

# Bill as Introduced

HB 1318 - AS INTRODUCED

2010 SESSION

10-2154  
04/03

HOUSE BILL            **1318**

AN ACT                relative to post-conviction DNA testing.

SPONSORS:            Rep. Cushing, Rock 15

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill makes changes to the statute governing post-conviction DNA testing.

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Explanation:        Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT relative to post-conviction DNA testing.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Post-Conviction DNA Testing of Biological Material. Amend RSA 651-D:2, I(a) to read as follows:  
2 (a) Explain why the identity of the petitioner was or should have been a significant issue  
3 during court proceedings *notwithstanding the fact that the petitioner may have pled guilty or*  
4 *nolo contendere, or made or is alleged to have made an incriminating statement or*  
5 *admission as to identity.*

6 2 Post-Conviction DNA Testing of Biological Material. Amend RSA 651-D:2, IV(c) to read as follows:  
7 (c) Designate the New Hampshire state police forensic laboratory to conduct the test.  
8 *However, the court, upon a showing of good cause, may order testing by another laboratory*  
9 *or agency certified by the American Society of Crime Laboratory Directors or the National*  
10 *Forensic Science Training Center, if requested by the petitioner.*

11 3 Preservation of Biological Material for DNA Testing. RSA 651-D:3 is repealed and reenacted  
12 to read as follows:

13 651-D:3 Preservation of Biological Material for DNA Testing.

14 I. Every appropriate governmental entity shall retain and catalogue each item of physical  
15 evidence that contains biological material secured in connection with a criminal case in the amount and  
16 manner sufficient to develop a DNA profile from the biological material contained in or included on the  
17 evidence for the period of time that any person is incarcerated, or civilly committed, or on parole or  
18 probation, or subject to registration as a criminal offender under RSA 651-B. This paragraph shall apply  
19 whether or not a petitioner has filed a petition for post-conviction DNA testing under this chapter.

20 II. In cases where a petition for post-conviction DNA testing has been filed under this  
21 chapter, the state shall prepare an inventory of the evidence related to the case and submit a copy of  
22 the inventory to the petitioner and the court.

23 III. This section shall apply to biological evidence that is in the custody of a law enforcement  
24 agency in the state on the effective date of this section.

25 4 New Section; Victim Services. Amend RSA 651-D by inserting after section 4 the following  
26 new section:

27 651-D:5 Victim Services. When post-conviction DNA testing is being considered by the court, the  
28 state shall, upon request, reactivate victim services for the victim of the crime being reinvestigated  
29 during the reinvestigation of the case, during the pendency of the proceedings, and, as determined by the  
30 court after consultation with the victim and/or victim advocate, following final adjudication of the case.

31 5 Repeal. RSA 651-D:2, IV(d), relative to designation of an alternate laboratory for DNA testing,  
32 is repealed.

33 6 Effective Date. This act shall take effect 60 days after its passage.

# Amendments

Amendment to HB 1318

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to post-conviction DNA testing, the right of a crime victim to be informed  
4 of a petition requesting post-conviction DNA testing, and eligibility for victim's  
5 compensation for a victim of a crime in which a petition for post-conviction DNA  
6 testing was filed.  
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8 Amend the bill by replacing all after the enacting clause with the following:

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10 1 Post-Conviction DNA Testing of Biological Material. Amend RSA 651-D:2, I(a) to read as  
11 follows:

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15 *admission as to identity.*

16 2 Post-Conviction DNA Testing of Biological Material. Amend RSA 651-D:2, IV(c) to read as  
17 follows:

18 (c) Designate the New Hampshire state police forensic laboratory to conduct the test.  
19 *However, the court, upon a showing of good cause, may order testing by another laboratory*  
20 *or agency accredited by the American Society of Crime Laboratory Directors/Laboratory*  
21 *Accreditation Board (ASCLD/LAB) or the National Forensic Science Training Center, if*  
22 *requested by the petitioner.*

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24 new section:

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27 reinvestigated during the reinvestigation of the case, during the pendency of the proceedings, and, as  
28 determined by the court after consultation with the victim and/or victim advocate, following final  
29 adjudication of the case.

30 4 New Subparagraph; Rights of Crime Victims. Amend RSA 21-M:8-k, II by inserting after  
31 subparagraph (v) the following new subparagraph:

32 (w) The right to be informed of the filing of a petition for post-conviction DNA testing  
33 under RSA 651-D.

**Amendment to HB 1318**

**- Page 2 -**

1       5 New Paragraph; Claimant Eligibility and Compensation. Amend RSA 21-M:8-h by inserting  
2 after paragraph VII the following new paragraph:

3           VIII. Notwithstanding paragraph II, any person who was a victim of a crime for which the  
4 person convicted of the crime has filed a petition for post-conviction DNA testing under RSA 651-D  
5 shall be eligible for victim's compensation regardless of the date of the crime. Compensation under  
6 this paragraph shall be limited to qualified expenses incurred after the post-conviction DNA testing  
7 petition is filed.

8       6 Repeal. RSA 651-D:2, IV(d), relative to designation of an alternate laboratory for DNA  
9 testing, is repealed.

10       7 Effective Date. This act shall take effect 60 days after its passage.

2010-0349h

AMENDED ANALYSIS

This bill:

I. Amends the post-conviction DNA testing statute provisions concerning the designation of the testing laboratory and victim services.

II. Provides a crime victim with the right to be informed of the filing of a petition for post-conviction DNA testing under RSA 651-D.

III. Permits any person who was a victim of a crime for which the person convicted of the crime has filed a petition for post-conviction DNA testing to be eligible for victim's compensation regardless of the date of the crime.

Amendment to HB 1318

*"Not Adopted"*

1 Amend the title of the bill by replacing it with the following:

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18 (c) Designate the New Hampshire state police forensic laboratory to conduct the test.  
19 *However, the court, upon a showing of good cause, may order testing by another laboratory*  
20 *or agency accredited by the American Society of Crime Laboratory Directors/Laboratory*  
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22 *requested by the petitioner.*

23 3 New Section, Victim Services. Amend RSA 651-D by inserting after section 4 the following  
24 new section:

25 651-D:5 Victim Services. When post-conviction DNA testing is being considered by the court,  
26 the state shall, upon request, reactivate victim services for the victim of the crime being  
27 reinvestigated during the reinvestigation of the case, during the pendency of the proceedings, and, as  
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29 adjudication of the case.

30 4 New Subparagraph; Rights of Crime Victims. Amend RSA 21-M:8-k, II by inserting after  
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8       6 Repeal. RSA 651-D:2, IV(d), relative to designation of an alternate laboratory for DNA  
9 testing, is repealed.

10       7 Effective Date. This act shall take effect 60 days after its passage.



2010-0349h

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This bill:

I. Amends the post-conviction DNA testing statute provisions concerning the designation of the testing laboratory and victim services.

II. Provides a crime victim with the right to be informed of the filing of a petition for post-conviction DNA testing under RSA 651-D.

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9 testing, is repealed.

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2010-0534h

AMENDED ANALYSIS

This bill:

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II. Provides a crime victim with the right to be informed of the filing of a petition for post-conviction DNA testing under RSA 651-D.

III. Permits any person who was a victim of a crime for which the person convicted of the crime has filed a petition for post-conviction DNA testing to be eligible for victim's compensation regardless of the date of the crime.

Rep. Rodd; Merr. 5  
February 16, 2010  
2010-0731h  
04/01

Amendment to HB 1318

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT relative to victim services while the court is considering post-conviction DNA  
4 testing.  
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6 Amend the bill by replacing all after the enacting clause with the following:

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14 adjudication of the case.

15 2 Effective Date. This act shall take effect 60 days after its passage.

2010-0731h

AMENDED ANALYSIS

This bill makes victim services available, upon request, to a victim of the crime being reinvestigated while the court is considering post-conviction DNA testing.

# Speakers





# Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1318

**BILL TITLE:** relative to post-conviction DNA testing.

**DATE:** January 28, 2010

**LOB ROOM:** 204      **Time Public Hearing Called to Order:** 1:15 p.m.

**Time Adjourned:** 1:37 p.m.

(please circle if present)

**Committee Members:** Reps. ~~Shurtleff, Pantelakos, Berube, Robertson, Moysesian, Burrige,~~  
~~Cushing, Rodd, Chandley,~~ B. McCarthy, M. Ryder, ~~Welch, Charron,~~ Fesh, ~~Weare, Stevens,~~  
~~Villeneuve, Gagne, Swinford and Willette.~~

**Bill Sponsors:** Rep. Cushing, Rock 15

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. Pantelakos** - Introduced bill in absence of sponsor.

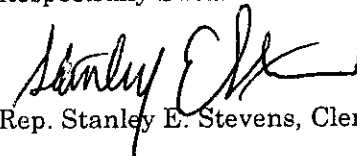
**Ann Rice** - Attorney General's Office (Information)

- Amendment cuts out Section 3.
- Under Section 1 current law has requirements.

**Rep. Cushing** - Sponsor.

- Has amendment that has the agreement of the Attorney General's Office.
- Provided copy of Victims Compensation Rules.

Respectfully Submitted:

  
Rep. Stanley E. Stevens, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1318

**BILL TITLE:** relative to post-conviction DNA testing.

**DATE:**

**LOB ROOM:** 204      **Time Public Hearing Called to Order:**

**Time Adjourned:**

(please circle if present)

**Committee Members:** Reps. Shurtleff, Pantelakos, Berube, Robertson, Movsesian, Burridge, Cushing, Rodd, Chandley, B. McCarthy, M. Ryder, Welch, Charron, Fesh, Weare, Stevens, Villeneuve, Gagne, Swinford and Willette.

**Bill Sponsors:** Rep. Cushing, Rock 15

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

HB 1318

Start: 1:15

Start 1315  
Final 1337

Rep Pantelakis introduced bill in absence of sponsor

Ann Rice Attorney General's Office (information ~~confirmation~~)

- amendment cuts out section 3.
- under section 1 current law has requirement

Rep. Aushary sponsor

- has amendments that has the agreement of the A.G.'s office.
- provided copy of Victims Compensation rules.

# Sub-Committee Actions

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**HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**  
**SUBCOMMITTEE WORK SESSION ON HB 1318**

**BILL TITLE:** relative to post-conviction DNA testing.

**DATE:** February 16, 2010

**Subcommittee Members:** Reps. Chandley, Rodd and Swinford

**Comments and Recommendations:** Discussed removal of 2 changes, sense of subcommittee is to pass victims portion. Beth Rodd to seek amendment.

Recessed committee.

**Amendments:**

Sponsor: Rep. Beth Rodd	OLS Document #:	2010	0731h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Beth Rodd

Seconded by Rep. Elaine B. Swinford

Vote: 3-0

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.) Amendment #2010-0731h

Moved by Rep. Beth Rodd

Seconded by Rep. Elaine B. Swinford

Vote: 3-0

Respectfully submitted,

Rep. *Signature on Copy*  
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 1318

BILL TITLE: relative to post-conviction DNA testing.

DATE: Feb. 16, 2010

Subcommittee Members: Reps. <sup>Chandley</sup> Rodd  
Swinford

Comments and Recommendations: Discussed removal of 2 changes, sense of subcommittee is to pass victim's portion. Beth Rodd to seek amendment.

Amendments:

Sponsor: Rep. Rodd

OLS Document #: Recessed conf.

Sponsor: Rep.

OLS Document #: 2010-0731h

Sponsor: Rep.

OLS Document #:

Motions:

OTP, OTP/A, ITL, Retained (Please circle one.) Amendment

Moved by Rep. Rodd

# 2010-0731h

Seconded by Rep. Swinford

Vote: 3-0

Motions:

OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Rodd

Seconded by Rep. Swinford

Vote: 3-0

Respectfully submitted,

Rep.  
Subcommittee Chairman/Clerk





Rep. Rodd; Merr. 5  
February 16, 2010  
2010-0731h  
04/01

Amendment to HB 1318

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15 2 Effective Date. This act shall take effect 60 days after its passage.

2010-0731h

AMENDED ANALYSIS

This bill makes victim services available, upon request, to a victim of the crime being reinvestigated while the court is considering post-conviction DNA testing.

