

Representative Martin LaLonde
Chair, Judiciary Committee

Re: S. 192

Honorable Members of the House Judiciary Committee,

My name is Joanne Kortendick. My sister Kathleen Smith was brutally murdered in Burlington Vermont in 2010. Her killer, Jose Pazos died in the custody of the Mental Health System (having been found not competent to stand trial) nine years after my sister's death never having stood trial for her murder.

Since that time, I have been involved in advocating for reform to occur at the intersection of the Criminal Justice and the Mental Health Systems in Vermont. I have testified during the Legislative process for various Bills impacting victims including S. 3, S. 89, S. 91 (including providing written testimony to your committee in support of both S. 89 and S. 91) and before the Senate during its consideration of S. 192. I was a victim's representative on the S. 3 working group and participated through Jennifer Poehlmann, Director of the Vermont Center for Crime Victim Services in the S. 89 (Act 27) Legislative working group. I worked with Jennifer, Kelly Carroll (another victim's advocate) in providing recommendations from a victim's perspective in the report submitted to the Legislature per S. 91 (Act 28) studying the formation of a Competency Restoration Program in Vermont.

As you are aware the S. 89 (Act 27) working group was created to look at the inclusion of the Intellectually Disabled population in the Forensic Facility that was formed by S. 89. That group worked diligently for many months and submitted the Act 27 Report to the Vermont Legislature. As was reflected in that Report "After the Working Group had received substantial input and considered diverse perspectives, each member was asked to present their position on whether such a need for the forensic facility exists. The results were as follows: 9 members answered "yes"; 4 members answered "no" 1 member abstained; and 1 member was absent."

A presentation given by me and Kelly Carroll to the working group titled: "Forensic Facilities and Act 248- A Victim's Perspective was included as part of the Act 27 Report. Our recommendations were summarized as follows:

"From a dangerous perspective for both victims and the public there is NO DIFFERENCE between an individual with an intellectual disability and one with a mental health issue.

Victims would like to see a treatment program established in the forensic facility that would include competency restoration and provide more information to victims about how things were progressing with the accused."

I have been following the testimony regarding S. 192 in the House Human Services Committee and the House Health Care Committee and I am submitting this written testimony to be considered by your Judiciary Committee.

I have listened in disbelief to the testimony in the House Human Services Committee as they voted unanimously to take the Intellectually Disabled population out of the Forensic Facility, ignoring testimony by the designated agencies that such a placement option was needed for a small portion of the 248 population. That Committee also removed language from the Bill that would have given victims an opportunity to provide a victim statement when ID individuals were discharged or eloped from DAIL custody. That Committee took no testimony from victims.

When the Bill was passed over to the House Health Care Committee – it went even further and took the forensic facility out of the Bill entirely.

The decisions of these Committees totally go against the intent of the Legislature in passing S. 89, the Report of the Act 27 Working Group and the intent of the Senate in passing its version of S. 192 which was stated as follows: “It is the purpose of this act to enable the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living to seek treatment and programming for certain individuals in a forensic facility as anticipated by the passage of 2023 Acts and Resolves No. 27.”

On behalf of Crime Victims who have been thrown unwillingly into the Vermont Criminal System and then the Vermont Mental Health System I urge your committee to act as follows:

1. To restore the forensic facility provisions of S. 192 for the Mental Health Population and the Intellectually Disabled Population.
2. To include provisions for notice to victims and victim statements in both the Mental Health and Intellectually Disabled portions of the Bill in the event of discharge and elopement from Commitment.
3. To retain the section of S. 192 requiring a submission of a report that provides a fiscal estimate for the implementation of a competency restoration program in Vermont.

Sincerely,

Joanne Kortendick