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LEGISLATIVE HISTORY PROJECT MEMO

This semester, I gathered legislative history for Senate Bill 1987, An Act providing access to forensic and scientific analysis (commonly known as the “DNA Access Bill”). Massachusetts Governor Deval Patrick signed S.B. 1987 into law in February 2012. The bill would allow access to post-conviction DNA testing and would set up a mechanism for regulating this process. Before February, Massachusetts was one of two states that had not yet enacted such a law. I began collecting the history by conducting Internet research on the Massachusetts General Court’s website. Through my research, I learned that the bill had been filed several times under different bill numbers since 2003 (S.B. 173 (2003); S.B. 941 (2005); S.B. 907 (2007); S.B. 2511 (2009); S.B. 1659 (refilling, 2009); S.B. 753 (2011); S.B. 1987 (2011)). I also collected bill language as well as journal entries that corresponded with action the legislature took with respect to the bill. Finally, I watched footage of a 2011 hearing at which testimony on the bill was presented, and I took note of the individuals who testified about S.B. 1987.

I next searched for relevant information on Westlaw and was able to find journal entries to supplement those I had already located. I also later found the language of the 2005 version of the bill in the bill archive section of the database. I conducted a number of general Google searches through which I learned about the Boston Bar Association’s involvement in enacting the bill. Specifically, the BBA instituted the Taskforce to Prevent Wrongful Convictions, which was instrumental in drafting much of the bill’s language and amendments as well as providing testimony. I downloaded the BBA’s 2009 Taskforce report, entitled “Getting it Right,” and collected other third-party media, including a 2011 comprehensive article about the bill, written by Michael Blanding for *The Boston Globe*.

After collecting this preliminary information, I contacted Senator Creem’s office as Senator Creem was the sponsor of S.B. 1987. Michael Avitzur, a staff member in the office, sent me between twenty and thirty documents, comprised of amendments, floor speeches, early drafts of the bill, and summaries. I also reached out to Gretchen Bennett and David Siegel, key players on the BBA Taskforce. Gretchen Bennett shared with me information about the individuals who testified at the 2011 hearing. She also suggested that I contact Michael Blanding to inquire as to whether he could share with me the information he gathered to

write his article through various FOIA requests. Gretchen Bennett then directed me to helpful pages of the New England Innocence Project's website, which contained additional third-party media as well as footage of testimony in support of the bill. Michael Blanding responded to my request for information by guiding me to the website of The Justice Brandeis Innocence Project—part of the Schuster Institute of Investigative Journalism at Brandeis University—which detailed the history of the bill. In addition, the site included links to letters that local district attorneys and other prominent figures in the community had written to lawmakers in support of or against S.B. 1987. The superior court wrote a letter, for instance, expressing its concern that the bill would be invalidated because it appeared to contradict a federal rule of criminal procedure.

I then called each committee through which the bill traveled. I had previously contacted the Joint Committee on the Judiciary through Michael Avitzur, in Senator Creem's office. I then called the Senate Committee on Ways and Means, where I was directed to leave a voice message for the legislative attorney. I also contacted the House Committee on Steering, Policy and Scheduling. The staff member at the House Committee explained that the bill passed through the Committee quickly. Therefore, she could not provide me with any materials because the Committee had not made any drafting changes. I then called the offices of the bill co-sponsors, Representative Fernandes, Representative Kahn, and Representative Fox. The staff member with whom I spoke in Representative Fernandes' office explained that the office's policy was not to let members of the public access information other than the materials posted on the state legislature's website. Both the staff members with whom I spoke in the offices of Representatives Kahn and Fox told me that the only places I would be able to find information were Senator Creem's office and the General Court's website. Finally, I called Governor Patrick's office. Here, I spoke with a staff member who took my contact information and told me that she would send any information about the bill she was able to find in the Governor's office.

At this time, I also began to search the PR and SHNS Archives on the State House News Service website to collect relevant announcements and press releases. I realized that there were two earlier versions of the bill I had not yet come across, from 2003 and 2005. I had difficulty finding these early versions because the state legislature's website only contains information for the past two sessions, and the bill archive on Westlaw extends to 2005. To find these early versions and ensure I was not missing

other important information, I spoke with different reference librarians at the law library, who shared with me advice as to where I could search for these versions and corresponding journals.

As the last step of my information-gathering process, I traveled to the State House Library, where I worked with one of the librarians to find the early information I had trouble locating and to make sure I had gathered all the history available to me. The librarian showed me how to use Instatrac, the bill tracking service available only at the State House. I used Instatrac to collect a list of all legislative activity that occurred with respect to each version of the bill. Further, I was able to gather details about other hearings as well the final vote to engross the bill. During my trip to the State House, I learned that that the State Senate issued two study orders along with the 2003 and 2005 versions of the bill (S. 2633—in conjunction with S.B. 941—and S. 2288—in conjunction with S.B. 178).

I have organized the final compilation of materials in a number of different folders. The first folder, “Bill Language and Amendments,” contains the language of each version of S.B. 1987, as well as relevant amendments. Michael Avitzur also explained that the bill was revised when it was re-filed in 2011 to adopt the recommended changes of the BBA’s report, “Getting it Right.” The next folder, entitled “Bill Tracking (Actions),” contains a list, for each version of the bill, of the dates on which the legislature took some sort of action relating to the bill. The third folder, “Journal Entries,” contains the journal entries from both chambers, which correspond with these dates. The “Letters to Legislature” folder includes letters written to the lawmakers by local district attorneys and judges. The folder called “Press Releases and Announcements” contains all the press releases and announcements that cited S.B. 1987 or the immediately preceding version of the bill, S.B. 753. I obtained most of these releases and announcements from the PR and SHNS Archives, on the State House News Service website. I also received two releases from Michael Avitzur. The next folder, “Testimony and Speeches” comprises information I was able to find about the 2011 hearing as well as information from Senator Creem’s office, with respect to a floor speech and an introduction of Betty Ann Waters. The next folder, called “Third-Party Media” contains the “Getting it Right” report, Michael Blanding’s *The Boston Globe* article, information from the Justice Brandeis Innocence Project’s site, and other articles that the New England Innocence Project and BBA referenced on their respective websites. This folder also contains correspondence from Gretchen Bennett and Michael Avitzur, providing additional information about some of the materials I collected. Finally, the document

entitled "Multimedia Links" includes links to footage of the 2011 hearing, Representative Fernandes' testimony during a House floor debate, and news segments by WGBH and WBUR.