# Testimony

*Rep. Cushing*

## CHAPTER Jus 600 VICTIMS COMPENSATION

### PART Jus 601 PURPOSE AND SCOPE

Jus 601.01 Purpose. The purpose of this chapter is to implement provisions of RSA 21-M:8-b through RSA 21-M:8-l and 42 U.S.C. 10601 et seq. by setting forth:

(a) The process by which eligible primary and related victims of crime can submit a claim, whether personally or through a representative, for compensation for eligible expenses incurred as a direct result of eligible crimes;

(b) The criteria that will be used by the commission to determine whether to grant or deny a claim for compensation, as well as the amount of the award when a claim is granted; and

(c) Limitations on compensation awards, both by category of expense and per claimant.

Source. #4864, eff 7-13-90; amd by #5430, eff 7-1-92, EXPIRED: 7-1-98

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 601.02 Scope. This chapter shall apply to all claimants, including their representatives, and all providers who wish to accept compensation payments granted by the commission.

Source. #4864, eff 7-13-90; amd by #5430, eff 7-1-92, EXPIRED: 7-1-98

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

### PART Jus 602 DEFINITIONS

Jus 602.01 "Administrative claim" means a claim application that the unit has reviewed and determined to be complete and for which eligibility appears to be clear, irrespective of the amount of the claim or severity of the eligible crime.

Source. #4864, eff 7-13-90; ss by #6052, eff 7-1-95, EXPIRED: 7-1-03

New. #9553, eff 9-25-09

Jus 602.02 "Advocate" means a person who is employed by or volunteers at a crisis center, prosecution or law enforcement agency, or other entity, and whose duty is to assist a victim or claimant in the criminal justice system, with victim services and support, or with the victim compensation process.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 602.03 "Allowable expense" means a cost or expenditure that is identified as compensable under Jus 605.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99; ss by #7724, eff 6-29-02

New. #9553, eff 9-25-09

Jus 602.04 "Award" means compensation granted to a claimant for eligible expenses pursuant to Jus 605.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 602.05 "Claimant" means a person who submits a claim for compensation under Jus 600 on behalf of himself or herself as a victim, or on behalf of another person who is a victim but is a minor, or on behalf of another person including but not limited to that person's spouse, guardian, parent or grandparent.

Source. #9553, eff 9-25-09

Jus 602.06 "Collateral financial source" means a fiscal resource available to or on behalf of a victim and that can be used to defray in whole or in part an expense that is reimbursable under Jus 600.

Source. #9553, eff 9-25-09

Jus 602.07 "Commission" means the victims' assistance commission established pursuant to RSA 21-M:8-g.

Source. #9553, eff 9-25-09

Jus 602.08 "Commission preparation" means the stage of the claim process during which the claimant secures the necessary documentation and information to support the claim.

Source. #9553, eff 9-25-09

Jus 602.09 "Commission ready" means the stage of the claim process in which the unit has determined that the claim application is complete and has been summarized by the unit for presentation to and consideration on the merits by the commission.

Source. #9553, eff 9-25-09

Jus 602.10 "Compensation" means a payment of money from the fund to reimburse a claimant for each allowable out-of-pocket expense incurred as a direct result of an eligible crime, or a payment of money from the fund to a third person who provided goods or services as an allowable expense to a victim as a direct result of an eligible crime.

Source. #9553, eff 9-25-09

Jus 602.11 "Department" means the New Hampshire department of justice as established by RSA 21-M:2.

Source. #9553, eff 9-25-09

Jus 602.12 "Domestic partner" means an individual who shares a domicile and the expenses of daily living with another person, but who are not joined in a legal marriage or civil union under New Hampshire law.

Source. #9553, eff 9-25-09

Jus 602.13 "Domicile" means that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single continuous presence for domestic, social, and civil purposes relevant to participating in democratic self-government.

Source. #9553, eff 9-25-09

Jus 602.14 "Eligible crime" means any misdemeanor or felony that results in personal injury to or the death of the victim, or driving under the influence of alcohol or a controlled substance and that results in personal injury to or the death of the victim. For the purposes of these rules, the term includes any such act if it forms or could form the basis of a juvenile delinquency petition pursuant to RSA 169-D.

Source. #9553, eff 9-25-09

Jus 602.15 “Fund” means the victims’ assistance fund established pursuant to RSA 21-M:8-g, II.

Source. #9553, eff 9-25-09

Jus 602.16 “Immediate family member” means a person who has one of the following relationships with the victim:

- (a) Parent, stepparent, or domestic partner of a parent;
- (b) Child or stepchild;
- (c) Sibling or stepsibling;
- (d) Spouse;
- (e) Domestic partner; or
- (f) Any other person legally obligated to provide financial support to a victim.

Source. #9553, eff 9-25-09

Jus 602.17 “Loss” means an injury or expense for which compensation is available under Jus 600.

Source. #9553, eff 9-25-09

Jus 602.18 “Mental health practitioner” means “mental health practitioner” as defined in RSA 330-A: 2, VII, namely, “persons licensed under this chapter as psychologists, pastoral psychotherapists, clinical social workers, clinical mental health counselors, or marriage and family therapists. For purposes of this chapter, the term clinical social worker shall include independent clinical social worker.” The term also includes those who hold one or more analogous licenses issued by any other state, province, or country.

Source. #9553, eff 9-25-09

Jus 602.19 “New evidence” means information or documents not available to or which could not reasonably have been discovered by a claimant at the time the claimant’s claim was considered by the commission. The term does not include information or documents that were available, could have been discovered, or restatements of information or arguments already submitted to the commission.

Source. #9553, eff 9-25-09

Jus 602.20 “Physical injury” means death, corporeal or mental health damage suffered as a result of an eligible crime.

Source. #9553, eff 9-25-09

Jus 602.21 “Physician” means a doctor of medicine or a doctor of osteopathy who holds a current license to practice issued by the New Hampshire board of medicine pursuant to RSA 329, or an analogous license issued by another state, province, or country.

Source. #9553, eff 9-25-09

Jus 602.22 “Primary victim” means the person who suffered personal injury or death as a direct result of an eligible crime.

Source. #9553, eff 9-25-09

Jus 602.23 “Related victim” means an immediate family member who suffered a loss as a result of an eligible crime.

Source. #9553, eff 9-25-09

Jus 602.24 "Relocation" for the purposes of this chapter, means moving from one residence to another due to a concern for the safety of a victim as result of an eligible crime.

Source. #9553, eff 9-25-09

Jus 602.25 "Spouse" means a husband or wife or either party in a civil union.

Source. #9553, eff 9-25-09

Jus 602.26 "Staff" means the employees in the unit who provide administrative support to the commission and assist claimants with their claims for compensation under Jus 600.

Source. #9553, eff 9-25-09

Jus 602.27 "Unit" means the victims' compensation unit, an organizational entity that has been established within the New Hampshire department for the purpose of providing administrative support to the commission and assisting claimants with their claims for compensation under Jus 600.

Source. #9553, eff 9-25-09

Jus 602.28 "Victim" means:

(a) Any person who suffered personal injury or death as a direct result of an eligible crime occurring in either:

(1) New Hampshire; or

(2) Any other state or jurisdiction that does not have a crime compensation program meeting the requirements of 10 U.S.C. 10602(b), and such person was domiciled in New Hampshire at the time of the crime; and

(b) Both primary victim and related victim.

Source. #9553, eff 9-25-09

## PART Jus 603 PROGRAM AND PROCESS OVERVIEW

Jus 603.01 Program Purpose. This program has been created and designed to help eligible victims of eligible crimes with the expenses that have been incurred as a direct result of the crime by acting as a payer of last resort, subject to available funding. The primary goal of the program is to provide eligible claimants with the maximum compensation for which they are eligible so as to eliminate or minimize the amount of uncompensated expenses. An eligible victim is awarded the greatest possible compensation based upon the facts of the claim, including supporting documentation, within the limits established for each category of compensation, up to the maximum established on a per claimant basis.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 603.02 Program and Organizational Description.

(a) Pursuant to RSA 21-M:8-g, I, the commission shall review claims from victims for compensation pursuant to RSA 21-M:8-h, II, and award compensation from the fund.

(b) All members of the commission shall have education, experience, or both, that will assist the commission in determining whether claimants' claims for compensation are directly related to eligible crimes.

(c) At least one commission member shall be a physician or physician assistant licensed by the New Hampshire board of medicine, or an advanced registered nurse practitioner or registered nurse licensed by the

New Hampshire board of nursing. Such physician or nurse shall have experience in treating victims of crime.

(d) At least one commission member shall be a licensee of the New Hampshire board of mental health practice, and who shall have experience in treating victims of crime.

(e) At least one commission member shall be an attorney licensed to practice law in New Hampshire, and who has experience in criminal law.

(f) At least one commission member shall have been the victim of an eligible crime.

(g) The unit shall provide administrative and staff support to the commission. All claims for compensation, as well as all supporting materials, shall be submitted to the commission through the unit.

(h) The unit shall provide guidance to potential claimants with respect to submitting a complete claim for compensation. The unit shall, on an ongoing basis, investigate and evaluate each claim for compensation so as to make a recommendation regarding whether such claim should be approved or denied. However, such recommendations shall not be binding on the commission.

Source. #4864, eff 7-13-90; amd by #5430, eff 7-1-92; ss by #6052, eff 7-1-95; amd by #7394, eff 10-28-00; ss by #7724, eff 6-29-02

New. #9553, eff 9-25-09

#### Jus 603.03 Application Process.

(a) Any person who wishes to request an award of compensation from the commission shall commence the process by filing a "Claim Application Form" available from the unit in the department.

(b) In response to receipt of a "Claim Application Form" the unit shall contact the claimant and indicate what additional information, including documentation, will be necessary to process the claim. Necessity shall be based upon the need to substantiate and document the claim for which compensation is sought. The claimant shall submit such information and documentation within 30 calendar days of a request from the unit for additional information.

(c) Once the claimant receives an "Acknowledgment of Receipt of Claim Application and Request for More Information Form" from the unit, the claimant shall have 30 days to provide such information and documentation to complete the claim. However, the unit shall grant an extension of time upon request if the claimant demonstrates that 30 days will not be sufficient to gather such additional information and documentation. The extension notice shall specify the date by which such additional information and documents shall be submitted.

(d) While the claim application is being completed, the claim shall be considered by the unit and the commission to be in the commission preparation stage.

(e) Once the unit determines that the claim application is complete, the unit coordinator shall review the claim for the purpose of determining whether the claimant has clearly established eligibility for compensation. If the claimant has not, the claim shall be labeled a regular claim and the full claim application file shall be copied for each commission member. However, if eligibility for compensation is clear, the claim shall be labeled an administrative claim, and the unit coordinator shall prepare a summary of the claim for consideration by the commission.

(f) The administrative claim summary prepared pursuant to (e) above shall include:

- (1) Identification of the eligible crime;
- (2) A brief description of the crime;
- (3) A statement as to the dollar amount of compensation sought, by category;
- (4) The history of the claim;



- (5) Any other information that is material or could be helpful to the commission; and
- (6) The recommendation of the unit coordinator.

(g) Each commission ready claim prepared at least 14 days prior to the commission's next regularly scheduled meeting shall be placed on that meeting's agenda, unless the unit coordinator determines that it would be unlikely that the claim would be reached and acted upon at that meeting. If the unit coordinator so determines, the commission ready claim shall be placed on the agenda for the first commission meeting at which the unit coordinator determines that the claim can be acted upon by the commission. In no case shall placement on the agenda result in the passage of more than 120 days after the claimant submitted a completed application before a decision can be made by the commission.

(h) When the commission considers a claim for compensation, it shall first determine whether there is reasonable evidence that an eligible crime has occurred. Thereafter, the commission shall determine whether the claim provides it with enough information and documentation to form the basis of a decision as to whether to grant or deny the claim in whole or in part.

(i) If the commission determines that more information and documentation is necessary, it shall notify the claimant as to the specific information and documentation necessary for it to make its decision.

(j) Upon receipt of notice pursuant to (i) above, the claimant shall have 60 days to provide such additional information and documentation. However, the unit shall grant an extension of time upon request if the claimant demonstrates that 60 days will not be sufficient to gather such additional information and documentation.

(k) Once the commission determines that the claim application provides it with enough information and documentation to form the basis of a decision as to whether to approve or deny the claim in whole or in part, the commission shall consider the claim on its merits and reach a decision within 120 days.

(l) The decision of the commission shall be based upon the submitted written claim application, including all relevant evidence, by applying the criteria set forth in Jus 605. If a claim is denied in whole or in part, the decision shall state all reasons applicable to such denial.

(m) If a primary victim's claim is denied for any of the reasons set forth in Jus 605.02, the claims of related victims shall, except as provided in Jus 605.02(e), also be denied.

