



Testimony on Victim's Rights in Competency Proceedings
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Thank you for the opportunity to testify about the important victim rights issues raised by this bill. Cases involving offenders deemed incompetent to stand trial or deemed insane at the time of the offense can be the most challenging for all involved, and they are also among the most traumatizing and disheartening cases for victims. Often, victims and their families come to the criminal process seeking a sense of certainty and a sense of safety after experiencing chaotic or life-altering events. These cases tend to be among the least predictable, the most time-consuming and challenging to resolve, and the least transparent once someone is committed to DMH custody. Victims simply want information that will allow them to return to their normal lives without fear and to be able to trust that the system will take their safety concerns into account every time a commitment order is revisited.

The Center has learned of too many cases where a victim's safety concerns were not considered prior to discharge, or where no prior notification occurred, and the victim is subjected to re-offense or has to encounter the offender without warning. Certainly, not everyone deemed insane or incompetent to stand trial poses a threat to the community, but in those cases where safety is at risk, prior notification or, at the very least, an opportunity to hear from the state, can prevent new crimes from occurring and allow victims to make informed choices about their own safety.

This bill is a major step in the right direction. The bill ensures that the court retains oversight over all commitment orders that arise from listed crimes—the crimes that pose the greatest safety risk. Involving the court and the state’s attorney in the process will keep public safety in focus while providing necessary safeguards that can protect offender rights as well.

We recognize that the current bill represents substantial effort and compromise on the part of all stakeholders who were involved in its creation. Nonetheless, the Committee has an opportunity to use this starting point to do even more for victim’s rights.

Because Title 13, Title 18, and various court procedural rules tend to dovetail in complex ways in this area of the law, the bill should expressly entitle the victim, or a victim advocate on the victim’s behalf, to the right to be present at discharge hearings and the right to be heard. In traditional cases, crime victims have the right to appear and to express their views at sentencing pursuant to 13 V.S.A. § 5321(a)(2). Victims also have the right to be present at Parole Board hearings pursuant to 28 V.S.A. § 507. Because traditional hearings do not occur from start to finish in these cases, victim input is lost, and the safety of the victim, his or her family, and the public at large may be compromised.

Thank you again for allowing the Center to offer this testimony.