



COMMONWEALTH OF MASSACHUSETTS

GENERAL COURT

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DA, Legislators, Jane Doe File New Legislation Reforming Sexually Dangerous Persons Statute

BOSTON – In an effort to provide prosecutors and community members with more power in determining whether convicted sex offenders should be allowed back into neighborhoods, members of law enforcement, the legislature, and a victims' advocacy group came together today to file legislation seeking to reform the sexually dangerous persons statute.

Middlesex District Attorney Gerry Leone, State Senator Steven Baddour (D-Methuen), State Representative Charley Murphy (D-Burlington), and Jane Doe, Inc. Executive Director Mary Lauby announced the filing of the bill at a press conference today in the State House.

The bill, entitled "An Act Relative To Further Protecting Victims From Sexually Dangerous Persons," would give the Commonwealth's prosecutors equal power with the convicted offender in deciding whether the offender is found sexually dangerous or released back to the community. Currently, the decision on whether to bypass a jury and go before a single judge is left solely to the convicted sex offender. This bill would give prosecutors, as well as defendants, the ability to ask for and receive a jury trial.

"This is a common-sense bill that empowers members of the community with a greater voice in determining whether convicted sex offenders should be allowed back into their neighborhoods," District Attorney Leone said. "Right now, these offenders have the sole power to decide whether their case will be heard before a jury or a judge, and that simply should not be the case. I believe the presumption should be that a jury should hear these cases, and this bill puts prosecutors and community members back on equal footing in this important process so that citizens have a greater voice in how to protect themselves and their children."

"This is, above all else, a child protection issue," Senator Baddour said. "It takes power away from convicted sex offenders and gives it back to our prosecutors so that we can better protect our children. I believe it is jurors, not judges, who should determine whether these sex offenders can return to their communities."

"The fact that a community can be shut out of this process by the sole choice of a convicted sex offender is simply not acceptable," Representative Murphy said. "This bill is designed to give members of the community a greater say in deciding who they are allowing back on their streets and into their neighborhoods."

The sexually dangerous persons statute is the process set up by the Legislature in which a District Attorney's Office may, upon being informed that a convicted sex offender is nearing completion of his or her sentence, petition to have the offender tried to determine whether he or she is a sexually dangerous person. If the offender is determined to be dangerous, the defendant will be committed to a state treatment center. When a DA's office petitions the court, the offender is examined by at least three psychiatrists plus one or more experts of his or her own choosing. Then, depending on the results of those examinations, a trial may be held.

The statute sets a high standard before the offender can be found sexually dangerous and committed to the treatment center, including that the offender be determined beyond a reasonable doubt to be "likely to engage in sexual offenses if not confined to a secure facility." If found to be sexually dangerous and committed to the treatment center, the offender is then entitled to petition once each year for re-examination and a trial to determine whether he or she remains sexually dangerous.

"The current process is set up to select those defendants with a history of compulsive sexual conduct," District Attorney Leone said. "As a result, these trials involve the offenders who are clearly the most dangerous and deemed likely to reoffend if they are released back into our communities."

Currently, the statute allows for the defendant to forgo a jury trial and have his or her case heard directly before a judge. The Commonwealth is given no voice in that decision. The bill filed today would change that. It alters the language of the statute by stating that either the defendant or the Commonwealth "may demand that the case be tried to a jury, and upon such demand...the case shall be tried to a jury."

Since 1999 in Middlesex County, there have been 47 trials to determine whether a convicted sex offender is sexually dangerous, with the defendant choosing to bypass a jury and go directly before a judge in a majority of those cases. Of the 25 cases heard directly before a judge, 60% of the offenders were ruled sexually dangerous. Of the 22 cases heard before a jury, 68% of the offenders were found to be sexually dangerous.

Since 2006, 5 of 6 defendants (83%) were found sexually dangerous when his or her case was put before a jury in Middlesex County. During that same time, 3 of 7 defendants (42%) were found sexually dangerous in a jury-waived trial before a judge.

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