(n) If the claimant is aggrieved by the decision of the commission, the claimant may seek review of such decision by filing with the unit a motion for reconsideration if the claimant can provide new evidence. If an aggrieved claimant cannot provide new evidence, the claimant shall file a notice of appeal with the unit. The unit shall evaluate the filing to determine whether the claimant has properly characterized it and then process the filing accordingly.

(o) The aggrieved claimant shall file a motion for reconsideration if the reconsideration is requested in whole or in part based upon new evidence that could materially affect the outcome. The motion shall identify the new evidence and set forth all reasons why the claimant believes such new evidence, as well as every mistake of fact or law the claimant believes to have been made, materially affects the outcome.

(p) If the commission determines that, when viewed in the light most favorable to the claimant, the new evidence or mistake of fact or law could not materially affect the outcome, the commission shall deny such motion. A claimant aggrieved by the denial of a motion for reconsideration may appeal the decision to the attorney general as provided in (s) and (t), below.

(q) If the commission determines that, when viewed in the light most favorable to the claimant, the new evidence or mistake of fact or law could materially affect the outcome, the commission shall grant the motion and provide the claimant with an opportunity to submit such new evidence, make argument to correct the mistake of fact or law, or both.

(r) After the commission has provided an opportunity to a claimant under (q) above, the commission shall affirm, amend, or reverse its decision based upon the full record of all information and argument presented to it.

(s) The claimant shall file a notice of appeal if the claimant disagrees with the decision of the commission and wishes to challenge the decision, and either:

- (1) There is no new evidence that would materially affect the outcome and therefore a motion for reconsideration would be inappropriate; or
- (2) A motion for reconsideration has been submitted but was denied pursuant to (p) above or affirmed pursuant to (r) above.

(t) The notice of appeal shall identify and set forth every mistake of fact or law the claimant believes to have been made and that materially affects the outcome. The attorney general, or designee, shall then review the complete record and, based upon such record review, affirm, amend, or reverse the decision of the commission.

(u) For purposes of RSA 541:3, an appeal to the attorney general shall be considered to be a motion for rehearing.

(v) Appeal from the decision of the attorney general or designee shall be taken by petition to the New Hampshire supreme court pursuant to RSA 541:6.

Source. #4864, eff 7-13-90; amd by #5430, eff 7-1-92; amd by #6052, eff 7-1-95; ss by #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

#### PART Jus 604 FORMS

Jus 604.01 Claim Application Form. Each claimant seeking compensation from the fund shall provide the following on or with a "Claim Application Form" available from the unit:

- (a) The status of the person who is filing the claim by indicating that he or she is:
  - (1) A crime victim;
  - (2) An immediate family member of a crime victim who died as a direct result of the crime;
  - (3) The parent or guardian of a crime victim who was under 18 years of age at the time of the crime;
  - (4) The guardian of a crime victim who is incompetent; or
  - (5) In some other way authorized to submit a claim on behalf of a crime victim, including a detailed explanation of the circumstances surrounding such authorization;
- (b) An indication of whether:
  - (1) The crime occurred in New Hampshire;
  - (2) The crime resulted in personal injury, including physical or mental trauma, or death;
  - (3) The crime occurred after November 1, 1989;
  - (4) The crime was reported to law enforcement officials within 5 days, and if not, a detailed explanation as to why it had not been so reported;
  - (5) The claim was filed within one year of the crime, and if not, a detailed explanation as to why it had not been filed within that time; and
  - (6) Out-of-pocket expenses or other financial liabilities directly related to the crime were at least \$100;
- (c) The following information regarding the victim:
  - (1) Full name, including all other names by which the applicant has ever been known, and date of

- birth;
- (2) Gender;
  - (3) Complete home and work street addresses;
  - (4) Home and work telephone numbers, including area codes;
  - (5) Proof of citizenship, such as a certified copy of a driver license or passport, in any state or territory of the United States;
  - (6) Marital status by selecting from the following:
    - a. Single;
    - b. Married;
    - c. Widow or widower;
    - d. Divorced; or
    - e. Cohabiting;
  - (7) Spouse or domestic partner's name;
  - (8) Full name, date of birth, and relationship to the victim of each of the victim's dependents;
  - (9) Full name and address of the victim's employer at the time of the crime;
  - (10) Occupation of the victim at the time of the crime;
  - (11) Full name and address of the victim's current employer, if different from (9) above; and
  - (12) Current occupation of the victim, if different from (10) above;
- (d) If someone other than the victim is filing the claim, that person's:
- (1) Full name;
  - (2) Complete street and mailing address;
  - (3) Home and work telephone numbers, including area codes;
  - (4) Date of birth;
  - (5) Gender;
  - (6) Proof of citizenship, such as a certified copy of a driver license or passport, in any state or territory of the United States;
  - (7) Marital status by selecting from the following:
    - a. Single;
    - b. Married;
    - c. Widow or widower;
    - d. Divorced; or
    - e. Cohabiting;
  - (8) Employer's full name and address; and

(9) Occupation;

(e) The specific amount of compensation being sought in each of the following categories, including an indication as to whether each is the final amount that will be sought for that category, as well as a combined total:

- (1) Medical expenses, other than mental health expenses;
- (2) Lost income;
- (3) Funeral expenses;
- (4) Mental health counseling expenses;
- (5) Other expenses not listed under (1) through (4) above, including documentation of such expenses; and
- (6) The total expenses for which compensation is sought;

(f) The following applicable information regarding the crime:

- (1) The geographic location;
- (2) The date of the injury to the victim;
- (3) The date of the victim's death, if applicable;
- (4) A description of the crime;
- (5) A description of the physical or mental health injuries the victim sustained;
- (6) The name of the perpetrator, if known;
- (7) The name of the law enforcement agency to which the crime was reported;
- (8) The date and time the crime was reported to the law enforcement agency;
- (9) The name of the investigating officer and the officer's work telephone number, including extension;
- (10) An indication of whether an arrest has been made;
- (11) An indication of whether the offender has been charged, and if so, through what process;
- (12) An indication of whether the victim knew the offender, and if so, how;
- (13) An indication of whether the victim is related to the offender, and if so, the nature of such relationship;
- (14) An indication of whether the victim was living in the same residence as the offender at the time of the crime;
- (15) If the victim and the offender were living in the same residence at the time of the crime, an indication of whether the victim and offender continue to share a residence; and
- (16) An indication of whether the prosecution of the offender has commenced, and if so, the:
  - a. County in which the case will be or has been tried;
  - b. Docket number;
  - c. Name of a prosecuting attorney; and
  - d. Name of the victim/witness advocate assigned;

(g) A certification, under the penalties of RSA 641:2, as to whether the expenses and losses listed pursuant to (e) above have not, will not, and cannot be covered by any other resource, private or public assistance program, and if they might be, a full description of such resource including:

- (1) The nature of the resource;
- (2) The complete names, addresses, and phone numbers of the resources; and
- (3) The name, address, and phone number of the claimant's attorney;

(h) Copies of all documentation of denials of applications made to other resources, private or public assistance programs for payment or compensation of expenses and losses listed pursuant to (e) above;

(i) A statement by the claimant acknowledging and agreeing that recovery of any expenses and losses listed pursuant to (e) above through legal action shall entitle the State of New Hampshire to seek compensation to the fund to the extent of any award of compensation made under this chapter; and

(j) A certification, under the penalties of RSA 641:2, that the claimant has provided information on or with the application that is true, complete, and accurate to the best of the claimant's knowledge and belief.

Source. #4864, eff 7-13-90; ss by #6052, eff 7-1-95, EXPIRED:  
7-1-03

New. #9553, eff 9-25-09

Jus 604.02 Acknowledgment of Receipt of Claim and Request for More Information Form.

(a) Upon receipt of a complete "Claim Application Form" by the unit, it shall send an "Acknowledgment of Receipt of Claim and Request for More Information Form" to acknowledge the receipt of the claim and shall identify any specific types of additional information required to process the claim. Determination of such types of additional information shall be made on a case-by-case basis, pursuant to (b) below.

(b) The types of additional information that the unit identified pursuant to (a) above shall include:

- (1) Information regarding collateral financial sources, as described in Jus 604.03, if collateral financial sources might exist;
- (2) Photocopies of all crime-related medical bills;
- (3) Photocopies of all crime-related mental health counseling bills;
- (4) If copies of medical bills, mental health counseling bills, or both are not available but expenses have been incurred, a complete list of each such provider's:
  - a. Name;
  - b. Complete mailing address;
  - c. Telephone number; and
  - d. Services actually rendered;
- (5) The name of the victim's employer, supervisor, mailing address, and telephone number at the time the eligible crime occurred, if the victim was employed;
- (6) Photocopies of the victim's paycheck stubs for the month prior to the eligible crime if the victim was employed, or, if the victim was self-employed, a copy of the previous year's federal income tax return;
- (7) A letter to be provided directly from the victim's physician or mental health professional to the commission, which sets forth the following in support of a claim for more than 14 consecutive workdays' lost wages:

- a. A description of the disabling injuries suffered by the victim;
  - b. The period of time the disabling injuries prevented the victim from working; and
  - c. The date on which the victim returned to work, or if the victim has not returned to work, the anticipated date of return to work;
- (8) A photocopy of the final funeral bill, including burial and all related expenses but not including expenses for the reception, wake, or purchase of clothing;
- (9) A photocopy of the receipt, deed, or both, for the purchase of a cemetery plot;
- (10) A photocopy of the bill for the monument and engraving; and
- (11) Any other information related to the claim but not covered by (1) – (10) above, and unique to the circumstances of the claim.

(c) In addition, the “Acknowledgment of Receipt of Claim and Request for More Information Form” sent to a claimant regarding a homicide shall include as an attachment a brochure describing a support group for the friends and family of homicide victims. The claimant also shall be informed that such friends and family may request to be added to the mailing list of the support group.

(d) The unit shall provide a self-addressed envelope for the claimant to use in submitting the information and documents identified pursuant to (b) above. Postage shall not be provided by the unit.

(e) Claimants shall be encouraged to gather and submit the requested information and documents within 10 days of receipt of the “Acknowledgment of Receipt of Claim and Request for More Information Form.”

(f) Claimants shall also be encouraged to discuss with the unit any attempts by providers to recover expenses. The unit shall offer to contact such providers to explain the claims process and the timelines involved.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 604.03 Insurance and Collateral Financial Source Form. Each claimant seeking compensation from the fund shall provide the following on or with an “Insurance and Collateral Financial Source Form” available from the unit:

- (a) The names of the victim and the claimant;
- (b) The claim number assigned by the unit;

(c) An indication of whether any of the medical, mental health counseling, funeral, lost wages, transportation, or any other kind of expenses incurred as a direct result of the crime have been or will be paid in whole or in part by any of the following:

- (1) Medical/health insurance;
- (2) Medicare/Medicaid;
- (3) Any Social Security program;
- (4) The Veterans Administration;
- (5) Workers’ compensation;
- (6) Unemployment compensation;

- (7) Pension, union, or fraternal benefits;
- (8) Sick, vacation, or other paid leave;
- (9) Public or general assistance, including welfare;
- (10) Life insurance or other death benefits;
- (11) Restitution or civil suit judgments; and
- (12) Any other source not listed in (1) – (11) above;

(d) If the claimant responded in the affirmative pursuant to (c)(1) – (12) above, the following information regarding each such collateral financial source:

- (1) The full name of the person, company, agency, or organization;
- (2) The complete mailing address;
- (3) Each applicable group/policy number; and
- (4) A description as to each expense covered in whole or in part, and both the actual dollar amount of the expense and the dollar amount covered; and

(e) A dated declaration that the information provided by the claimant is true, accurate, and complete, as evidenced by the claimant's signature.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 604.04 Insurance and Other Collateral Source Information for Vehicle Crimes Form. Each claimant seeking compensation from the fund shall, if the underlying crime is a vehicular crime, provide the following on or with an "Insurance and Other Collateral Source Information for Vehicle Crimes Form" available from the unit:

- (a) An indication of whether the victim had automobile insurance on the date of the crime;
- (b) If the victim had automobile insurance, the following information or documents:
  - (1) The name of the insurance carrier;
  - (2) The policy number;
  - (3) A copy of the entire policy;
  - (5) Whether proceeds from the insurance carrier have been received;
  - (5) An itemized list of bills including the amounts billed and the amounts paid by the insurance carrier; and
  - (6) An indication of whether there is a pending civil suit against the insurance carrier;
- (b) An indication of whether the offender had automobile insurance on the date of the crime;
- (c) If the offender had automobile insurance, the following information or documents:
  - (1) The name of the insurance carrier;
  - (2) The policy number;
  - (3) An indication of whether the offender's insurance carrier has provided any proceeds for anything

other than vehicle repair;

