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Subject: S 91

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To: Richard Sears rsears@leg.state.vt.us

Cc: pdelaney@leg.state.vt.us, Jennifer Poehlmann Jennifer.Poehlmann@ccvs.vermont.gov, khmvt01 khmvt01@yahoo.com



Senator Sears,

My name is Joanne Kortendick and you may remember me from testimony I provided in Committee for the prior version of the Bill that became S.3. I also provided testimony in the House Committee on the Judiciary in support of S.3. I served on the Forensic Working Group that was created by S.3. as a victim's representative appointed by the Vermont Center for Crime Victim Services and collaborated with Kelly Carroll on the portion of the Forensic Working Working Group Report that provided Victim's Recommendations for for Prosecutorial Notification and Competency Restoration. My sister Kathleen Smith was murdered in Burlington in 2010. Her killer was determined to be not competent to stand trial for her murder and died in the custody of the Department of Mental Health 9 years after Kathleen's murder.

I have been following the progress of both S.89 and S.91 for the current Legislative session. I have provided my comments in support of both to Jennifer Poehlmann, Executive Director, Vermont Center for Crime Victim Services. I have listened to the testimony and comments provided so far to the Judiciary Committee for S.89. I thank you for your comments in support of Victims including those you have made this Legislative session. I am aware that you were instrumental in the passage of Vermont's Victims Rights Bill. I also thank you for the difference that made for my family during the years we were involved in Vermont's Criminal Justice System. We especially benefited from the support of the Victim's Advocates that worked with us.

I am also very appreciative of your efforts in continuing to bring forward S.91 for this Legislative session. Based on my personal experience and research of other State's efforts in the area of Restoration of Competency I believe that Vermont is very far behind what is happening in most States across the Country in addressing this issue. Sadly this has taken a hard toll on the family of Victims. Below are the comments that I provided to Jennifer Poehlmann in support of S 91 from a Victim's perspective. I am available to provide testimony in support of this Bill in any stage of the process. I respectfully ask that you share this e-mail with members of the Committee:

S.91. This Bill is important to victims as it is a start towards creating a Restoration of Competency System/Program in Vermont which does not currently exist. There is no requirement in Vermont statutes that once an individual has been determined to be not competent to stand trial that that individual be placed in a restoration fo competency program or that any efforts are required to restore that individual's competency (a legal standard). Thus the practical result of a determination of non competency is a "get out of jail free card". The Legal Aid Director made it quite clear during our Senate Bill Task Force meetings that the defense community had no interest in restoration of competency for its clients. In my sister's case her killer once determined not competent to stand trial remained in the custody of the Department of Mental Health never standing trial until he died 9 years after murdering her. He received therapeutic treatment during that time period with no focus on competency restoration.

While the proposed Bill could do more towards mandating restoration of competency, the Bill requires in Section 7 that a plan for a competency restoration program be reported by the Department of Mental Health and the Department of Disabilities, Aging and Independent Living to the Legislature. "The report shall include recommendations for best practices, any changes to law necessary to establish the program, estimated costs, and a proposal for implementing the program."

Please do not let individuals such as my sister's killer continue to languish between the Criminal Justice System and the Mental Health System. Our loved ones experienced excruciating pain in the moment of their deaths. Please don't continue to leave the families of those Victim's powerless in the aftermath.

Thank-you so much for your consideration.

Joanne Kortendick