

TESTIMONY IN SUPPORT OF BILL SB0027

Criminal Procedure – Restorative Justice Program

Date: 02/02/2023

From: Maryland Prisoners' Rights Coalition

To: Chair Smith, Vice-Chair Waldstreicher, and Members of the Senate Judicial Proceedings Committee

Re: Support for Bill SB0027

Thank you for bringing this bill forward and allowing us to illuminate the issue.

The Maryland Prisoners' Rights Coalition is an organization working to improve the conditions of confinement for incarcerated individuals in Maryland correctional facilities.

Although our organization is concerned primarily with the conditions of the incarcerated in Maryland, with this bill we hope to make change from the other side of the walls. To decrease incarceration, we sought to attack the cycles of violence and revenge with a program of collective community healing, which is most prominent in Baltimore City, but extends throughout every area of the state of Maryland to some degree. After our research talking with various community groups, we decided that the best way was to create a post-adjudication restorative justice program focusing on serious crimes and high-risk offenders.

The purpose of this bill is to create a Restorative Justice council within the Governor's Office of Crime Prevention, Youth, and Victim Services in the Victim Services Unit. The Council will develop the standard operating procedures for this program. Due to the nature of the crimes under the scope of this program, the legislation will mandate trauma-informed practices, which are not always prescribed. (This program will not affect any pretrial diversionary programs already in place).

Restorative justice is inherently victim-centered. It is a theory of justice that focuses on the harm caused by the crime, and repairing that harm. In its optimal form, restorative justice practices force the offender to be in a safe space with the victim and acknowledge the harm done. Currently, the only time offenders and victims are in the same space is during sentencing, and the offender can keep their back to the victim(s) at all times during this process.

It is important to note that this bill is the first of its kind in that it allows an offender to initiate participation in a restorative justice program. However, it is vital to point out that this bill DOES NOT AT ANY TIME allow the offender to directly contact the victim, nor does it allow offenders to use this process to retraumatize victims. This bill only allows offenders that have met criteria set by the Department of Corrections for good behavior to participate in a restorative justice program generally. Practitioners in this field of high-risk restorative justice find that the process to actually create a direct victim offender dialog (VOD) is measured not in weeks or months, but YEARS. Victims that have opted out of victim notifications will never be notified of this, and those that choose to be informed are allowed to decide whether they choose to participate in the process. Further, those that originally opt out can opt back in at any time if they decide that they are ready for the process. It is vital to allow for offenders to also initiate this participation, because the pool of victims and offenders often overlap, and to maximize the community effect, we feel that offenders should be allowed to participate in such a process, even if their victims do not wish to participate in a dialogue with their offender. Also, confidentiality during the process is guaranteed, and declining to participate will have no negative consequences for either party.

Not only is restorative justice victim centered, it is also based in the community. Although the Council itself will be based in the executive branch, the program itself is still community-based. Looking across the nation at the 11 states that have post-conviction restorative justice programs, we found several best practices that made placing this program within the government to be beneficial. The most important is that placing the program in the executive branch establishes requesting a victim-offender dialogue BY VICTIMS as a statutorily mandated. Additionally, placing in the executive branch mandates that victims are notified of the program. In our dialogue with victims across the country, we discovered that many wished that they had learned of this possibility earlier, but were never informed that such a process exists.

Other important reasons are to make sure, through the creation of the Restorative Justice Legal Specialist, we assure that mediation organizations that provide restorative justice services meet acceptable standards, and the Restorative Justice Fund allows for all Maryland crime victims to have access to these services. Housing the program in the executive branch also makes it easier, through the Justice Reinvestment Act (JRA) of 2016, to apply for federal funds for this program.

Most importantly, restorative justice is effective. According to the Center for Restorative Justice, 79 percent of victims report satisfaction, as opposed to 57 percent through the traditional restorative justice¹. According to Baltimore City's Restorative Rescue, 95

¹<http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-1-what-is-restorative-justice>

percent of restorative justice community conferences have resulted in a written agreement between all parties, with a 95 percent compliance rate.² In 2015, the *Journal of Quantitative Criminology* found that 18,000 Baltimore City residents have resolved their own crimes through restorative justice processes.³ When looking at restorative justice in serious crimes, 80 percent have found that participation had a profound effect on their lives.⁴ Studies also show improvement in recidivism rates regardless of crime, and participation is seen as valuable by participants regardless of the specific conviction.

Although a restorative justice program will not be a cure-all for crime in Maryland, we believe it is an important step in continuing the process of collective community healing and the breaking of the continuing chains of violence and revenge. We believe that the time has come to enact this legislation and create such a program, and any study or workgroup is unnecessary, as restorative justice has been shown to be effective already.

For these reasons, we urge a favorable report on SB0027.

Respectfully,

Maryland Prisoners' Rights Coalition
MPRC Partners and the Directly Impacted Governance Committee

²Zehr, Howard. *Restorative Justice: Principles and Values, an Overview*. <https://zehr-institute.org/docs/Howard-Zehr.pdf>

³Sherman, Lawrence W. "Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review," *Journal of Quantitative Criminology* (2015). <https://link.springer.com/article/10.1007/S10940-014-9222-9>.

⁴ Community Mediation Maryland Evaluation Results. <https://re-entrymediation.org/evaluation-results/>.