



February 5, 2010

The Honorable Pedro Nava, Member
California State Assembly
State Capitol, Room 6027
Sacramento, CA 95814

RE: AB 1710 – Support

Dear Assemblymember Nava:

The Riverside Sheriffs' Association, which represents over 3,200 rank and file deputy sheriffs, deputy probation officers, law enforcement investigators and counselors, coroners and bailiffs – the entire law enforcement team in Riverside County - is pleased to support your bill AB 1710.

Existing law provides that in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court is required to impose an order upon the defendant to make restitution to the victim or victims.

At issue however, is a recent case of the *People v. Millard* (2009) 175 Cal.App.4th 7 in which the 4th District Court of Appeals held that a trial court may apply the doctrine of comparative negligence in awarding victim restitution against a criminally negligent defendant when the court finds the victim's contributory or comparative negligence was a substantial factor in causing his or her injuries. Specifically, the court found that the restitution provision requires a criminally negligent defendant to reimburse a victim only to the extent the defendant's criminal conduct caused victim's economic losses, thereby *implicitly allowing application of comparative negligence*. If *Millard* stays in law, prosecutors will, even after a successful prosecution trial, have to put on as much evidence at a restitution hearing as would be used at a civil trial on damages. Prosecutors would be placed in an untenable position and restitution award amount would become fodder for defendants to leverage a more lenient sentence.

AB 1710 abrogates the holding of *People v. Millard* and fulfills the intent of the Legislature that a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant.

Very truly yours,

Pat McNamara
President

Timothy H. B. Yaryan
Legislative Counsel and Advocate

cc: RSA
Members/Consultants – Assembly Committee on Public Safety