

Written Testimony

RE: SB0027 Criminal Procedure – Restorative Justice Program

Connie Phelps, MSW

Co-Chair, Survivors Advisory Board

Maryland Domestic Violence Review State Implementation Team

Maryland Network Against Domestic Violence

All views are my own

February 1, 2023

Restorative Justice Is Not Appropriate In Cases of Intimate Partner Violence

It has recently become popular among some anti-carceral groups to suggest Restorative Justice as an alternative to incarceration for intimate partner violence (IPV), frequently without input from survivors. I am certified as a trainer in Restorative Practices (RP) by the International Institute for Restorative Practices (IIRP), and I have been implementing it in schools for years, engaging in the process with both youth and adults. I am also a survivor of intimate partner violence. Most practitioners of RP have maintained for decades that it should not be used if there is a possibly dangerous or threatening power dynamic among participants, which excludes DV/IPV situations automatically.

A Restorative Practice / Restorative Justice (RJ) conference gathers together the “communities” of both someone who has been harmed and the harm-doer, to tell the harm-doer about how "his" actions have affected them and hold him accountable. But this is an ideal that disregards everything that the social sciences know about the complex power dynamics and coercive emotional strategies present in intimate partner violence.

- Emotional manipulation, false assurances, short-term penance and use of third-parties to intimidate the victim are all endemic to IPV, as is well known.

Written Testimony

RE: SB0027 Criminal Procedure – Restorative Justice Program

Connie Phelps, MSW

These are grooming tactics to which restorative justice meetings are particularly vulnerable.

- Restorative Justice involves family and community members, who are unlikely in our society to understand the complex dynamics of abuse and are likely to pressure the victim into participating in the process and "forgiving." Although the offender may not be allowed to contact the victim directly, "he" will be able to pressure "her" through friends and family to participate in the process. There is no way for RJ agencies to prevent victims from being socially coerced into participating, even if the perpetrator is incarcerated.
- People killed by IPV are usually killed while leaving the relationship or within the first year. If RP/RJ is implemented instead of jail time, that window of safety may be lost to the survivor, endangering them.
- Low-income survivors may be under high economic pressure to try this alternative so that the perpetrator can be a provider, which could put the victim at increased risk of lethality during the first year after separation if RJ is used in lieu of jail time.
- Huge cultural pressure exists in religious communities to "forgive" repeatedly, and this process will only create another opportunity for that influence to be applied to the survivor to reconcile with the partner, making the survivor less safe.
- This is yet another way for perpetrators to initiate unwanted contact with a survivor. Perpetrator manipulation of government systems to continue abuse is already a recognized problem, and the procedure as outlined is an ideal and easily manipulated tool for abusers.

What breaks my heart about the idea of Restorative Justice for IPV is that I would have done the process as a victim when I was in the relationship or even after - because many victim-survivors believe that only by "reforming" the perpetrator will we be safe. But my abuser (and most) would only have participated if he saw legal or societal benefit for himself. If he had decided it would be useful to him, he would have

Written Testimony

RE: SB0027 Criminal Procedure – Restorative Justice Program

Connie Phelps, MSW

presented a wholly charming, touching, reasonable (or even pitiful) face in the RJ conference, winning the goodwill of everyone there, while continuing to abuse and control me in private or through third parties. Restorative Justice can be a field day for a con artist, since it is built around desired relationships, trust and "second chances." **It would have served as yet another chance to groom and manipulate me and my support system, and it probably would have worked.**

It may not be realistic for IPV cases to be isolated from other cases in the implementation procedures outlined in SB0027, since most IPV cases are prosecuted simply as assault or other charges, or may be plead down to something not easily recognizable as starting in domestic violence. Until and unless real-world safeguards are put in place to protect victims of IPV from this process, I ask for an unfavorable vote on moving the bill forward.