

Testimony of

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September 10, 1997

House of Representatives
Judiciary Committee
Subcommittee on Crime and Corrections

I testify here today on behalf of the Office of the Victim Advocate and Governor Tom Ridge in support of Representative Birmelin's proposed restitution collection legislation. I would like to talk generally about restitution. What I know about restitution I have learned directly from victims of crime. What crime victims have said to me over the years regarding restitution can best be articulated in three primary points. They are:

Accountability

Restoration

*And the **Experience** of Justice*

Accountability:

When an offender commits a crime, they incur a debt to the victim of their crime. That debt should be treated as any other debt incurred by any law abiding citizen. It should be ordered and it should be enforced. The payment of the debt should be central to all efforts to punish and reintegrate the offender back into the community. Offenders need to be held accountable for those debts. Our efforts pertaining to enforcement of the offender's sentence should included a focus on the victim. Crime victims expect that offenders will be made aware of and provide guidance in fulfilling their financial obligations. That expectation is based on the belief that if the offender is making restitution payments, they are in at least one way taking responsibility for the crime they committed, not just serving time in jail but recognizing their responsibility for the financial damage caused by their actions.

Restoration:

Restitution and the collection of restitution is not only about holding the offender accountable; it is about restoring the victim. Restitution demonstrates an effort on the part of the offender to restore the damage caused by the crime. Mandatory restitution enacted by this legislature during the Special Session on Crime was based upon the premise that no innocent victim should have to suffer damaging economic loss. The bills introduced by Representative Birmelin take the next step. Whereas mandatory restitution insures that restitution is ordered, the bill before you today insures that restitution becomes part of our mission in the criminal justice system and provides the system with the tools necessary to engage in an aggressive restitution collection effort.

Experience of Justice:

Holding offenders accountable and restoring the victim goes way beyond the sentencing order. Holding the offender accountable and restoring the victim means effectively delivering the entire sentence imposed by the court. Unfortunately, each day across this Commonwealth victims leave sentencing courts with a false sense of justice. They leave believing that the offender will pay the restitution only to find that there are mazes of independent agencies ill-equipped to deliver on the sentencing order. These independent agencies do not have the necessary tools and information to attempt to engage in a meaningful restitution collection effort.

This legislation before you today will fill in the gaps that exist in our present system regarding restitution collections. Clearly defining a process of information flow and responsibility for restitution information and collection is a logical and necessary step. The bill places the responsibility for obtaining the necessary restitution information from the victim on the district attorney and provides for the method of restitution to be ordered by the court. The responsibility for the actual collection is placed on the county probation department. That is where the largest number of offenders are supervised

and where the overall management is most cost effective (we have seen at the national level that a central collections system has been an absolute failure). Counties already have the authority to recoup the costs of restitution collection efforts from the offender and this has been highly successful in Erie county.

I believe that the most important aspects of this legislation are the portions pertaining to state sentenced offenders and the development of wage attachments for the collection of fines, costs and restitution. The information flow from the counties to the state and between independent county agencies will help build an infrastructure which can do nothing but enhance our ability to collect restitution.

Too numerous are the times that victims have said to me while submitting their comments on the potential release of the inmate that the offender has not paid a dime in restitution during their period of incarceration. This has always been an interesting conversation for me to have with crime victims. I find myself explaining that it is not necessarily an issue of the offenders willingness to pay ---- infact, there is no mechanism that exists to enable the offender to pay, to force the offender to pay, and or to remind the offender to pay since the prison does not even know what is owed!

What I have learned over the last three years is that justice for victims is not something that is handed out. It is an experience. The victory they feel in the courtroom soon rings hollow when portions of the sentence that are important to them are not the systems priority. Yes, they ask for punishment and yes they ask for incarceration but what they did not know at the time of sentencing was that those portions of the sentence would take priority over the restitution orders. That is the state of affairs in Pennsylvania today. What county you live in, whether or not the offender in your case received a state sentence or a county sentence, and whether or not the offender is incarcerated for any portion of that sentence is a greater indicator of your chances of receiving restitution than whether or not the offender has an ability to pay.

Representative Birmelin's bills will rectify that situation by mandating the flow of information from the counties to the state and between county agencies and state agencies. By authorizing the Department of Corrections and county prisons to tap inmate accounts for the payment of resitution, requiring the transfer of information pertaining to resitution ordered and collected to date, and by requiring the Board of Probation and Parole and county probation to require the continuing payment of resitution as a condition of supervision builds a post sentencing system in which we can collect resitution and provide victims with a opportunity for a greater experience of justice.

In addition, authorizing wage attachments provides probation and parole agents with necessary leverage to enforce resitution orders. This tool has been use successfully in Erie county to enforce resitution while keeping the offender in the community.

I ask that you support this legislation as part of a continued commitment to making the issues of importance to crime victims more central to our process of justice.

On a closing note, I would like to add that I support Representative Birmelin's draft legislation that requires the Board of Probation and Parole to provide information on the offenders address to the county probation department when the offender is released on parole.