(4) An indication of whether there is a pending civil suit against the offender's insurance carrier;

(5) An indication of whether there is a pending civil suit against the offender;

(6) An indication of whether the claimant has retained an attorney for the purpose of obtaining a civil judgment against the offender;

(7) If an attorney has been retained pursuant to (6) above, an indication of whether the claimant has informed the attorney that the claimant is seeking compensation under these rules; and

(8) An indication of whether any restitution or payment of a civil suit judgment has been received, and if so the total amounts received;

(d) If any of the responses indicate that money has been paid to or on behalf of the claimant, the claimant shall provide:

(1) The name and mailing address of the person, company, agency or other entity that paid or will be paying any portion of any expense; and

(2) A description of the expenses incurred and the amounts covered by those providing payment pursuant to (1) above; and

(e) A dated declaration that the information provided by the claimant is true, accurate, and complete, as evidenced by the claimant's signature.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 604.05 Law Enforcement Authority Verification Form. After receiving a claim for compensation, the victims' assistance unit shall request the following from the law enforcement agency investigating the crime:

(a) An indication of whether the crime was reported within 5 days of having been committed;

(b) An indication of whether the victim cooperated fully with the investigation and with the prosecution;

(c) An indication of whether the victim was involved in any illegal activity that resulted in the injuries sustained in the crime and, if the answer is in the affirmative, a complete explanation;

(d) An indication of whether the victim's conduct contributed to the infliction of injury to the victim and, if the answer is in the affirmative, a complete description of such conduct and how it relates to the injuries sustained;

(e) An indication of whether any investigating officer observed that the victim sustained any physical injuries and, if the answer is in the affirmative, a complete description of the injuries observed;

(f) An indication of whether the victim resided in the same home with the alleged offender at the time of the crime;

(g) An indication of whether the victim resides with the defendant currently;

(h) The name of the person or persons criminally responsible, if known;

(i) The charge or charges against each person listed pursuant to (h) above;

(j) An indication of whether each person listed pursuant to (h) above is in custody;

(k) An indication of whether each person listed pursuant to (h) above has been convicted and, if the answer



is in the affirmative, each charge with which the person was convicted;

(l) An indication of whether each person listed pursuant to (h) above has been acquitted and, if the answer is in the affirmative, each charge with which the person was acquitted;

(m) An indication of whether any charge against each person listed pursuant to (h) above has been dropped and, if the answer is in the affirmative, each charge that has been dropped;

(n) The following information with regard to sentencing of each person listed pursuant to (k) above as having been convicted:

- (1) The name of the person so convicted;
- (2) The length of incarceration imposed, if the sentence includes incarceration;
- (3) The amount of the fine imposed, if the sentence includes a fine;
- (4) The amount of restitution imposed, if the sentence includes restitution; and
- (5) Any other aspect of the sentence imposed by the court not covered by (1) – (4) above;

(o) The printed name and title of the law enforcement official completing the form; and

(p) The signature of the law enforcement official completing the form, and the date signed.

Source. #4864, eff 7-13-90; ss by #6052 eff 7-1-95, EXPIRED: 7-1-03

New. #9553, eff 9-25-09

Jus 604.06 Verification of Employment and Lost Wages Form. If a claimant seeks compensation for lost wages, the victims' assistance unit shall request the following information regarding the victim from the victim's employer:

(a) The date the victim's employment commenced;

(b) The date the victim's employment terminated, if applicable;

(c) The number of hours worked each day at the time of the crime;

(d) The victim's assigned workdays;

(e) Whether overtime was available to the victim at the time of the crime;

(f) The victim's history of working overtime for the year preceding the crime;

(g) The victim's gross earnings, indicating whether such net earnings are hourly, weekly, monthly, or annually;

(h) The dates of work missed as a result of the crime, including an indication of whether the victim was paid for such time;

(i) An indication of whether the victim is collecting or has collected disability benefits through the employer, and if the answer is in the affirmative:

(1) The name, complete mailing address, and telephone number of the company paying such benefits; and

(2) The policy number;

(j) The printed name and title of the person completing the form; and

(p) The signature of the person completing the form, and the date signed.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 604.07 Verification of Medical Expenses Form. If a claimant seeks compensation for medical expenses, the victims' assistance unit shall request the following information regarding such medical expenses from each provider for whose services compensation sought:

- (a) The victim's account number;
- (b) The date or dates upon which the victim was treated by the health care provider;
- (c) The total amount charged for such health care services;
- (d) The amount for which the victim is responsible and the amount actually paid by the victim;
- (e) The amount paid by any available insurance;
- (f) The amount paid by any other person or entity, including the name of such person or entity and a description of the reasons for such payment;
- (g) The outstanding balance, after applying the amounts paid by the victim, any amounts paid by insurance, and payments made by any other person or entity;
- (h) The health care provider's Federal identification number;
- (i) The printed name, title, and telephone number of the person completing the form; and
- (j) The signature of the person completing the form, and the date signed.

Source. #4864, eff 7-13-90; amd by #5430, eff 7-1-92; ss by #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 604.08 Verification of Hospital Expenses Form. If a claimant seeks compensation for hospital expenses, the victims' assistance unit shall request the following information regarding such hospital expenses from each hospital for which compensation is sought:

- (a) The victim's account number;
- (b) The date or dates upon which the victim was treated by the health care provider;
- (c) The total amount charged for such health care services;
- (d) The amount for which the victim is responsible and the amount actually paid by the victim;
- (e) The amount paid by any available insurance;
- (f) The amount paid by any other person or entity, including the name of such person or entity and a description of the reasons for such payment;
- (g) The outstanding balance, after applying the amounts paid by the victim, any amounts paid by insurance, and payments made by any other person or entity;
- (h) An indication as to whether the victim applied for free or reduced fee care;
- (i) The health care provider's Federal identification number;
- (j) The printed name, title, and telephone number of the person completing the form; and

- (k) The signature of the person completing the form, and the date signed.

Source. #9553, eff 9-25-09

Jus 604.09 Verification of Funeral/Burial Expenses Form. If a claimant seeks compensation for funeral/burial expenses, the victims' assistance unit shall request the following information regarding such funeral/burial expenses from each person who provided services for which compensation is sought:

- (a) The date of the funeral;
- (b) The place of burial or cremation;
- (c) The name of the person responsible for the funeral, burial, or cremation expenses;
- (d) The total cost of cemetery or crematory expenses, not including funeral expenses;
- (e) The amount actually paid by the claimant;
- (f) The amount of the death benefit paid by Social Security;
- (g) The amount of the death benefit paid by the Veterans Administration;
- (h) The outstanding balance for funeral, burial, or cremation expenses;
- (h) The name and complete mailing address of each life insurance company that paid a death benefit;
- (i) The funeral, burial, or cremation provider's Federal identification number;
- (j) The printed name, title, and telephone number of the person completing the form; and
- (k) The signature of the person completing the form, and the date signed.

Source. #9553, eff 9-25-09

Jus 604.10 Reminders and Warnings. If the unit has not received the additional information and documents requested within 3 weeks after sending the "Acknowledgment of Receipt of Claim and Request for More Information Form," or by the date specified in an extension granted pursuant to Jus 603.03(c), it shall send a reminder to the claimant that warns that a failure to provide such additional information and documents by the deadline shall result in the claim being dismissed without prejudice. Each such reminder shall request the same information as had been requested in the original request.

Source. #9553, eff 9-25-09

#### PART Jus 605 CLAIM EVALUATION CRITERIA AND AWARDS LIMITS

##### Jus 605.01 General Requirements for Victim and Crime Eligibility and Award Compensation Priority.

- (a) A claim shall be brought only by the following:
  - (1) A primary victim;
  - (2) A related victim regardless of whether the primary victim had expenses or liabilities totaling at least \$100;
  - (3) A person designated in writing by an adult or emancipated minor primary victim or a court of competent jurisdiction to act as his or her representative; and
  - (4) The parent or guardian on behalf of a primary victim who is a minor.

(b) A request for compensation shall be made by a claimant or considered by the commission only if there is:

- (1) An underlying criminal act that is or would be a misdemeanor or felony, or constitute driving while under the influence of alcohol or other controlled substance; and
- (2) A primary victim who, as a direct result of a crime falling under (1) above, suffered a personal injury or death and incurred expenses or liabilities totaling at least \$100, except as provided in (a)(2) above.

(c) Awards for compensation shall be made in the following priority, conditioned upon the availability of funds:

- (1) Out-of-pocket expenses shall be paid first;
- (2) If funds are still available, the cost of anticipated services and expenses shall be set aside for such future services or expenses second;
- (3) If funds are still available, individual providers shall be paid third; and
- (4) If funds are still available, institutional providers, such as hospitals, shall be paid last.

Source. #4864, eff 7-13-90; amd by #5430, eff 7-1-92,  
EXPIRED: 7-1-98

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 605.02 Ineligibility. If any one or more of the following are true, the commission shall deny the claim for compensation in its entirety:

- (a) The crime occurred before 11/2/1989 and the victim was neither a minor nor a victim of sexual assault;
- (b) The primary victim did not suffer personal injury or death and incur expenses or liabilities totaling at least \$100;
- (c) The crime was not reported within 5 days of the crime unless good cause, which shall include but not be limited to the following, is shown:
  - (1) The victim's medical condition prevented him or her from making such a report;
  - (2) The victim's fear for his or her personal safety prevented the victim from making such a report;
  - (3) The victim's fear of retribution prevented him or her from making such a report; or
  - (4) The victim's emotional state or mental health prevented him or her from making such a report.
- (d) There was no credible evidence for the commission to conclude that a crime resulting in personal injury or death actually occurred;
- (e) The primary victim engaged in conduct that primarily contributed to his or her personal injury or death, including but not limited to, being a voluntary passenger in an impaired offender's vehicle knowing that offender was impaired. Notwithstanding the foregoing, in the case of a primary victim who was a homicide victim whose conduct primarily contributed to his or her death, only, any dependent related victim who has not attained the age of 18 shall be eligible for compensation solely for mental health counseling pursuant to Jus 605.04;
- (f) The primary victim committed a crime which caused or contributed to his or her personal injury or death
- (g) The primary victim was a victim of an inmate-on-inmate crime that occurred in a jail or prison;
- (h) The primary victim failed to cooperate materially with law enforcement agencies without good cause such as fear of retaliation by or on behalf of the offender;

(i) The primary victim resides with offender and compensation would provide benefit or enrichment to the offender, as prohibited by RSA 21-M:8-j, V; and

(j) After applying available insurance and all other available collateral financial sources, there are no outstanding expenses to be paid or reimbursed.

Source. #4864, eff 7-13-90; amd by #5430, eff 7-1-92,  
EXPIRED: 7-1-98

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

#### Jus 605.03 Medical Expenses Awards.

(a) The commission shall consider and evaluate requests for compensation for medical expenses if the underlying facts of the claim meet the requirements of Jus 605.01 and none of the circumstances resulting in ineligibility described in Jus 605.02 applies.

(b) A claimant submitting a request for compensation for or payment of medical expenses shall submit the following information and documentation to support the request:

- (1) The name and address of each medical provider who provided crime-related treatment as identified on any bills or invoices received for such treatment;
- (2) A completed Insurance and Collateral Financial Source form as described in Jus 604.03;
- (3) A completed Insurance and Other Collateral Financial Source Information for Vehicle Crimes form as described in Jus 604.04, if the claim involves a vehicle crime;
- (4) An authorization for the release of medical and related billing information that complies with all applicable federal requirements for each provider;
- (5) Documentation of denial of free or reduced fee hospital care, if the victim did not have health insurance at the time of treatment of the injuries sustained as a direct result of the crime; and
- (6) Proof of all out-of-pocket health care expenses incurred by or on behalf of the victim and which were incurred as a direct result of the crime.

(c) Once the unit has received the information and documentation required pursuant to (b) above, the unit shall contact the appropriate providers to obtain the following directly from such providers:

- (1) A treating physician's report that describes the injuries sustained as a direct result of the crime;
- (2) An itemized list of all medical costs incurred for treatment of the injuries sustained as a direct result of the crime; and
- (3) Proof of payment of hospital costs made by or on behalf of the victim.

