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TO:  
Representative Chris Rabb  
PA House of Representative  
Re: Restorative Justice Legislation

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**Introduction**

The Philadelphia District Attorney's Office (DAO) is thrilled to see restorative justice being proposed as a solution to reforming the criminal justice system. Oregon, Vermont, and New Jersey have all codified restorative justice practices into their criminal justice statutes and it is exciting to see that the Commonwealth of Pennsylvania may join that list. Restorative justice is already conducted across the Commonwealth, from community organizations in Philadelphia, to Mennonite communities in Lancaster County. This kind of diversionary program has shown great results when it comes to recidivism and overall satisfaction from individuals harmed.

The Philadelphia District Attorney's office has conducted both juvenile and adult restorative justice diversionary programs since 2020, and both have had tremendous results. Our pre-charge juvenile diversionary program has seen over 100 cases adjudicated, and not one of those who committed harm in any of those cases had further contact with the criminal justice system. Our office used restorative justice to adjudicate some cases during the Civil Protests of 2020. Here, only 12% of those who committed harm were re-arrested after completing the program, compared to 53% of those who were tried through the traditional criminal justice system. Similarly, our ad-hoc adult restorative justice program, established in 2022, has only had one individual re-arrested in over 45 cases adjudicated through restorative justice. Because of these incredible results, our office is attempting to expand our restorative justice program to over 1000 cases a year. We support any legislative effort to expand those results to the rest of the Commonwealth.

However, the current proposal fails to incorporate restorative justice principles and uses sentencing courts as the mechanism of administering the program. In order for any legislation to fully encompass restorative justice

principles, the following policy recommendations must be included. These recommendations ensure that all participation is voluntarily, structures the program to increase cost-savings and empower community organizations, adds requirements in line with restorative justice principles to the process, and defines who can facilitate a restorative justice program. We look forward to working together to codify restorative justice in the Commonwealth and continue our fight in reforming criminal justice.

### **Policy Recommendations**

**1. Restorative Justice legislation must be a voluntary process, that requires the individual who caused harm to take accountability, and the individual harmed must consent to participate in a restorative justice circle.**

- The proposed legislation currently includes no requirement for a judge at sentencing to ask for consent from either the individual harmed (“complainant”) and the individual who caused harm (“defendant”) to participate in a restorative justice circle. One of the core pillars to restorative justice is that individuals who caused harm take accountability for their actions and agree to participate in a restorative justice circle. Additionally, the individual who was harmed in the incident must consent to diverting the case to restorative justice. This change would also ensure that any restorative justice legislation does not violate any Victim’s Rights laws already enacted.

**2. The legislation must include definitions for restorative justice terms and not be structured as a sentencing measure, but as a pre-trial diversionary program.**

- The current bill appropriately and accurately defines “restorative justice,” however more elements of a restorative justice program need to be defined, similar to legislation passed in New Jersey and Vermont. Terms such as “transformational justice,” “restorative practices,” and “needs assessments” need to be included in any restorative justice legislation. The proposed legislation attached to this memo proposes definitions for various terms related to a **successful** restorative justice program.
- The current bill structures restorative justice as a sentencing mechanism administered by a judge, after a defendant has admitted guilt. However, this structure does not align with the principles of restorative justice and does not take advantage of the cost-savings a restorative justice program can bring if implemented as a pre-trial diversionary program. As mentioned above, administering restorative justice as a sentencing measure does not ensure consent from the individual harmed, or accountability by the individual who

caused the harm. If implemented as a pre-trial program, individuals would be diverted from the court system to a **trained** community organization who are better equipped in assessing a case for restorative justice. This diversion would reduce caseloads for the courts, saving time and money. Additionally, it allows facilitators time to ensure that the case is appropriate for a restorative justice circle.

**3. Restorative Justice legislation must include a section guaranteeing confidentiality of all parties involved for participating in the program.**

- The current legislation does not include a section that guarantees the confidentiality of what is said by participants during the restorative justice process. Confidentiality is crucial to developing trust between individuals harmed and those who caused harm, which is critical to a successful restorative justice circle. Additionally, protecting the confidentiality of statements made during the process prevents the use of these statements in any future prosecution of the case if the restorative justice program fails.

**4. Legislation should codify qualifications for program facilitators, and ensure facilitators meet with parties individually to conduct a needs assessment and see if restorative justice is proper for the case prior to a restorative justice circle.**

- The current bill properly defines what a restorative justice circle requires and the required participants. However, it fails to outline who can facilitate a restorative justice circle or any requirements for what someone needs to do in order to become a restorative justice facilitator. It is crucial that any restorative justice program be facilitated by community organizations **who have been trained in restorative practices** and who select facilitators from the community. Luckily, there are already many community organizations across the Commonwealth, like Collective Climb, **Healing Futures and Restorative Cities Initiative** in Philadelphia or Advoz in Lancaster, that are trained in restorative justice practices and can train facilitators.
- The current bill does not include a requirement to meet separately with both the individual harmed and the individual who caused harm prior to any facilitation of a restorative justice circle. This is a crucial step to the restorative justice process, because it ensures that all parties truly want to participate in this process, and allows further assessment to see if the case should be adjudicated through a restorative justice circle. Furthermore, meeting with parties prior to the circle allows for facilitators to conduct a needs assessment for all participating parties. A needs assessment requirement should also be

included in any final restorative justice legislation, because it ensures that individuals who caused harm are connected to resources and services, which helps reduce recidivism. Additionally, a needs assessment would ensure that the needs of the individual who was harmed in the incidents are met, expediting their healing process.

We are highly encouraged to see the PA legislature adopting restorative justice as a tool to reforming criminal justice reform. Including these recommendations would ensure that any restorative justice legislation makes a lasting impact on communities around the Commonwealth.

Respectfully Submitted,  
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Office of the District Attorney of Philadelphia