

Senate Judiciary Committee

Brendan Bunnell 271-4063

SB 625-FN, permitting family members of homicide victims to seek an evidentiary hearing in cases where the department of justice does not file charges in the case.

Hearing Date: January 20, 2026

Time Opened: 1:16 p.m.

Time Closed: 2:26 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Altschiller and Reardon

Members of the Committee Absent: Senator Carson

Bill Analysis: This bill permits family members of intentional homicide victims to seek an evidentiary hearing in cases where the department of justice does not file charges in the case or does not seek retrial following a hung jury.

Sponsors:

Sen. Birdsell

Rep. Foote

Rep. Tripp

Who supports the bill: Senator Birdsell, Lynn Perkins, Caryn Perkins, Rep. Matt Sabourin dit Choinière, Anna Randall, Donna Sheehy, Daniel Richardson, Caryn Perkins, Liam Carney, John Davis, Hayden Carney, Tara Perkins, Chantel Perkins, Christie Hamel, Stephen Hamel, Deborah Twaska, Kathleen Becht, Michael Twaska, Paul Becht, Matthew Twaska, Sarah Przyusko, Sarah James, James Huxley, Linley Davis, and Cathryn Codispoti.

Who opposes the bill: J.E. Simkin and LT Stephen McAulay (NHSP).

Who is neutral on the bill: Lauren Warner (Judicial Branch) and SAAG Benjamin Agati (DOJ).

Summary of testimony presented:

Senator Birdsell (SD-19), introduced Senate Bill 625 and explained that it originated from prior attempts to address situations where homicide victims' families had no legal recourse when investigations were closed without charges.

- Recounted a previous bill related to preventing remains of a deceased spouse from being returned to an alleged killer, which failed due to funeral director concerns. Stated that she consulted with the Commissioner of Safety and the

Attorney General's Office and that both acknowledged flaws in a specific homicide investigation.

- Explained that SB 625 allowed a parent, spouse, or child of an intentional homicide victim to request a written explanation from the Department of Justice when no charges were filed, when a case was closed, or when a retrial was not pursued after a hung jury. Detailed that DOJ must provide explanations in cases where the medical examiner ruled the death a homicide, where DOJ opened and closed an investigation without charges, or where a murder trial ended in mistrial.
- Explained that DOJ was not required to provide an explanation if the investigation remained open. Stated that families could petition Superior Court if they believed probable cause existed or a retrial should occur. Explained that courts could require investigative files, hold evidentiary hearings, and examine witnesses.
- Stated that courts would issue written determinations to families if probable cause did not exist. Emphasized that the purpose was to give families closure and accountability when investigations stalled or ended without explanation. Recounted a case where a family waited three to four years for information and never received meaningful answers. Cited that several other states, including Alabama, Arizona, Georgia, North Carolina, Ohio, and Pennsylvania, had similar laws allowing judicial review.
- Senator Altschiller asked Senator Birdsell to walk him through how families received closure when DOJ was not required to provide a written explanation in some circumstances.
 - Senator Birdsell responded that closure came through judicial review rather than DOJ alone. Explained that families could go to court, the court could review investigative materials, and the court could determine whether the investigation was adequate. Explained that if courts found no probable cause, they would issue a written determination to the family.
- Senator Altschiller asked how the bill actually provided closure if DOJ could refuse to give explanations in certain cases. Questioned whether evidentiary hearings were mandatory or discretionary.
 - Senator Birdsell explained that closure came through judicial review, not solely through DOJ. Stated that families could go to court, courts could demand investigative materials, and judges could determine whether investigations were adequate. Clarified that hearings were discretionary and dependent on the court's review. Even if courts found no probable cause, families would still receive a written determination confirming that conclusion.
- Senator Gannon asked a follow-up question about whether courts were required to explain their reasoning when finding no probable cause.

- o Senator Birdsell explained that courts would issue written notice but were not required to provide detailed reasoning beyond stating that probable cause did not exist. Stated that the key benefit was that courts would independently review the evidence.

Lynn Perkins, testified in strong support of SB 625 stating that his testimony related to the murder of Michael Carney. Asserted that the Attorney General's report falsely claimed that the victim and his wife were estranged.