(d) The following kinds of expenses shall be eligible for compensation under the category of medical expenses:

- (1) The actual cost of reasonable and necessary medical treatment provided by licensed health-care personnel, after first applying any available insurance or other available collateral financial source;
- (2) The portion of the cost of all prescription medications prescribed to treat the victim's physical injuries but excluding prescriptions for mental health, which shall be payable under eligible mental health expenses;
- (3) The cost of reasonable and necessary physical assistance equipment, including modifications to buildings such as ramps;

(4) Replacement of lost or badly damaged existing physically assistive devices such as:

- a. Hearing aids;
- b. Dentures;
- c. Prosthetic and other devices;
- d. Wheelchairs; and
- e. Prescription eyeglasses and other corrective lenses, including contact lenses;

(5) Mileage to and from appointments with licensed health care providers, at the rate used to compensate mileage of state employees in effect at the time the award is made;

(6) Hospital expenses paid by or on behalf of the victim; and

(7) All other directly crime-related medical expenses incurred, including out-of-pocket expenses.

(e) Awards for compensation of medical expenses shall be limited pursuant to the following:

(1) The commission shall not award compensation for medical treatment provided by health-care personnel who do not hold appropriate licensure for the kind of treatment provided;

(2) The commission shall not award compensation for hospital care if:

- a. The victim had health insurance at the time of treatment for injuries sustained as a direct result of the crime;
- b. Free or reduced fee care has not been denied by the hospital; and
- c. No payment by or on behalf of the victim has been made to the hospital;

(3) Notwithstanding (2) above, the commission shall award compensation for hospital care, but only to the extent that care was actually paid for out of pocket, if:

- a. The victim did not have health insurance at the time of treatment for injuries sustained as a direct result of the crime; and
- b. Free or reduced fee care has been denied by the hospital and payment by or on behalf of the victim has been made to the hospital, but only in the amount of the actual total payment made;

(4) The commission shall award compensation of no more than 75% of the total amount due for inpatient hospital care, with 100% of the out-of-pocket expenses being reimbursed first, and any remaining sum used for others' reimbursement.

(f) In circumstances in which a balance remains after applying insurance, other collateral financial sources, and compensation awards under this part, the unit shall contact the person or entity to whom the balance is owed and encourage that person or entity to write off such balance.

Source. #4864, eff 7-13-90; amd by #5430, eff 7-1-92, EXPIRED: 7-1-98

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

#### Jus 605.04 Mental Health Expenses Awards.

(a) The commission shall consider and evaluate requests for compensation for mental health expenses if the underlying facts of the claim meet the requirements of Jus 605.01 and none of the circumstances resulting in

ineligibility described in Jus 605.02 applies.

(b) A claimant submitting a request for compensation for mental health expenses shall submit the following information and documentation to support the request:

- (1) The name and address of each licensed mental health provider who provided crime-related treatment as identified on any bills or invoices received for such treatment;
- (2) A completed Insurance and Collateral Financial Source form as described in Jus 604.03;
- (3) A completed Insurance and Other Collateral Financial Source Information for Vehicle Crimes form as described in Jus 604.04, if the claim involves a vehicle crime; and
- (4) An authorization for the release of mental health and related billing information that complies with all applicable federal requirements for each provider.

(c) Once the unit has received the information and documentation required pursuant to (b) above, unit shall:

- (1) Contact the licensed mental health care provider to request a copy of the mental health treatment plan submitted by the licensed mental health professional to the victim's insurance carrier, or if the victim does not have insurance, the licensed mental health provider-completed Initial Assessment and Treatment Plan;
- (2) Contact the licensed health care provider to request a copy of the mental health medication treatment plan created by a health care provider licensed to prescribe medication;
- (3) Contact the appropriate licensing body to verify that the treating mental health care provider is in fact licensed in the jurisdiction in which mental health treatment has been, is being, or will be provided; and
- (4) Contact the licensed mental health care provider to request a copy of each bill or invoice itemizing all charges for mental health services, including for medications and medication management, the payment for which the victim is responsible.

(d) The following kinds of expenses shall be eligible for compensation under the category of mental health expenses:

- (1) The actual cost of treatment, whether individual, group, or both, provided by licensed mental health personnel, after first applying any available insurance or other available collateral financial source, for mental health issues that were directly caused by the crime;
- (2) The portion of the cost for which the claimant is responsible, including co-pays, of all prescription medications prescribed to treat the victim's mental health issues that were directly caused by the crime;
- (3) The portion of the cost for which the claimant is responsible, including co-pays, of the actual amount billed for medication management services if the amount billed is consistent with usual and customary charges for such services in that geographical area;
- (4) Mileage to and from appointments with licensed mental health care providers, at the rate used to compensate mileage of state employees in effect at the time the award is made; and
- (5) All other directly crime-related mental health expenses incurred, including out-of-pocket expenses not already described above.

(e) Awards for compensation of mental health expenses shall be limited pursuant to the following:

- (1) The commission shall not award compensation for mental health treatment or services provided by mental health personnel who do not hold appropriate licensure for the kind of treatment provided;

(2) The commission shall award compensation not to exceed \$3,000, per episode of care, for all actual mental health expenses, excluding for medication management pursuant to (3) below, incurred for the period commencing on the date that the treatment plan is signed by the licensed provider until the earlier of the date of termination of treatment under the plan, or the passing of one year;

(3) The commission shall award compensation not to exceed \$1,000 for all medication management services provided, at the rate actually billed by the provider licensed to provide such services provided that it is consistent with usual and customary charges for such services in that geographical area;

(4) The commission shall award compensation that does not exceed the portion of the cost of each individual therapy session for which the victim is responsible, limited to the lesser of:

- a. The Medicaid reimbursement rate applicable to the licensed provider; or
- b. The amount billed by the licensed provider; and

(5) The commission shall award compensation that does not exceed the portion of the cost of each group therapy session for which the victim is responsible, limited to the lesser of:

- a. The Medicaid reimbursement rate applicable to the licensed provider; or
- b. The amount billed by the licensed provider.

(f) In circumstances in which a balance remains after applying insurance, other collateral financial sources, and compensation awards under this part, the commission shall contact the licensed mental health care provider to whom the balance is owed and encourage that provider to write off such balance.

Source. #9553, eff 9-25-09

#### Jus 605.05 Lost Wages Awards.

(a) The commission shall consider and evaluate requests for compensation for lost wages, whether the claimant is self-employed or employed by another, if the underlying facts of the claim meet the requirements of Jus 605.01 and none of the circumstances resulting in ineligibility described in Jus 605.02 applies.

(b) A claimant submitting a request for compensation for lost wages shall submit the following documentation to support the request:

- (1) If self-employed, the tax returns for the year in which the crime occurred and for the year prior to that;
- (2) If employed by another, a statement from the employer that contains the amount of time lost and the wages that would have been earned for that time;
- (3) If compensation for lost overtime wages is sought, a statement from the employer that addresses the reasons for the overtime lost and the claimant's history of overtime work;
- (4) For lost wages for more than 14 consecutive days, a report from a licensed health care provider that confirms the claimant's inability to work during that period; and
- (5) Copies of all written confirmations of appointments with medical providers, mental health providers, police and other law-enforcement officials, and any other appointments necessitated as a direct result of the crime.

(c) The following activities shall be eligible for compensation under the category of lost wages:

- (1) Time spent for physical or mental recuperation from personal injuries sustained as a direct result of the crime;
- (2) Time spent for medical appointments;



- (3) Time spent for mental health appointments;
- (4) Time spent meeting with police or other law enforcement officials;
- (5) Time spent for pretrial preparation, including for depositions;
- (6) Time spent in court during the trial, at sentencing, or both;
- (7) Time spent at probation hearings; and
- (8) Time spent at parole hearings.

(d) Wages lost for any of the reasons listed under (c) above shall be compensable even if the claimant had leave time available from his or her employer and was paid by using such leave time.

(e) The following limitations shall apply to awards made for lost wages:

- (1) Compensation shall be paid at a rate of 75% of the claimant's gross income, taking into account previously scheduled increases in the claimant's rate of pay;
- (2) Compensation for overtime shall be awarded based on the claimant's history of working overtime or the employer's verified requirement that the claimant have worked on anticipated overtime, or both;
- (3) The total compensation paid for lost wages shall not exceed 75% of the claimant's pre-crime wages, including any workers' compensation or disability benefits received.

Source. #9553, eff 9-25-09

#### Jus 605.06 Loss of Support Awards.

(a) The commission shall consider and evaluate separate requests for compensation for the loss of support from a primary victim if:

- (1) Such primary victim suffers partial or total disability or death as a direct result of the crime;
- (2) The underlying facts of the claim meet the requirements of Jus 605.01; and
- (3) None of the circumstances resulting in ineligibility described in Jus 605.02 applies.

(b) The following persons shall be eligible to submit requests for compensation for a loss of support:

- (1) The spouse of the primary victim;
- (2) The domestic partner of the primary victim;
- (3) The children or step-children of the primary victim; and
- (4) Any other person claimed by the primary victim as a dependent on the most recent year's tax return.

(c) A separate claim shall be submitted for each eligible person, and the amount awarded pursuant to (f)(2) below shall apply to each such separate claim.

(d) A claimant submitting a request for compensation for loss of support shall submit the following documentation to support the request:

- (1) The primary victim's tax return, listing every dependent, for the year previous to the crime;
- (2) If it is claimed that the primary victim suffered partial or total physical disability, a report from a physician, the New Hampshire department of labor, or the Social Security Administration that declares the primary victim to be or to have been partially or totally disabled;

- (3) If it is claimed that the primary victim suffered partial or total mental health disability, report from a licensed mental health provider whose license authorizes the making of such diagnoses;
- (4) In the case of a primary victim's spouse claiming loss of support, one of the following:
- a. A copy of the marriage license;
  - b. The most recent year's joint tax return; or
  - c. Affidavits from 2 unrelated persons, neither of whom is related to the claimant, indicating that the claimant and the victim had been married at the time of the crime that resulted in the disability or death of the primary victim;
- (5) In the case of a domestic partner claiming loss of support, separate affidavits from the domestic partner and 2 unrelated persons, neither of whom is related to the claimant, indicating when the relationship began and that the relationship was ongoing at the time of the crime that resulted in the disability or death of the primary victim;
- (6) In the case of a primary victim's child claiming loss of support, a copy of one of the following:
- a. The child's birth certificate listing the primary victim as the child's parent;
  - b. A copy of the victim's most recent tax return showing that the victim claimed the child was his or her dependent; or
  - c. A final order from a court of competent jurisdiction indicating that the child had been adopted by the primary victim; and
- (7) In the case of any other person requesting compensation for loss of support, an affidavit from such other person indicating:
- a. The nature of the relationship with the primary victim;
  - b. When the relationship with the primary victim began; and
  - c. That the primary victim listed the affiant as a dependent on the primary victim's most recent tax return.
- (e) To document that the victim was a victim of a homicide, the unit shall request:
- (1) A copy of the death certificate prepared by the medical examiner for the jurisdiction in which the autopsy was performed; or
  - (2) A letter so stating from the homicide unit in the New Hampshire department if the crime occurred in New Hampshire, or from the prosecuting agency of the jurisdiction in which the crime occurred.
- (f) Whether a loss of support exists shall be determined by applying the following process:
- (1) The amount of income that the victim would have earned between the time of the crime and the time either when the victim would not be able to claim the claimant as a dependent for tax purposes or when the victim would not be under any legal obligation to support the claimant;
  - (2) The total amount of all collateral financial sources, excluding the first \$100,000 in life insurance benefits, shall be divided by the number of dependents and then subtracted from the figure computed pursuant to (1) above;
  - (3) If the amount computed pursuant to (2) above is less than the amount computed pursuant to (1) above, the commission shall determine that a loss of support exists; and
  - (4) If the amount computed pursuant to (2) above is more than the amount computed pursuant to (1) above, the commission shall determine that no loss of support exists.

(g) For purposes of determining assets to be counted as collateral financial sources for loss of support purposes, any trusts created for the benefit of dependents of the victim shall be included, regardless of whether access to the funds is immediate or not until some future date. The unit, upon learning of such a trust, shall inform the surviving spouse, trustee or guardian that permission from the probate court to invade the trust can be sought for any reason allowed by law.

(h) The following limitations shall apply to awards made for loss of support:

- (1) Compensation shall be paid in a lump sum;
- (2) The amount of compensation shall be the lesser of the amount computed pursuant to (f)(2) above divided by the number of claimants or \$10,000; and
- (3) Awards to a minor claimant shall be made to the surviving parent or to the minor's guardian, provided that such parent or guardian provides judicially enforceable written assurances that the money will be spent in the best interests of the minor.

