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Subject: S.91 and S.89- Victim's Statement
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To: MLaLonde@leg.state.vt.us

Representative LaLonde and Committee Members:

My name is Joanne Kortendick. My sister Kathleen Smith was murdered in Burlington Vermont in 2010.

Kathleen's killer Jose Pazos targeted her, stalked her, broke into her home in the middle of the night, tied her up and murdered her. He then stole and abandoned her car. When apprehended by the police his computer was seized an examination of which revealed searches regarding the knots for the ropes he used to restrain her and searches for obituaries about her- before her body had been discovered when he was the only one who knew she was dead. There was physical evidence putting him at the crime scene and evidence of his DNA on the murder weapon. All the evidence pointed to his guilt and premeditation, as well as the deliberateness of his actions before and after her murder.

He was charged with Kathleen's murder, placed in the custody of the Vermont correctional system and after a lengthy process involving multiple defense counsel he was determined to be not competent to stand trial. After a Hospitalization Hearing he was transferred to the custody of the Department of Mental Health. He resided in the Vermont Psychiatric Care Hospital in Berlin where he remained until his death 9 years after the crime never having stood trial for my sister Kathleen's murder.

During those 9 years my family and I, including her son, followed the processes in both the Correctional and Mental Health Systems as best we could unable to participate in the process and observing the lack of coordination and communication between the two systems which undoubtedly prolonged the processes and ultimately resulted in no murder trial for my sister's killer.

Since that time I have been advocating for the reform that needs to occur at the intersection of the Correctional and Mental Health Systems in Vermont. I provided testimony during the process of S. 3 which was enacted in 2021 and the Bill that proceeded it. I believe I testified before your committee in support of S. 3 at that time although it may have been another House Committee. I served as a victim representative on the Forensic Working Group for 18 months after the adoption of S. 3. A report was filed in January of this year with the Joint Legislative Justice Oversight Committee, Chairs of the House Committees on Corrections and Institutions, on Health Care and on the Judiciary and the Chairs of the Senate Committees on Health and Welfare and on Judiciary. Two issues that the report addressed per the requirements of S.3 were recommendations and models for forensic treatment including a forensic facility and the need for a competency restoration system in Vermont.

I am writing this statement to support the adoption of both S.89 and S.91 which if adopted will result in positive process towards closing the gaps in the current mental health system structure related to individuals incompetent to stand trial. I have already submitted written testimony to

the Senate Committees during its consideration of these Bills - and in particular S.91 which I am reiterating herein:

S.91 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 incompetent to stand trial that that individual be placed in a restoration to 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 the S.3 Working Group meetings that the defense community had no interest in restoration of competency for its clients. He stated at one point that - an individual would have to be incompetent to want to have his or her competency restored and have to stand trial for the offense which could result in prison time. As noted above once my sister's killer was determined not competent to stand trial he remained in the custody of the Department of Mental Health- never standing trial for the crime- until he died 9 years after murdering her. He received therapeutic treatment during that time period which did not include restoration of competency.

While the proposed Bill could do more towards mandating restoration of competency, the Bill in section 7 requires that a recommendation be reported to the Legislature by the Department of Mental Health and the Department of Disabilities, Aging and Independent Living on whether a plan for competency restoration should be adopted in Vermont and if recommended to include recommendations for best practices, any changes to law necessary to establish the program estimated costs and a proposal for implementing the program. An amendment that was made in the Senate Committee for Health and Welfare requires that those Departments consult with "interested parties" during that process.

I would ask that the Committee also refer to the S. 3 report which sets forth Victim's recommendations towards adopting a Restoration of Competency statute and program in Vermont. That section of the report refers to numerous studies and other State's practices in the area of Competency Restoration. Please note our (myself and Kelly Carroll- another victim representative) recommendation that such a program be focused on individuals who commit higher level crimes. I know from listening to the testimony provided in the Senate Committees that some statements were made as to the effectiveness of Competency Restoration programs. I would urge you to look at the portion of the report that includes Dr. Simha Ravven's presentation on competency restoration and the success of those programs. She provided testimony in favor of S. 91 and a Competency Restoration program in Vermont which included that information during the Senate Committee's consideration of S.91.

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 families of the victims powerless in the aftermath.

Thank you for your hard work in considering both these Bills and this testimony.

Joanne Kortendick