

Lead Senate Sponsor: S71 Senator Jamie Eldridge

Lead House Sponsor: H1313 Representative Sean Garballey

Summary

This bill creates an option for law enforcement and court personnel to refer certain criminal cases to a community based restorative justice program in lieu of or alongside other responses. Referral may be made at pre-complaint, arrest, pre-arraignment, sentencing or post-sentencing.

What is “restorative justice”?

It is an approach to crime that asks not just what law was broken, but who was affected, in what way, what do they want/need, and who’s obliged to meet those needs. Practices may include voluntary meetings among victim, offender, supporters, community members, and criminal justice personnel where relevant. The aim is to meet victim needs, hold offenders accountable and explore the impact of the crime on community. The group reaches consensus and creates a constructive plan of repair.

Why does restorative justice matter?

- **Higher satisfaction rates for victims** vs. those proceeding through traditional court (89% vs. 57%)
- **Reduced recidivism** for offenders (16% vs. 39%)
- **More options** for police/court personnel when responding to crime (a greater breadth of victim services)
- **More meaningful role for affected community members** in addressing crime/harm in their neighborhoods

Common Misconceptions/Myths: restorative justice is *not*

- **Forgiveness** (While some victims choose to forgive, it’s not an expectation or goal.)
- **“Soft on crime”/easy on offenders** (Most offenders struggle to face those who have suffered harm.)
- **Only for youth, first-time, nonviolent offenders** (It can be very effective with adults and violent crime.)
- **Diversion** (The primary goal of diversion is to keep first-time, youthful, nonviolent offenders out of the criminal justice system; restorative justice places primacy on victim wishes. Still, diversion and restorative justice can – and often do – work in tandem.)
- **New** (There are more than 300 programs in the U.S. and 29 states have some form of restorative justice legislation.)
- **Appropriate for every crime or every person** (If a victim wishes to proceed through the court process that is his or her right.)

Examples of use in cases

1) Someone arrested for **spray-painting graffiti** may agree to meet with, learn from, and apologize to the victim property owner in person, and then use his own resources to paint over the graffiti. When the offender completes this repair, the police and victim may drop the charges, keeping the offender out of court but still holding him accountable for his actions.

2) A **breaking-and-entering** victim may want restorative justice in conjunction with court to meet with the offender, ask questions about whether the home was targeted or chosen at random, and to find out what happened to stolen items; the process may offer the victim understanding, answers, and less fear of being targeted in the future. A DA may dismiss charges after obligations are met.

3) A **motor-vehicle homicide** victim’s family may ask a victim advocate for a restorative justice conversation with the person who is serving time for the crime. The victim’s family may learn important information about decisions that led to the loved one’s death, will have a chance to share the experience of loss, and may ask what the offender would do differently. The outcome of the case may have no bearing on sentence/parole but could provide an occasion for learning, accountability, and even apology.