Source. #9553, eff 9-25-09

Jus 605.07 Relocation Expenses Awards.

(a) The commission shall consider and evaluate requests for compensation for relocation expenses, if:

- (1) The offender poses a continuing credible threat to the safety of the claimant;
- (2) There is either a police report and a temporary restraining order has been issued against the claimant's abuser or potential abuser or a final restraining order has been issued against the claimant's abuser or potential abuser;
- (3) The underlying facts of the claim meet the requirements of Jus 605.01; and
- (4) None of the circumstances resulting in ineligibility described in Jus 605.02 applies.

(b) A claimant submitting a request for compensation for relocation assistance shall submit the following documentation to support the request:

- (1) A copy of either a police report and a temporary restraining order has been issued against the claimant's abuser or potential abuser or a final restraining order has been issued against the claimant's abuser or potential abuser;
- (2) A copy of the lease, which shall be for a minimum of one year and list the claimant as the primary responsible party;
- (3) A copy of the front and back of all pages of each invoice from each utility company providing service at the new residence;
- (4) An estimate or the actual billing invoice for the services of a moving company or movers; and
- (5) Copies of all receipts for items the purchase or rental of which was necessitated by the relocation itself.

(c) The advocate assisting the claimant shall submit a letter of support for the claim for relocation expenses that explains and addresses the following:

- (1) The history of the domestic violence, regardless of whether there is police documentation, between the claimant and the offender that includes a brief narrative of the most recent incidents of violence, abuse, or threats;
- (2) A description of the claimant's immediate and specific concerns regarding her or his safety, including the offender's proximity, and how the award will address those concerns;

- (3) An explanation for any behavior of the claimant that might, on its face, appear to exhibit a lack of cooperation;
  - (4) A statement regarding the claimant's plan for the future, including expected financial strength and housing; and
  - (5) Any other issues or concerns specific to the claimant or the claimant's situation as they relate to relocation.
- (d) The following shall be eligible for compensation under the category of relocation expenses:
- (1) Security deposit and up to 2 months' rent;
  - (2) Start-up utility expenses, excluding any arrearages, and up to 2 months' utilities;
  - (3) Up to 3 months' storage;
  - (4) The rental of a moving truck or trailer to transport the claimant's possessions;
  - (5) Expenditures necessitated by the relocation including but not limited to:
    - a. Moving materials such as boxes, packaging, and tape;
    - b. Travel expenses to the new location such as:
      1. Fuel;
      2. Tolls;
      3. Food;
      4. Lodging; and
      5. Fare for bus, train, air or other scheduled carrier's transportation;
  - (6) The cost of the move as billed by the moving company; and
  - (7) Local telephone service and safety-related features such as caller-ID.
- (e) The following limitations shall apply to awards made for relocation expenses:
- (1) Relocation expenses shall be a one-time benefit per claim;
  - (2) Relocation expenses shall be paid for expenses associated with the new residence only and not applied to any arrearages associated with the residence the claimant is leaving or has left;
  - (3) Relocation expenses shall be capped at \$5,000;
  - (4) Compensation for security deposit and 2 month's rent and for the services of the movers shall be paid directly to the landlord and the movers, respectively;
  - (5) No compensation shall be awarded for cable television, long-distance telephone, or Internet service; and
  - (6) The relocation shall occur within 6 months of the award of compensation for relocation unless the claimant requests an extension and demonstrates:
    - a. Housing is not available within that time period; and
    - b. The circumstances giving rise to the concern for safety are anticipated but will not occur until after the compensation has been awarded.

Source. #9553, eff 9-25-09

Jus 605.08 Funeral and Grave Marker Expenses Awards.

(a) The commission shall consider and evaluate requests for compensation for payment of funeral and grave marker expenses incurred as a result of a homicide if the underlying facts of the claim meet the requirements of Jus 605.01 and none of the circumstances resulting in ineligibility described in Jus 605.02 applies.

(b) A claim for compensation for funeral and grave marker expenses shall be considered to be and processed as a claim of the primary victim unless the primary victim engaged in contributory conduct sufficient to warrant denial of the primary victim's claim pursuant to Jus 605.02(e).

(c) A claimant submitting a request for compensation for funeral and grave marker expenses shall submit the following documentation to support the request:

- (1) A copy of the final invoice for the funeral; and
- (2) A copy of the final invoice for the grave marker.

(d) The unit shall obtain a copy of the death certificate from the victim witness advocate or from the medical examiner or shall obtain a letter from the homicide unit in the New Hampshire department if the crime occurred in New Hampshire, or from the prosecuting agency of the jurisdiction in which the crime occurred, confirming that the case is a homicide.

(e) The following limitations shall apply to awards made for funeral and grave marker expenses:

- (1) Funeral and grave marker expenses compensation shall be considered as part of the primary victim's claim;
- (2) Funeral expenses shall be capped at \$5,000;
- (3) Grave marker expenses shall be capped at \$500; and
- (4) No compensation shall be awarded for the cost of any of the following:
  - a. Clothing for the victim or any other person;
  - b. Any expense associated with the funeral reception; and
  - c. Any expense associated with a wake.

Source. #9553, eff 9-25-09

Jus 605.09 10-Day Emergency Funds Compensation to Crisis Centers.

(a) Notwithstanding the provisions of Jus 605.01 relative to who may bring a claim for compensation, the commission shall consider and evaluate requests for compensation to a crisis center for payment of 10-day emergency funds by the crisis center to a victim of domestic violence or sexual assault provided that the victim is eligible under Jus 605.01 and none of the circumstances resulting in ineligibility described in Jus 605.02 applies.

(b) A claimant crisis center submitting a request for compensation for compensation of 10-day emergency funds shall submit any of the following documentation to support its claim for eligibility for compensation:

- (1) A copy of the police report for the underlying crime;
- (2) A copy of the final restraining order; or
- (3) A copy of a temporary restraining order and a copy of the police report for the underlying crime.

(c) A claimant crisis center submitting a request for compensation for payment of 10-day emergency funds shall submit copies of all receipts for goods and services provided to the victim for which the crisis center seeks compensation.

(d) Payment for the following goods and services by a crisis center shall be eligible for compensation under the category of 10-day emergency fund compensation:

- (1) Food for the victim and the victim's family;
- (2) The purchase of clothing and personal hygiene items for the victim and the victim's family;
- (3) The cost of shelter for the victim and the victim's family;
- (4) Transportation for the victim and the victim's family;
- (5) The replacement or repair of locks, windows, and doors necessary to secure the residence; and
- (4) The cost of medically necessary medications.

(e) The following limitations shall apply to compensation of crisis centers for payment of 10-day emergency funds to victims of domestic abuse or sexual assault:

- (1) The amount used for the purchase of clothing shall be capped at \$100 per person;
- (2) The per-adult limit for the provision of all goods and services, except the purchase of clothing pursuant to (d)(2) and (e)(1) above, shall be \$1,000;
- (3) The per-child limit for the provision of all goods and services, except the purchase of clothing pursuant to (d)(2) and (e)(1) above, shall be \$250; and
- (4) Compensation shall be made to the crisis center and not to the victim.

Source. #9553, eff 9-25-09

#### Jus 605.10 Safety and Security Expense Awards.

(a) The commission shall consider and evaluate requests for safety and security expenses incurred as a result of an eligible crime if the underlying facts of the claim meet the requirements of Jus 605.01 and none of the circumstances resulting in ineligibility described in Jus 605.02 applies.

(b) A claimant submitting a request for compensation for safety or security expenses shall submit the following documentation to support the request:

- (1) Copies of all invoices or receipts for safety or security-related devices, improvements, or services for the residence;
- (2) Copies of all invoices or receipts for safety or security-related devices or services to be used outside the residence; and
- (3) An explanation of the necessity for such devices or services.

(c) Items and services eligible for compensation under the safety and security category shall include:

- (1) Installation costs of a residential monitoring system;
- (2) Up to one year of residential monitoring;
- (3) Installation of locks and other devices to secure windows and doors in the residence; and
- (4) Any other device or service the primary purpose of which is to provide safety or security of the claimant, and which is the most cost-effective way of achieving that goal.

(d) To the extent the commission determines that concerns for the claimant's safety indicate a need for such items, improvements, or services, it shall approve the claim.

Source. #9553, eff 9-25-09

**Jus 605.11 Reimbursement of the Fund by Claimants.**

(a) Seeking to recover damages through instituting a civil suit shall neither be required of claimants nor shall it be a bar to an award of compensation from the fund under Jus 600.

(e) However, as a condition for applying for and accepting any award of compensation from the fund under Jus 600, the claimant shall agree to:

(1) Upon the filing of a civil suit to recover damages, immediately notify and provide a copy of such filing to the commission and the department;

(2) Provide the commission and the department with copies of all potentially dispositive pleadings and all interim and final orders of the court hearing the suit;

(3) Immediately notify the commission and department of the receipt of any payment for damages, injury or economic loss from any source; and

(4) Within 30 days of receipt of payment pursuant to (3) above, reimburse the fund, through the department.

(f) Reimbursement pursuant to (e)(4) above shall be in an amount equal to the lesser of:

(1) The actual amount of compensation awarded by the commission;

(2) The amount of such payment received from a collateral financial source; or

(3) The net amount of the civil suit judgment after deducting all fees and costs associated with the civil action.

Source. #9553, eff 9-25-09

**Jus 605.12 Felonious Sexual Assault Examinations and Prophylaxis.**

(a) Pursuant to RSA 21-M:8-c, a person who claims to be a victim of a felonious sexual assault who is examined by physician or hospital for the purpose of gathering information or evidence shall not be charged for such services or examination. The health care provider shall first seek payment for such services or examination from the patient's health care insurer if the victim has health insurance but if the victim does not have such insurance, the health care provider shall seek payment directly from the department or shall write off such charges.

(b) For the safety and privacy of the victim, the health care provider shall not, under any circumstances, send an invoice or billing statement directly to the victim but shall send it directly to the department.

(c) If a person who claims to be a victim of a felonious sexual assault has health insurance which requires the payment of a deductible or a co-payment for such services or examination, the department shall either reimburse the victim for such payment made or pay such deductible or co-payment directly.

(d) The victim shall agree to forensic evidence collection, as set forth in the "Revised 2005 Edition of Sexual Assault Medical/Forensic Protocol" if examination is sought within 5 days of the assault. The evidence so collected shall not be examined forensically unless the victim also reports the crime to law enforcement. The victim may initially choose to have such evidence collection done anonymously, but the victim shall choose whether to report the crime within 60 days of the evidence collection. If the victim does not report within the 60-day period, the evidence shall be destroyed.

(e) If it is determined by the examining health care provider that the victim may have been exposed to HIV/AIDS as a result of the assault, a voucher for prophylactic medication(s) shall be given to the victim.

(f) Each victim shall also receive a voucher for forensic medical follow-up care. Any payment of a deductible or co-payment for such care shall be handled as provided in (c) above.

(g) A victim who has sought medical treatment pursuant to (a) and (d) above shall be deemed to:

- (1) Have made a report to law enforcement in compliance with Jus 605.02(c); and
- (2) Be credible evidence that an eligible crime has occurred pursuant to Jus 605.02(d).

Source. #9553, eff 9-25-09

## PART Jus 606 COMMISSION PROCEDURES

### Jus 606.01 Commission Chair.

(a) The members of the commission shall, after polling its members, make a recommendation to the attorney general as to its preference for commission chair.

(b) The attorney general shall consider the recommendation of the commission and designate one member of the commission who shall serve as chair. The term shall be for one year.

(c) The chair shall, unless absent or recused, preside at all meetings of the commission. In the absence of the chair, the commissioners present shall select a member to act as chair for that meeting, only.

Source. #4864, eff 7-13-90, EXPIRED: 7-13-96

New. #7117, eff 10-8-99, EXPIRED: 10-8-07

New. #9553, eff 9-25-09

Jus 606.02 Meeting. The commission shall, if a quorum is available, meet monthly or at the call of the chair.

Source. #9553, eff 9-25-09

Jus 606.03 Attendance. Commission members shall attend each regular and special meeting of the commission or shall contact commission staff at least 24 hours prior to a meeting the member will be unable to attend.

Source. #9553, eff 9-25-09

### Jus 606.04 Quorum.

(a) No business of the commission shall be conducted unless a quorum is present.

(b) For purposes of a commission meeting, a quorum shall require the presence of at least 3 commission members. Such presence can be physical or electronic, but if electronic, all other commission members and all other persons entitled to be present shall be able at least to hear the physically absent commission member via telephone, Internet, or any other modality that allows instant, real-time communication and participation.

