeared it wasn't omission but commission.

Even without the constitutional amendment, the need for the bill appears not to be in question. What is left to decide is if this bill tightens up victims' rights enough, and in the right ways. Overall, it seems to do that—for the victims of offenses that are covered by Ohio's victims' rights laws.

I hope HB 610 will be a first step and that those who created it will follow up by addressing other shortfalls in Ohio's victims' rights laws.

One shortfall in particular that I am familiar with is that Ohio's system for victims' rights, assistance, and compensation is exclusionary. Too many traffic victims are excluded, even though the harm they suffer may be greater than that of an eligible victim. For instance, a victim of a drunk driving crash might suffer lesser injuries than a victim of another crash category. Drunk driving victims are eligible for assistance, regardless of the amount of harm; victims of traffic offenses lower than first degree misdemeanors are not, even though they can have results as serious as death.

I am an example of this. In 2000, a driver using his phone caused a three-car crash. The driver of one victim car was left permanently partially disabled. The driver of the other victim car, my husband, died after six weeks in ICU. I had life-threatening complications with my injuries, missed four months of work, am still being treated for PTSD, and recently had to resume physical therapy for one of my injuries. I continue to be at risk for more medical problems. With lung injuries, I am at risk for a more severe case if I contract the coronavirus. As we learn more about brain injuries, we know there is greater risk for serious future problems.

Our offender was charged at the scene with ACDA. The prosecutor rejected my request to revise the charges to at least vehicular manslaughter after the crash report was updated to note John's death. Our offender mailed in his \$75 fine.

Minor misdemeanors handled by a traffic bureau are not covered by the victims' rights laws. When, under Traffic Rule 13, there is no trial then there is no sentencing. With no sentencing, there is no victim impact statement or possibility of restitution. With no court appearance and impact statement, the offender is comfortably insulated from the consequences of his actions. Enjoying this insulation, our offender was involved in additional crashes, after ours.

Surely this is not the way this is all supposed to work!

In 2005, HB 108 was introduced to amend ORC 2930.01 by including injured OVI victims in the victims' rights laws. Committee members wondered why. My response was because MADD has done such good advocacy. I gave the example of my story and said I thought inclusion based on the victim's needs more than on the name of the offense would make more sense and be more fair. Several committee members agreed. Unfortunately, the compromise that resulted was to also include injured victims of traffic offenses *only if* they are first degree misdemeanors or higher. In my view, this doesn't solve the problem.

In 2006, I addressed the State Victim Assistance Advisory Committee with specific suggestions to seal some cracks. The members were favorably impressed and wanted to pass them along to the Attorney General after the election. Unfortunately, that was when Mr. Dann was elected. With the problems in his office, my ideas never made it to the level of the AG. I still haven't succeeded in moving those ideas forward, but I haven't given up.

My case brings up another matter I would love to see resolved for victims. I fully understand the value of and need for prosecutor discretion. However, in a case like mine, where the law is very clear and specific that the offense **was** vehicular manslaughter [ORC 2903.06(D)], which is causing the death of another while committing a Title 45 offense--ACDA in my case, victims need some recourse, some assurance the charges can be reviewed.

Because I am a victim and also a retired public records administrator, I am very familiar with details of several sections of this bill. I sent the sponsor, Rep. Cupp, my review of the bill, noting particularly beneficial provisions, and some places where it appears a detail was overlooked, or something needed to be made even more clear.

I attached my review of HB 610 to the e-mail by which I sent this testimony yesterday.

Thank you for your attention. I would be happy to answer any questions.

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