



Benjamin N. Cardozo School of Law, Yeshiva University

VT Legislature to Consider Bills to Grant Access to Post-Conviction DNA Testing and Improve Accuracy of Criminal Justice System

FOR IMMEDIATE RELEASE
Tuesday, January 23, 2007

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(Montpelier, VT; January 23, 2007) – At Senate and House judiciary hearings tomorrow, Dennis Maher, a wrongly convicted man who was exonerated through DNA testing, and Innocence Project Policy Director Stephen Saloom will testify in favor of legislation (VT HB 50, and VT SB 6) to improve the accuracy of the state’s criminal justice system and grant post-conviction access to DNA testing.

Vermont, which has yet to adopt many of the protections other states have, would become a model of criminal justice reform with the passage of the two bills, the Innocence Project said.

At 8:30 a.m. Wednesday, the Senate Judiciary Committee will hold the public hearing in Room 1 at 115 State Street on (SB 6) Preventing Conviction of Innocent Persons, followed at 1 p.m. by the House Judiciary Committee informational hearing regarding (HB 50) Preventing Conviction of Innocent Persons in Room 30.

“Nobody wins when an innocent person is convicted: not the victims, not the police, not the prosecutors, the courts, nor the public. The only person who wins is the real perpetrator, who is never brought to justice. This bill will enable Vermont to join 41 other states in using post-conviction DNA testing to ensure justice,” Saloom said.

The House bill, introduced by Representatives Margaret Flory and Richard Marek, includes the following proposed reforms:

- grants prisoners access to post-conviction DNA testing
- mandates that law enforcement record all custodial interrogations
- requires law enforcement to establish rules regarding eyewitness identification procedures to minimize the possibility of a misidentification.
- permits wrongly convicted persons to file for compensation from the state
- creates a forensic laboratory oversight commission.

Several of these provisions have been adopted by other states and municipalities. Vermont is one of only nine states that lack a post-conviction DNA access statute and one of 29 states that do not have legislation providing compensation for the wrongly convicted. The practice of recording custodial interrogations, an important safeguard against false confessions, has been voluntarily adopted by more than 350 jurisdictions. Illinois, Maine, New Mexico, and the District of Columbia require the taping of interrogations in homicide cases. Eyewitness identification reforms have been implemented in the state of New Jersey, as well as large cities like



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Minneapolis and Seattle. The Innocence Project and state and local advocates have helped pass these laws.

The Vermont Senate bill focuses on passing a post-conviction DNA access statute and creating a forensic laboratory oversight commission. Additionally, both bills recommend that biological evidence relating to a criminal case be preserved and available for testing. Vermont is one of 28 states that do not have a statute requiring the preservation of evidence. Nationwide, a third of Innocence Project cases have been closed due to lost or missing evidence.

Dennis Maher, of Lowell, Massachusetts, was the victim of eyewitness misidentification when rape victims from three separate attacks identified him as the perpetrator. He was a sergeant in the Army at the time and had no criminal record. Wrongly convicted of rape and related charges, he was sent to prison in 1984 and spent over 19 years there. In 2003, he became the 127th person nationwide to be exonerated through post-conviction DNA testing.

“Dennis Maher’s experience is a cautionary tale for what can happen when policies and procedures aren’t in place to protect innocent people and ensure accuracy in the criminal justice system,” Saloom said. “He is looking forward to sharing his profound story with legislators, and he hopes we can learn from what he went through and prevent it from happening to other people.”

There have been 192 DNA exonerations nationwide. In fully one-third of these cases, DNA has also helped identify the true perpetrators of crimes for which innocent people were wrongly convicted, according to the Innocence Project, which is affiliated with Benjamin N. Cardozo School of Law at Yeshiva University.

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