(c) For purposes of a commission vote, a quorum shall require the presence of at least 3 commission members who have not recused themselves and are otherwise entitled to vote on the pending question. Such presence can, subject to the provisions of RSA 91-A:2, III, be physical or electronic, but if electronic, all other commission members entitled to be present shall be able at least to hear the physically absent commission member via telephone, Internet, or any other modality that allows instant, real-time communication and participation.

Source. #9553, eff 9-25-09

### Jus 606.05 Commission Meetings.

(a) Notice of commission meetings shall be posted at least in the following sites and at the locations where notices typically are posted at the:

- (1) Department on the public notice bulleting board in the public reception area; and



(2) State House in the elevators and on the public notice bulletin board next to the cafeteria.

(b) Commission staff shall prepare a specific agenda for each meeting. Each agenda shall briefly describe the business that the commission can be anticipated to consider, act upon, or both. However, such descriptions shall contain no personally identifiable information regarding any victim or claimant so as not to revictimize such persons.

(c) The general elements of meeting agendas shall include:

- (1) Administrative issues raised by commission staff;
- (2) Review and approval of the previous meeting's minutes;
- (3) Review of fund financial information;
- (4) Identification by claim number of felonious sexual assault examinations conducted;
- (5) Identification by claim number drug testing awaiting authorized signatures;
- (6) Identification by claim number of administrative claims mailed to commission members for their review at the meeting;
- (7) Identification by claim number of other claims mailed to commission members for their review at the meeting;
- (8) Old business;
- (9) New business;
- (10) Discussion and setting of future meeting dates; and
- (11) A statement of other events and dates that relate to the work of the commission and which might be of interest to commission members.

(d) Commission meetings shall be open to the public for those portions of the meetings at which there is no basis for entering into nonpublic session. However, when there is a basis for going into nonpublic session as provided pursuant to RSA 91-A:3, the commission shall, unless otherwise requested by the person affected, enter nonpublic session and take all actions required under that provision.

Source. #9553, eff 9-25-09

Jus 606.06 Decisions. All decisions of the commission shall be final except as provided in Jus 606.07.

Source. #9553, eff 9-25-09

Jus 606.07 Reconsideration.

(a) Any victim or claimant who is adversely affected by a decision of the commission may submit a written motion for reconsideration pursuant to Jus 603.03(o) or a notice of appeal pursuant to Jus 603.03(s) and (t).

(b) Each petition for reconsideration or notice of appeal shall be filed with the unit no later than 14 days from the date of the letter notifying the claimant of the commission's adverse decision.

(c) The petition for reconsideration or notice of appeal shall be served in person or by mail to the following address:

Victims' Compensation Unit  
 Department of Justice  
 33 Capitol Street  
 Concord, NH 03301-6397

(d) Each motion for reconsideration shall be considered as set forth in Jus 603.03(p) through (r), and each notice of appeal shall be considered as set forth in Jus 603.03(t).

(e) A motion for reconsideration shall be placed on the agenda of the first commission meeting that is at least 14 days after the filing of the motion.

(f) A motion for reconsideration or an appeal shall be decided as soon as is practicable and in accordance with RSA 541-A:29.

(g) A written decision on the motion for reconsideration shall be provided to the claimant within 30 days of the date of the decision on the motion.

Source. #9553, eff 9-25-09

#### APPENDIX

<b>RULE</b>	<b>STATE STATUTE IMPLEMENTED</b>
Jus 601	RSA 541-A:8
Jus 602	RSA 541-A:7 and RSA 541-A:8
Jus 603.01	RSA 541-A:8
Jus 603.02	RSA 21-M:8-g and RSA 21-M:8-j, III
Jus 603.03	RSA 21-M:8-h and RSA 21-M:8-j, I
Jus 604	RSA 541-A:8, RSA 21-M:8-j, I
Jus 605 (all provisions)	RSA 21-M:8-h, RSA 21-M:8-j
Jus 605.02	RSA 21-M:8-h, IV and RSA 21-M:8-j, V
Jus 605.11	RSA 21-M:8-j, IV
Jus 605.12	RSA 21-M:8-c
Jus 606	RSA 21-M:8-g, III and RSA 541-A:16, I(b)

~ Debbie ~

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February 13, 2010

Members, House Criminal Justice and Public Safety Committee  
State of New Hampshire House of Representatives  
107 North Main Street  
Concord, New Hampshire 03301

Re: HB 1318

Dear Members of the House Criminal Justice Committee:

My name is Debbie and it is with a heavy heart that I come to you to urge the passage of HB 1318. Should this bill come to pass, it would make New Hampshire a leader in an area of victim rights that is underpublicized, but incredibly important.

Let me share my story with you. When I was only 19 years old and about to attend The University of North Texas, I was brutally raped at knifepoint in my own home. The incident left me traumatized and suicidal. Although a man by the name of Thomas McGowan was convicted and incarcerated for the heinous crime, my suffering and distress continued for years. Then, nearly a quarter century later, the unthinkable happened. I learned that the wrong man had been convicted of the crime that had shattered my life.

I later found out that the Innocence Project took on Mr. McGowan's case in 2007, and was able to work with prosecutors in Dallas County, Texas to find and test the biological evidence from the case. DNA tests later excluded McGowan and instead identified a man who was already in prison in Lubbock, Texas. I cannot begin to describe in words – indeed there are no words – to describe how this has affected me. Not only was I re-traumatized and re-victimized by this discovery and forced in many ways to relive the most traumatic event of my life, but I was also obliged to confront many new feelings, including the guilt, pain and confusion associated with misidentifying my perpetrator in a line-up.

I met the sponsor of this legislation, Rep. Renny Cushing, at the National Conference of State Legislature's panel discussion on wrongful conviction. I had only told my story publicly one time before, at the International Association of Chiefs of Police national convention in October of 2009. It took a lot out of me, but I knew that it was vital that I tell my story to influential people who could make a difference. When the NCSL invited me to attend their conference, I knew this was the opportunity I was awaiting; the chance to explain to lawmakers exactly what was needed by crime victims.

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In addition to a representative from the Innocence Project and Mr. McGowan, I was joined by Assistant Chief of Police Mike Corley, the detective who was originally assigned to the case and who has remained by my side for the past 25 years. Even now, it is Assistant Chief Corley who I call when I struggle with all of the old emotions about the rape, combined with the new feelings I have in the face of the DNA exoneration. All of the lawmakers in the audience seemed moved by our stories, but it was Rep. Cushing who approached me right after my presentation and talked to me about what the government could do to help crime victims in the post-conviction setting. HB 1318 contains provisions that speak directly to what I told him would help us.

I have come a long way, but I struggle on a daily basis and I know my journey is far from over. I am still shocked and hurt that our government provides little in the way of counseling and services to the victims of crime who are forced to relive the worst traumas of their lives when wrongful convictions are exposed. Frankly, I find it disgraceful. HB 1318 seeks to correct that injustice by reactivating crucial victims services to the victims of society's most vicious crimes. For the government to allow a crime victim to have to scrounge around for money to get counseling services in the face of a wrongful conviction is unconscionable, and it is imperative that we have victims services in place in every state across the country to be able to assist these victims of crime in every aspect – especially the DNA exoneration process, from notification, to counseling, to whatever service each individual victim may need in order to survive, heal and thrive after notification.

I still have days where I struggle immensely. But the one thing that gives me solace is that by telling my story, I might be helping other victims of crime. When Rep. Cushing told me that your committee was reconsidering this critical bill, I put everything aside to write this letter of support for HB 1318.

Thank you for hearing my story. It is my hope and prayer that New Hampshire can become a beacon for the other states in the union by doing what is right in this area.

Sincerely,

*Debbie J.*

Debbie J.

/dlj

**INNOCENCE PROJECT**

Benjamin N. Cardozo School of Law, Yeshiva University

February 13, 2010

Members, House Criminal Justice and Public Safety Committee  
 State of New Hampshire House of Representatives  
 107 North Main Street  
 Concord, New Hampshire 03301

**Re: HB 1318 – An Act Relative to Post-conviction DNA Testing**

Dear Members of the House Criminal Justice Committee:

On behalf of the Innocence Project, I would like to extend our gratitude to you for the reconsideration of HB 1318. The Innocence Project assists persons in proving their innocence through post-conviction DNA testing. To date there have been 250 men and women exonerated by post-conviction DNA testing nationwide. Our policy agenda is a pro-law enforcement agenda, win-win reforms that protect the innocent and help identify the guilty. In 105 of the nation's first 242 DNA exonerations, the process of settling these claims of innocence also resulted in the detection of the true perpetrator, in many cases through a "hit" to the CODIS database. After these 105 innocent men (whose true perpetrators were identified in the process of settling their innocence claims) were wrongfully convicted of their earlier crimes, the true perpetrators went on to commit – and be convicted of – 19 murders, 56 rapes and 15 other violent crimes. Therefore, it can be seen how out work can also be seen as one of crime prevention. For many reasons, then, we are trying to "beat the clock," in order to free the innocent, but also to detect the true perpetrators before they commit additional heinous crimes.

We find that the more barriers there are to expeditious post-conviction DNA testing, the more public safety is put at risk and the longer period of time our innocent clients are languishing behind bars. There are several, critical provisions contained in HB 1318 that would accomplish the acceleration of post-conviction DNA testing.

***Allowing Flexibility with Respect to Where DNA Testing is Performed***

The existing post-conviction DNA testing law requires that post-conviction DNA testing be conducted at the New Hampshire state police forensic laboratory. HB 1318, however, allows the court, upon a showing of good cause, to order testing by another laboratory or agency certified by the American Society of Crime Laboratory Directors or the National Forensic Science Training Center. This amendment is critical since the state lab does not perform all DNA testing methods. Some of the newer testing methods that cannot be performed at the state lab, including miniFiler-STR testing, are the only testing methods that work on badly degraded evidence.

Consider the case of Rickey Johnson. Rickey was convicted in 1983 of aggravated rape and was sentenced to life without parole in Louisiana. His conviction was secured based upon the strength of conventional serological testing and an eyewitness identification made by the victim. With the case going to trial years before DNA tests were to become a common law-enforcement tool, no DNA tests were performed on the evidence. Throughout his ordeal, Mr. Johnson maintained his innocence and held out hope that the truth would one day be discovered. In 2006, after the Innocence Project took on Mr. Johnson's case, the DA agreed to test swabs from the rape kit using conventional STR testing. The tests

**Barry C. Scheck, Esq. and Peter J. Neufeld, Esq., Directors**    **Maddy deLone, Esq., Executive Director**  
 100 Fifth Avenue, 3rd Floor • New York, NY 10011 • Tel: 212/364-5340 • Fax: 212/364-5341

produced just three markers-- enough to potentially exculpate Mr. Johnson, but not a sufficient number to help identify the perpetrator. In 2007, a new form of DNA testing, miniFiler-STR, was performed. MiniFiler-STR makes possible the examination of badly degraded evidence. Through the use of this new technology, eight additional markers were found, yielding a full profile. That profile not only definitively proved Mr. Johnson's innocence, thereby leading to his exoneration, but also enabled the evidence to be run through CODIS, the national DNA database. The process resulted in a CODIS hit and the true perpetrator, a man who was housed in the same prison as Mr. Johnson himself, was identified. Under the existing New Hampshire law, Mr. Johnson might not have been exonerated, since the state lab does not perform miniFiler-STR testing. *The true perpetrator of the crime, however, would definitely NOT have been identified.* Therefore, New Hampshire should simply allow the court to have some degree of flexibility with regards to where DNA testing can be performed.

Another reason this update to the existing law is needed relates to timeliness and efficiency. Sometimes state labs possess backlogs. For instance, there is a bill that is pending in New Hampshire that would require an expansion of the database to all convicted felons (indeed, we drafted a letter of support for this legislation). Passage of this law, however, will increase the workload at the State lab, thereby making it difficult to accomplish post-conviction DNA testing in a timely manner. Indeed, there are many instances in which state authorities use a private lab themselves. Sometimes it is because the private lab can do the testing quicker. Other times it is because the private lab offers testing that is not available at the State lab. Simply put, allowing for some flexibility on where testing is performed will not only allow New Hampshire to settle innocence claims quicker; it may result in DNA exonerations and the identification of perpetrators of serious crimes that would otherwise be impossible.