- Referenced text messages between the couple up until the morning of the murder that contradicted claims of estrangement. Stated that the wife initially told police they were estranged but later admitted they were not.
- Claimed that the Attorney General, Jeffrey Strelzin, and Colonel Wagner relied on estrangement to justify not charging under a Stand Your Ground theory.
- Claimed that 91-A records showed the investigation was never completed and that investigative steps were ordered to be stopped. Asserted that officers who objected to those orders were retaliated against and forced into retirement. Claimed that evidence was never presented to a grand jury and that law enforcement arbitrarily decided guilt or innocence without judicial review. Stated that the family repeatedly asked DOJ whether charges would be filed and received no answers.
- Stated that Attorney Garretty publicly claimed there was no cover-up, but when Karen Perkins contacted Jeffrey Strelzin in 2019, her inquiry was treated as a Right-to-Know request instead of a witness statement, causing major delays. Stated that his wife was interviewed by police immediately after the murder but never contacted again. Alleged that statements made by his wife were misrepresented in the Attorney General's final report.
- Described how police delivered the Attorney General's report to his wife with 45 minutes to read it before public release. Claimed the report ignored fraud, evidence tampering, and investigative misconduct.
- Claimed that treating inquiries as 91-A requests allowed DOJ to stall and suppress information. Stated that after public pressure, DOJ claimed to reopen the case, which further delayed disclosure. Claimed that it took four and a half years and thousands of dollars in legal costs to obtain investigative records. Described a meeting with Assistant Attorney General Benjamin Agati in August 2024 where Agati admitted the family deserved explanations and criticized Strelzin for withholding information. Described how follow-up meetings were repeatedly cancelled or ignored. Stated that the family sent findings to all state representatives in Derry, who signed a petition to the Governor. Claimed that the Governor's office promised DOJ contact twice and never followed through.
- Alleged that Nicole Carney admitted shooting her husband in the back and head and then deleted text messages and communications with Brian Costa. Claimed

this constituted evidence tampering. Claimed that officers later came forward stating the scene appeared staged and that Strelzin acknowledged the case could not be proven.

- Claimed retired officers contacted the family anonymously out of fear of retaliation. Claimed that a Sergeant requested to reinvestigate the case in 2019 and was later forced into retirement. Claimed internal emails supported concerns about investigative misconduct.
- Asserted that returning Michael Carney's remains to his alleged killer violated existing state law requiring remains to go to next of kin. Claimed the coroner and Attorney General's Office violated that law. Proposed amendments to SB 625 to make it retroactive and allow siblings and next of kin to petition courts.
- Concluded that SB 625 was necessary to protect due process and prevent law enforcement from acting without judicial oversight.

Karen Perkins, supported Lynn Perkins' testimony and emphasized emotional harm caused by lack of transparency and accountability.

Lauren Warner, Deputy General Counsel for the Judicial Branch, stated that the branch was neutral on the bill.

- Explained that judges who reviewed petitions would be disqualified from presiding over future trials in the same cases. Stated that the bill would likely require hiring an additional superior court judge.
- Explained that most petitions would result in evidentiary hearings. Raised concerns about whether witnesses would require counsel, whether hearings would be public, and whether suspects could cross-examine witnesses. Warned that suspects could gain early access to investigative files.
- Explained that the probable cause standard differed from criminal trial standards. Emphasized that DOJ would still not be required to file charges even after judicial review.
- Senator Abbas asked whether the bill would affect grand jury investigations, noting that grand jury proceedings were not public.
 - o Lauren Warner responded that grand jury proceedings were not public and explained that any judge involved in reviewing a petition or evidentiary hearing would be recused from overseeing a related grand jury because the judge would already have knowledge of the evidence.
 - o Explained that if a grand jury later recommended charges, that judge would not be available to oversee the case. Added that the question raised

another issue regarding whether evidentiary hearings under the bill would be public.

- o Stated that the bill did not specify whether they would be public and that she assumed they would not be, but noted that families would likely be present, creating uncertainty about public access.
- Senator Altschiller asked whether she correctly understood that a judge who conducted an evidentiary hearing would be unable to preside over a future criminal trial in the same case.
 - o Lauren Warner confirmed that interpretation and explained that judges could not conduct external research or engage in ex parte communications, and that participation in an evidentiary hearing would disqualify a judge from later presiding over the criminal matter.
 - o Stated that this would require assigning judges from other counties or hiring an additional superior court judge to manage the workload created by these petitions.
 - Senator Altschiller responded that she understood the concern about future conflicts but noted that the bill applied to cases where no charges existed.
 - Pointed out that if DOJ closed a case without charges, there would be no future trial at that point. Cited specific sections of the bill showing that it applied only when DOJ closed a case or declined retrial. Questioned how a conflict could exist for a trial that had not yet occurred.
 - o Lauren Warner agreed and clarified that she was speaking hypothetically. Explained that if a judge recommended charges and DOJ later filed them, that judge could not preside over the trial. Apologized for any confusion.
- Senator Abbas stated that prosecutors sometimes declined charges not because probable cause was lacking, but because they believed they could not secure a conviction beyond a reasonable doubt. Asked whether the bill would effectively force prosecutors to pursue cases they believed were unwinnable.
 - o Lauren Warner responded that the burden of proof in the bill was probable cause, which differed from the criminal standard of beyond a reasonable doubt. Explained that judges could recommend charges based on probable cause even where prosecutors believed conviction was unlikely.

