

Senate Bill 193- Witness Testimony

Chairman Hashim and Members
of the Vermont Senate Judiciary
Committee

February 24, 2026

My name is Joanne Kortendick and I am providing this written testimony in support of Senate Bill 193. My sister Kathleen Smith was brutally murdered in Burlington Vermont in 2010. Her killer Jose Pazos was adjudged Not Competent to Stand Trial and remained in the custody of the Vermont Mental Health System until his death 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 Mental Health Systems in Vermont. I have testified during the legislative process for various Bills impacting victims including S.3, S. 89, S.91 and before the Senate during its consideration of S.192 in 2024. I was a victim's representative on the S.3 working group and participated through Jennifer Phoehlmann, Director of the Vermont Center for Crime Victim Services in the S. 89 (Act 27) legislative Working Group. I worked with Jennifer and Kelly Carroll, Voices for Vermont Victims, in providing recommendations from a victim's perspective in the report submitted to the Legislature in December of 2023 per S. 91 (Act 28) studying the formation of a Competency Restoration Program in Vermont.

I have listened to all but today's testimony provided to your Committee regarding S. 193 as well as your Committee discussions. I have been impressed by your Committee's efforts in analyzing the issues that are implicated in this legislation. I appreciate your general support in recognizing the gaps that exist between the Criminal Justice and Mental Health System in Vermont with regard to certain individuals who have been adjudged Not Competent to Stand Trial or found Not Guilty by Reason of Insanity but do not meet the standard for Hospitalization in Vermont's Mental Health System.

Having been involved in the efforts to enact legislation to address the issues of public safety, competency restoration and treatment inherent in dealing with this population while considering their due process rights, I recognize the urgency to craft legislation that will protect the interests of this population, the public and victims.

I have listened to service providers who have time and again described the inability to effectively treat this category of individuals, the Human Services representatives who feel their hands are tied because of the limitation of their legislative charge and the testimony of many regarding the human consequences of failing to place, supervise, monitor and treat these individuals for the victims, the public and these individuals themselves.

I am frankly tired of these efforts failing time after time because of the specific interests of a few individuals who refuse to recognize that there is a problem or while recognizing there

is a problem just not wanting to address it, disregarding the will of the majority who want to reach a solution.

I applaud the efforts of those who drafted Senate Bill 193 in addressing the most pressing issues related to placement, supervision, monitoring and treatment of these individuals. I also applaud the Committees efforts in listening to testimony and suggesting edits that will allow the legislation to garner greater support from the Legislature as a whole as well as limiting the number of challenges that could be brought in opposition to the legislation. I am particularly appreciative of the language and the testimony that recognizes the interests of the victims in these cases from a public safety point of view, giving victims a voice in the process and adding competency restoration to the tool chest of treatment for these individuals. As others have stated, I recognize that this is not a complete solution but rather a step in the right direction.

I want to address several points that have been repeatedly raised in the testimony provided on this Bill and the in the discussion of the Committee.

As far as the constitutionality of keeping these individuals in a secure facility particularly one that is associated with corrections, I feel, as has been argued by a number of those testifying, that this will withstand scrutiny as the focus is not punishment but rather treatment. How can this proposal be worse than the status quo that currently houses these individuals in corrections without a program for the restoration of competency? The Department of Corrections testified that the contractor who is currently providing Mental Health Services to the jail already provides these restoration of competency services in other jurisdictions where such programs exist.

As others have observed, in Vermont the Department of Corrections is under the umbrella of the Human Services system as is the Department of Mental Health. If confinement in a secure facility is the concern, there is already confinement for those in the Mental Health system that meet the criteria for Hospitalization. As the Chairman noted 20 other states have these types of individuals housed as part of their correctional system and another 12 states have the authority to move this category of individuals to a corrections facility in certain cases.

If the inclusion of those Not Guilty by Reason of Insanity is the stumbling block, then remove that population out of Senate Bill 193 for now rather than voting against it.

The latest version of Senate Bill 193 contains a provision allowing victim statements as part of hearings related to Section 3 of the Bill. As Jennifer Poehlmann stated in her testimony this is consistent with various versions of previous bills and reports published by work groups mandated by the Vermont legislature attempting to provide solutions for the treatment of this population. As she noted, there has previously been no objection to the inclusion of similar provisions.

Karen Barber in her testimony on this Bill indicated that part of the rationale for keeping hearings referenced in Section 3 of the Bill in the Criminal Court rather than the Family Court is because of confidentiality concerns that are present in the Family Court proceedings. Having these hearings held in the Criminal Court provides the option for victims to be more involved. Consistent with this rationale I would urge that the subsection of the Bill in Section 4 regarding access to records related to a person placed in a forensic facility being made available to parties be expanded to include victims. As legislative counsel stated during his review of the Bill with the Committee, HIPAA is not absolute. The law is such that specific state laws can override the restrictions of HIPAA. Let's not continue to keep victims in the dark where there is a legal mechanism available to provide them with much needed information once an individual is found to be Not Competent to Stand Trial.

Thank-you for considering this written testimony in your continued efforts in working on this proposed Bill. I am available to testify remotely (I reside in Colorado) should you wish to discuss any of the points I raised in this testimony.

Sincerely,

Joanne Kortendick

CC: Jennifer Poehlmann, Director of the Vermont Center for Crime Victim Service
Kelly Carroll, Voices for Vermont Victims