#### ***Allowing Individuals who Pled Guilty to Seek post-conviction DNA Testing***

Of the 250 individuals who have been proven innocent through DNA testing, 19 pled guilty of the crimes for which they were convicted. Potentially innocent people should not be denied justice because they previously faced what they thought was an impossible choice. Consider the following case studies to illustrate this point against the backdrop of DNA exonerations:

Texan Chris Ochoa was facing the death penalty, but was offered a lesser sentence if he took a plea agreement. Under the threat of receiving the death penalty, and under the advice of his attorney, Chris pled guilty. He went on to serve nearly a dozen years for a murder he did not commit. (Mr. Ochoa was released in 2001 and is now an attorney.)

James Ochoa (coincidentally, he shares a surname with Chris). His case is important to consider because the charges he faced were less dire than those confronting Chris Ochoa (e.g. capital charges). Prosecutors took 20-year-old James Ochoa to trial on carjacking charges even after they knew that DNA found on the sweatband of a cap found in the stolen car was not his, and after his fingerprints did not match those found in the car. They based their case on the strength of two eyewitnesses who turned out to be wrong. Three days into the trial, Ochoa was offered a plea deal, which he accepted over his own attorney's objections, thinking that he would face even more prison time for a crime he did not commit. He went on to spend 10 months in prison. Eventually, the DNA collected at the crime scene was linked to another man, James T. McCollum, who was serving time in an LA County jail on different carjacking charges.

It is worth noting that individuals like James Ochoa, who are facing less time than men like Chris Ochoa, by virtue of the charges they are confronting, are even more likely to take plea deals. HB 1318 would allow individuals who pled guilty to seek post-conviction DNA testing. While there are sometimes concerns that expanding the universe of individuals who may seek testing will lead to a flood of litigation, this has not come to pass in any state. I have attached a memo to allay concerns about such "

“floods of litigation,” demonstrating that New Hampshire, with a particularly small prison population, should have no apprehensions about passing this provision.

***Reactivation of Victims Services***

The Innocence Project also does all we can to assist victims of crime to ensure that they are treated with the dignity and respect they deserve. Our network of Innocence Projects around the country spent the last couple of years drafting a Victims Needs Statement, which we have posted on the Network’s website ([www.innocencenetwork.org](http://www.innocencenetwork.org)) and which I am attaching to this letter. Part of the work of this committee led our organization to call for the reactivation of victims services in state post-conviction DNA testing laws. Indeed, we have added this clause to our model legislation. Much of our work with victims was informed by meetings with various crime victims groups and our attendance at the National Center for Victims of Crime’s last two annual conferences. At last year’s conference in Washington, D.C., an entire panel was dedicated to the needs of victims in the post-conviction setting in the face of a DNA exoneration. Our call for the reactivation of victims services is in line with what many crime victims advocates voiced that day. Only now for the first time are states beginning to consider these needs, which are included in this legislation.

Once again, the Innocence Project urges the passage of this critical piece of legislation. If there is any additional information that would be useful to the Committee, please not hesitate to contact me at (212) 364-5360.

Sincerely,

Rebecca Brown  
Policy Advocate

# Voting Sheets



HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1318

**BILL TITLE:** relative to post-conviction DNA testing.

**DATE:** February 9, 2010

**LOB ROOM:** 201

**Amendments:**

Sponsor: Rep. Robert R. Cushing OLS Document #: 2010 0349h

Sponsor: Rep. Larry G. Gagne OLS Document #:

Sponsor: Rep. OLS Document #:

8-11

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Stanley E. Stevens

Seconded by Rep. Laura C. Pantelakos

Vote: 11-9 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: NO**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. David A. Borden, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1318

BILL TITLE: relative to post-conviction DNA testing.

DATE: 2-9-10

LOB ROOM: 204

Amendments:

Sponsor: Rep. Cushing OLS Document #: 0349h.  
Sponsor: Rep. Gagne OLS Document #:  
Sponsor: Rep. S-11 OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Stevens  
Seconded by Rep. Panletakis  
Vote: 11-9 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.  
Seconded by Rep.  
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,  
Rep. Stanley E. Stevens, Clerk

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 1318 Title: Relative to post-conviction DNA testing.

PH Date: 01 / 28 / 2010

Exec Session Date: 02 / 09 / 10

Motion: amendment

Amendment #: 0349A

MEMBER	YEAS	NAYS
Shurtleff, Stephen J, Chairman		
Pantelakos, Laura C, V Chairman	✓	
Berube, Roger R		✓
Robertson, Timothy N	✓	
Movsesian, Lori A		✓
Burridge, Delmar D		✓
Cushing, Robert R	✓	
Rodd, Beth	✓	
Chandley, Shannon E	✓	
McCarthy, Barbara A	✓	
Ryder, Mark R	✓	
Welch, David A		✓
Charron, Gene P		✓
Fesh, Robert M		✓
Weare, Everett A		✓
Stevens, Stanley E, Clerk		✓
Villeneuve, Moe		✓
agne, Larry G	✓	
winford, Elaine B		✓
Villette, Robert F		✓
	8	11

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 1318 Title: Relative to post-Conviction DNA testing

PH Date: 01 / 28 / 10

Exec Session Date: 2 / 9 / 10

Motion: Interim Study

Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Shurtleff, Stephen J, Chairman		✓
Pantelakos, Laura C, V Chairman	✓	
Berube, Roger R	✓	
Robertson, Timothy N	✓	
Movsesian, Lori A	✓	
Burridge, Delmar D		✓
Cushing, Robert R		✓
Rodd, Beth		✓
Chandley, Shannon E		✓
McCarthy, Barbara A		✓
Ryder, Mark R		✓
Welch, David A	✓	
Charron, Gene P	✓	
Fesh, Robert M	✓	
Weare, Everett A	✓	
Stevens, Stanley E, Clerk	✓	
Villeneuve, Moe		✓
Gagne, Larry G	✓	
Swinford, Elaine B	✓	
Willette, Robert F		✓
	11	9
TOTAL VOTE:		

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1318

**BILL TITLE:** relative to post-conviction DNA testing.

**DATE:** February 16, 2010

**LOB ROOM:** 204

**Amendments:**

Sponsor: Rep. Shannon E. Chandley OLS Document #: 2010 0731h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Beth Rodd

Seconded by Rep. Shannon E. Chandley

Vote: 15-1 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

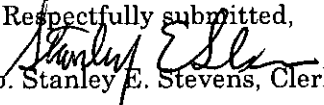
Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: 15-1**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,  
  
Rep. Stanley E. Stevens, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on

BILL TITLE:

DATE:

LOB ROOM:

Amendments:

Sponsor: Rep. *Chandler* OLS Document #: *0731*  
Sponsor: Rep. OLS Document #:  
Sponsor: Rep. *14-0* OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Road*  
Seconded by Rep. *Chandler*  
Vote: *15-1* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.  
Seconded by Rep.  
Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: *15-1*

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk



CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 1318 Title: Relative to post-conviction DNA testing

PH Date: 01 / 28 / 10

Exec Session Date: 2 / 16 / 10

Motion: OTPA

Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
Shurtleff, Stephen J, Chairman	✓	
Pantelakos, Laura C, V Chairman	✓	
Berube, Roger R		
Robertson, Timothy N	✓	
Movsesian, Lori A	✓	
Burridge, Delmar D	✓	
Cushing, Robert R	✓	
Rodd, Beth	✓	
Chandley, Shannon E	✓	
McCarthy, Barbara A		
Ryder, Mark R	✓	
Welch, David A	✓	
Charron, Gene P	✓	
Fesh, Robert M		
Weare, Everett A	✓	✓
Stevens, Stanley E, Clerk	✓	
Villeneuve, Moe	✓	
Gagne, Larry G	✓	
Swinford, Elaine B	✓	
Willette, Robert F		
	15	1



# Committee Report

Pulled from  
Calendar 2/11/10

SC on 2/16 @  
8:30

Exec 10:00 on  
2/16

**REGULAR CALENDAR**

**February 17, 2010**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB1318,**

**AN ACT relative to post-conviction DNA testing.**

**Having considered the same, report the same with the recommendation that the bill be REFERRED FOR INTERIM STUDY.**

**Rep. Stanley E Stevens**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>CRIMINAL JUSTICE AND PUBLIC SAFETY</b>
Bill Number:	<b>HB1318</b>
Title:	<b>relative to post-conviction DNA testing.</b>
Date:	<b>February 11, 2010</b>
Consent Calendar:	<b>NO</b>
Recommendation:	<b>REFER TO COMMITTEE FOR INTERIM STUDY</b>

### STATEMENT OF INTENT

When voting on HB 1318 there were a number of questions raised that require further consideration of this bill. For this reason, the committee voted to refer the bill for interim study.

Vote 11-9.

Rep. Stanley E Stevens  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

**REGULAR CALENDAR**

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

**HB1318**, relative to post-conviction DNA testing. **REFER TO COMMITTEE FOR INTERIM STUDY.**

Rep. Stanley E Stevens for **CRIMINAL JUSTICE AND PUBLIC SAFETY**. When voting on HB 1318 there were a number of questions raised that require further consideration of this bill. For this reason, the committee voted to refer the bill for interim study. **Vote 11-9.**

Original: House Clerk  
Cc: Committee Bill File

**HB 1318 relative to post-conviction DNA testing.**

**When voting on HB 1318 there were a number of questions raised that require further consideration of this bill. For this reason, the committee voted to refer the bill for interim study.**

**Rep. Stanley E. Stevens  
For the Committee  
11-9 IS RC**

A handwritten signature consisting of the letters 'ES' enclosed within a hand-drawn circle.

**COMMITTEE REPORT**

COMMITTEE: Criminal Justice and Public Safety

BILL NUMBER: HB 1318

TITLE: Relative to post-conviction DNA testing

DATE: 2-9-10 CONSENT CALENDAR YES  NO

OUGHT TO PASS

OUGHT TO PASS WITH AMENDMENT

INEXPEDIENT TO LEGISLATE

RE-REFER

REFER TO COMMITTEE FOR INTERIM STUDY  
(Available only in second year of biennium.)

**STATEMENT OF INTENT  
(Include Committee Vote)**

When making on HB 1318 there were a number of questions raised that require further consideration of this bill. For this reason the Committee voted to refer the bill for interim study.

Vote. 11-9

Rep. Stanley E. Sherman  
FOR THE COMMITTEE

Original: House Clerk  
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

**CONSENT CALENDAR**

**March 3, 2010**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB1318,**

**AN ACT relative to post-conviction DNA testing.**

**Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.**

**Rep. Beth Rodd**

**FOR THE COMMITTEE**



## COMMITTEE REPORT

Committee:	<b>CRIMINAL JUSTICE AND PUBLIC SAFETY</b>
Bill Number:	<b>HB1318</b>
Title:	<b>relative to post-conviction DNA testing.</b>
Date:	<b>February 16, 2010</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT</b>

### STATEMENT OF INTENT

This bill provides services for victims if the perpetrator requests post-conviction DNA testing. When convictions are being re-considered, victims often feel re-traumatized and in need of intervention as they re-process and address the effects of a prior victimization. This bill allows the victim to receive needed services during a period of time that is emotionally/ psychologically difficult.

Vote 15-1.

Rep. Beth Rodd  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### CRIMINAL JUSTICE AND PUBLIC SAFETY

**HB1318**, relative to post-conviction DNA testing. **OUGHT TO PASS WITH AMENDMENT.**  
Rep. Beth Rodd for CRIMINAL JUSTICE AND PUBLIC SAFETY. This bill provides services for victims if the perpetrator requests post-conviction DNA testing. When convictions are being re-considered, victims often feel re-traumatized and in need of intervention as they re-process and address the effects of a prior victimization. This bill allows the victim to receive needed services during a period of time that is emotionally/ psychologically difficult. **Vote 15-1.**

Original: House Clerk  
Cc: Committee Bill File

**HB 1318 relative to post-conviction DNA testing.**

**This bill provides services for victims if the perpetrator requests post-conviction DNA testing. When convictions are being re-considered, victims often feel re-traumatized and in need of intervention as they re-process and address the effects of a prior victimization. This bill allows the victim to receive needed services during a period of time that is emotionally/ psychologically difficult.**

**Rep. Beth Rodd  
For the Committee  
15-1 OTP/A 2010-0731h CC**

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COMMITTEE REPORT

COMMITTEE: OTPS

BILL NUMBER: HB 1318

TITLE: Relative to victim services while the court is considering post-conviction DNA testing

DATE: 2/16/10 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No.  
2010-0731 h

STATEMENT OF INTENT:

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COMMITTEE VOTE: 15-1 OTP/amended

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Pete Rodd  
For the Committee