- Senator Abbas asked whether this would require prosecutors to advance cases they believed could not result in conviction, particularly in homicide cases.
 - o Lauren Warner explained that under the bill, judges would only make recommendations and that DOJ retained final discretion. Stated that even if a judge found probable cause, DOJ could still decline to proceed. Acknowledged that this could place additional pressure on DOJ to justify its decisions.

J.E. Simkin, representing himself, testified neutrally and raised separation-of-powers concerns.

- Questioned whether judges should be evaluating prosecutorial decisions.
- Warned about costs of legal representation for individuals forced into hearings.
- Argued that judicial recommendations would pressure prosecutors and create institutional conflict.

Rep. Matt Sabourin dit Choinière, introduced Anna Randall and stated she was in an identical situation involving her son's murder.

Anna Randall, testified that her son Christopher was murdered in 2021 by a repeat violent felon who was prohibited from owning firearms. Stated the shooter had prior convictions for assault, kidnapping, restraining orders, and firearm violence.

- Alleged the shooter's girlfriend purchased guns for him using his credit card. Claimed the shooting was premeditated after a minor car dispute. Described that the shooter confronted her son with a loaded gun, that her son was unarmed with hands raised, and that both her son and another man were shot. Stated the medical examiner ruled it a homicide.
- Stated the Attorney General declined to bring any charges and claimed self-defense. Described a meeting where DOJ told her no charges would be filed and that they could not win at trial. Argued that self-defense should be determined by a jury, not prosecutors.
- Claimed she received no evidence, no reports, and no explanation. Stated that federal court officials said homicide charges should have been pursued but lacked jurisdiction.
- Said all state charges against the shooter were dropped, including gun and assault charges. Stated that her grandchildren were left without justice and demanded accountability.

Donna Sheehy, supported Anna Randall's testimony and emphasized the shooter's extensive violent criminal history in Massachusetts.

SAAG Benjamin Agati, Senior Assistant Attorney General, stated that the DOJ was neutral on the bill but there are three issues with the bill.

- Warned that SB 625 would cost close to one million dollars annually. Stated DOJ already issued public final reports and complied with 91-A.
- Raised constitutional concerns, stating that Superior Court issuing advisory opinions violated Part II, Article 74 of the state constitution. Stated constitutional amendments would be required.
- Clarified that "homicide" was a medical term used by the medical examiner and not a legal determination of criminal guilt.
- Senator Abbas asked whether new evidence ever emerged after cases were closed.
 - SAAG Agati confirmed that reinvestigations occurred when new evidence emerged, including in a 2017 case reopened in 2020.
- Senator Abbas clarified and asked whether DOJ declined cases simply because someone asserted self-defense, even before a jury had the chance to evaluate it.
 - SAAG Agati responded that DOJ did not decline cases merely because someone claimed self-defense. Explained that if evidence contradicted the self-defense claim, DOJ would absolutely bring charges. Stated that many defendants claimed justification, but if the evidence did not support that claim, charges proceeded.
 - However, in cases where DOJ could not disprove self-defense beyond a reasonable doubt, prosecutors ethically could not proceed.
 - Explained that this obligation came from Rule 3.8 of the New Hampshire Rules of Professional Conduct, which required prosecutors not to bring charges they knew they could not sustain at trial.
 - Emphasized that prosecutors had a different ethical duty than private attorneys: their role was not to "win cases," but to act in the interest of justice. Explained that prosecutors were officers of the court and had taken oaths not to pursue frivolous or unsustainable prosecutions.
 - Stated that if DOJ knew it could not meet its burden beyond a reasonable doubt, it was obligated not to bring charges, even in serious cases like homicide.
- Senator Reardon asked whether DOJ decisions not to prosecute were permanent.

- o SAAG Agati responded that cases could always be reopened if new evidence emerged.

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Date Hearing Report completed: January 23, 2026