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House Committee on Judiciary
Memo re: House Bill 645

Dear Representative Lalonde and the Members of the House Judiciary Committee:

My name is Christopher Lukasik, I have been working in victim services for almost a decade, seven of which have been for the Office of the Windham County State's Attorney. I hold a Master of Public Health in Health Policy and am currently a Doctor of Education candidate. I am writing to you today to discuss House Bill 645, *An act relating to the expansion of approaches to restorative justice*. Over the past seven years, I have become strongly acquainted with Windham County's local restorative justice programs and being a member of the Vermont Council for Equitable Youth Justice, I have become well acquainted with statewide restorative justice programming. I am writing to you to discuss my thoughts on the provisions related to victims in this bill.

- Victims of crime must have the appropriate information about a systems-response (in court and/or out of court) to the crime that was perpetrated against them.
- Victims' Rights in Chapter 165 and 167 of Title 13, and Chapter 52 of Title 33 reinforce and value the necessity for victims to have information.
- Victims have to be given options on how they can participate in systems that respond to crime, and those options come with information about how different services and programming can benefit both the offender and the victim.
- Victims have to be given the opportunity to freely engage and disengage with programming, as they are the person that was harmed, placing any responsibility on the victim creates a risk of re-traumatization.
- Victims should be able to easily pick up the phone, call the Diversion program, and receive an update on the progress that the offender is making. This type of information can help the victim recover from the incident and get a sense that the system is properly responding to the incident.

Due to this, **I strongly encourage the Committee to remove any responsibility of victims signing protective agreements related to pre- or post-charge Diversion programming.** A victim signing a document with the State of Vermont and/or a Diversion program can be an intimidating action to take, and a barrier to participation and engagement. Requiring a "legitimate need" for a victim to access information places further responsibility on the victim to prove that they should receive information about a case that they are a victim of. I have concerns about the lack of definition of "legitimate need" as it appears to place a ranking list on any number of reasons that victims may want information (treatment for traumatization, safety, general wanting of information, etc.). **I further recommend removing any reference to a "legitimate need."**

I further am concerned that, even if this protective agreement was solely about the Diversion programming, victims would feel that they cannot talk about what happened to them. Victims have to be able to freely talk about a bad incident that happened to them so that they can mentally recover from the crime. Forcing a victim to sign a protective agreement gives the appearance that victims can no longer talk about the crime that was perpetrated. Even if this is not the intention of the provision, I believe it will be an unintended, but foreseeable, consequence of this legislation. **My solution to this concern is to place a responsibility on Diversion personnel that work with**

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victims to verbally reinforce that Diversion programming is confidential. This is a much simpler mechanism and affords victims much easier access to information about Diversion. This solution also mirrors the responsibility that victim advocates have when working with victims of juvenile delinquencies or youthful offenders. Victims of criminal cases, juvenile delinquencies, and youthful offenders do not need to sign any documents to access the information they have the right to. I believe adding this requirement for pre- and post-charge cases create an unnecessary burden on victims.

My final concern is in regard to Section 1 of this bill, specifically that Victim Services professionals will not be included in determining what guidelines will be in place for working with victims, and the expected caseload strain that this could put on State's Attorney Victim Advocates.

- Victim Advocates in State's Attorneys' Offices and restorative justice settings have a deep understanding of how victims engage with systems and I believe that if Victim Advocates directly work on developing these guidelines, they will be as victim-centered/victim-responsive as possible. **I would recommend amending (b)(4) of Section 1 in this bill to "In consultation with the diversion programs, the Vermont Center for Crime Victim Services, and the Vermont Department for State's Attorneys and Sheriffs, the Attorney General shall adopt...."** That way, the Center and Department can appoint Victim Advocates to consult on proposed guidelines of timely notification, invitations to engage, and information flow to victims.
- This bill, if there are standards created related to victim engagement and notification, needs to address the expected workload that comes with engagement of victims of crime. **I recommend that the Legislature ensure that restorative justice agencies have the appropriate paid staff to ensure that victims have designated contacts while a case proceeds throughout the pre-/post-charge diversion programming.**
- State's Attorney Victim Advocates have unprecedented caseload numbers right now - my own caseload has more than doubled in size from FY 2019. I fear that there is an assumption that State's Attorney Victim Advocates would do this type of outreach work, but I can plainly say that assumption will not be actualized as hoped due to the demanding caseload of pending criminal, juvenile delinquency, youthful offender, probation violation, and expungement matters.

Ultimately, I fear that this bill, as it is currently worded, will violate the legislative intent behind Chapter 165 and 167 of Title 13, and Chapter 52 of Title 33.

I am more than happy to meet with your Committee and discuss my concerns regarding victim impact in depth.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Chris Lukasik', with a long horizontal line extending to the right.

Christopher Lukasik, MPH