

## **Senate Judiciary Committee**

**Senator Diane Larson, Chairperson**

### **Testimony Introducing HB1393—Restorative Justice as a Sentencing Alternative**

**Rep. Mary Schneider, District 21**

*March 29, 2021*

Chairperson Larson and Members of the Senate Judiciary Committee:

I am Mary Schneider and I represent District 21, the Heart of Fargo. I'm here to introduce HB 1393—Restorative Justice as a sentencing alternative. HB 1393 makes an important addition to the eight categories of choices now used in sentencing persons convicted of a crime. You'll see the current alternatives beginning on page 1, line 10 of the bill. This bill would add letter "i." on page 2, line 7.

A restorative justice program aims to have offenders do something they often avoid--take responsibility for the harm they have caused by their actions. They learn the consequences of their actions to the victims, and sometimes also impacts to the community. Components of restorative justice often include:

- Bringing together the victim and perpetrator in some form.
- Making clear the harm that has been caused by the perpetrator's behavior or actions--discussing who was hurt and how.
- Having the offender understand the harm caused and its effects on the victim and community.
- Promoting empathy where possible.
- Creating a consensus about what can be done by the offender to repair the harm.
- Giving the offender the opportunity to repair the harm and redeem himself or herself.
- Reducing the anger, thirst for retribution, or feelings of powerlessness in the victim, and giving them the opportunity for active participation in the provision of justice.
- Holding the offender accountable in a way that will make it less likely that person will reoffend.

Restorative justice is based on the principal that if crime hurts, justice should heal—the victim and sometimes the larger community. A plan is often developed to do that.

Restorative Justice won't replace the other sentencing alternatives such as imprisonment or fines, but it might dovetail with them. For instance, restitution might be part of the plan. The

process may serve as punishment, or it may be ordered with imprisonment. Repairing or replacing damaged property might be one of a plan's components. A plan of work or service might be incorporated to undo part of the harm. Commitment to treatment could be required. Overall, restorative justice is flexible enough to incorporate duties by the offender, to promote needed outcomes for the victim(s).

Restorative justice can serve as a diversion from prison. It has also worked well in prisons and with prisoners while they serve their sentences. It has been particularly effective in the juvenile system with young offenders, and it has been used that way across our state. But as we know, youthful brains and their decision-making executive functions often don't develop fully until age 25 for males. That means 18-25-year-olds could likely benefit as much as those juvenile court offenders if we incorporate it in adult sentencing.

I first encountered restorative justice as part of my advanced international law studies. I got to travel to Northern Ireland and to Rwanda on American Bar Association legal exchange programs while those countries were working to advance peace and reconciliation. There had been centuries of violence in Ireland, and in Rwanda a brief but violent massacre that killed a half million people in 100 days.

The principles of restorative justice, however, can be equally effective with individuals in Bismarck or Beach, Minot or Milnor, Williston or Washburn, Casselton or Carrington, Fargo or Fairmont, Grand Forks or Gwinner. Understanding, making amends, and changing behavior can happen anywhere, and can happen more frequently here, in North Dakota, if we add it to the mix of sentencing choices, and educate judges and justice system personnel on its availability.

Will this alternative be appropriate for all crimes? No.

Will it be an option for all offenders? No.

Will a judge be required to impose it, or even consider it? No.

But will it provide a choice that may be best in producing long term change, reducing recidivism, providing needed healing for victims, and involving the community in addressing issues of concern? Yes, Yes, Yes, and Yes.

You will hear more from those who follow me and have worked with restorative justice. After you do, please pass this small change in the law that can yield big results. Thank you, and I'll try to answer your questions.