

# Senate Judiciary Committee

*Brendan Bunnell 271-4063*

**HB 1422**, relative to the time to petition for a new trial.

**Hearing Date:** April 14, 2026

**Time Opened:** 1:55 p.m.

**Time Closed:** 2:37 p.m.

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

**Members of the Committee Absent:** Senator Carson

**Bill Analysis:** This bill allows additional time to petition for a new trial in certain circumstances.

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**Sponsors:**

Rep. Tom Mannion

Rep. Corcoran

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**Who supports the bill:** Rep. Tom Mannion, Rep. Bob Lynn, Rep. Buzz Scherr, Russan Chester, Sherly Harianto, Winnie Ye, Scott Hornoff, Cynthia Mousseau, Cory Stone, Curtis Howland, Timothy Finney, Connor Broussard, and Pamela Harders.

**Who opposes the bill:** Emily Garod, Steven Zeimetz, Tami Lanzillo Zeimetz, and Ava Sutton.

**Who is neutral on the bill:** Thomas Velardi.

**Summary of the testimony presented:**

**Representative Tom Mannion** introduced the bill and stated that the bill concerns one of the most significant powers of government, which is the power to take away a person's freedom, and that with that power comes both a moral and constitutional obligation to ensure convictions are correct and to correct them when they are not.

- He stated that the bill is about liberty, fairness, and due process. He explained that a motion for a new trial is a critical mechanism for correcting wrongful convictions, but that New Hampshire is one of only five states with an absolute time limitation on filing such petitions.
- He explained that under current law, a motion for a new trial may be filed for any reason within three years of conviction, but after that three-year period, a

person cannot file such a motion even if new evidence emerges demonstrating innocence. He stated that he had spoken with Jeffrey Scott Hornoff, who was present to testify, and remarked informally that Hornoff had a dog in the hallway. He stated that Hornoff's case demonstrates why the bill is necessary and that without such a change, innocent individuals may remain incarcerated.

- He explained that the bill creates a narrow exception to the three-year limitation, allowing petitions based on newly discovered evidence, new forensic testing, or new scientific understanding. He emphasized that he believes in personal responsibility, limited government, and the rule of law, but also that government should not ignore credible evidence of innocence. He stated that justice should not be denied due to an arbitrary procedural deadline.
- He clarified that the bill does not change the legal standard required to obtain a new trial and does not result in immediate release. It only allows a person to overcome the procedural barrier and have the claim heard by a court. He stated that currently, petitions filed after three years are denied outright regardless of merit, and this bill would allow those claims to be considered.
- Senator Abbas asked whether this version of the bill was identical to the version that passed the Senate the previous year.
  - Representative Mannion responded that the bill had been amended by the House Judiciary Committee and that he was not sure if it is exact text anymore.

**Representative Buzz Scherr** introduced himself as representing Portsmouth Ward 3 and stated that he is the chair of the Portsmouth Police Commission. He clarified that he was speaking only for himself and not for the Portsmouth Police Department, the University of New Hampshire School of Law, or the University of New Hampshire.

- He stated that he supports the bill and explained that developments in forensic science do not occur within a predictable three-year period. He stated that wrongful convictions often come to light only after advancements in forensic science or the discovery of new evidence. He stated that he teaches forensic science and expert witness courses and has worked with DNA evidence over a long period of time.
- He provided an example from Harris County, Texas, involving Josiah Sutton. He stated that Sutton was convicted of sexual assault based on DNA evidence presented by the Harris County crime lab. He explained that an audit of that laboratory later revealed systemic errors in testing, which affected multiple cases. He stated that Sutton was ultimately exonerated after spending approximately five years in prison.
- He emphasized that these types of forensic developments and discoveries occur well beyond a three-year timeframe and that rigid statutory deadlines do not reflect how wrongful convictions are uncovered. He stated that the evolution of

forensic science is not “neat and tidy” and does not align with strict procedural timelines.

**Jeffrey Scott Hornoff** stated that he had been a police officer in Warwick, Rhode Island, which he described as fulfilling a childhood dream. He explained that in 1989, while working as a detective, he became a suspect in the murder of a woman he knew. He stated that he fully cooperated with investigators, provided statements, and passed a polygraph examination, after which he was initially cleared.

- He stated that several years later, internal suspicions remained and he was investigated again. He explained that he was indicted in 1995 and subsequently convicted in 1996 of first-degree murder. He stated that he was sentenced to life in prison and ultimately served six years, four months, and eighteen days incarcerated for a crime he did not commit.
- He described the experience of being imprisoned, including being housed with individuals he had previously helped put in prison and the impact that incarceration had on him and his family. He stated that the actual perpetrator later confessed to the crime and provided details that only the true killer would know. He stated that law enforcement acted quickly upon receiving the confession, which led to his release.
- He stated that if he had been convicted in New Hampshire, under the current three-year limitation, he would still be in prison because he would not have been able to file a motion for a new trial based on that newly discovered evidence. He emphasized that wrongful convictions do occur and that individuals who are wrongfully convicted are victims. He stated that he remains supportive of law enforcement and believes in protecting the innocent, including those who are wrongly convicted.
- He addressed the concept of finality in criminal cases and stated that while closure for victims is important, innocent individuals and their families are also victims and deserve justice. He urged the committee to support the bill.

**Representative Bob Lynn** stated that he and Representative Scherr do not often agree on issues but do agree on this one. He stated that this version of the bill is an improvement over prior versions, particularly because it includes provisions allowing courts to dismiss cases where a prima facie claim is not established.

- He stated that innocence is not always discovered within three years and that individuals should not be denied justice due to the passage of time. He expressed strong support for the bill.

**Winnie Ye** testified in support. She stated that wrongful convictions exist and that New Hampshire’s procedural framework prevents individuals from proving innocence.

- She cited national data indicating that thousands of wrongful convictions have occurred and stated that New Hampshire has only three exonerations, which she attributed to procedural barriers such as the three-year limitation.
- She stated that the bill creates a narrow exception and does not change the burden of proof required to obtain a new trial. She addressed concerns about a potential flood of litigation, stating that in 2024 there were 14 motions for a new trial filed and that she did not expect a significant increase. Out of fifty states New Hampshire is one of five that have a strict deadline. Other states allow for exceptions where individuals can file.
- She stated that innocence shouldn't be determined by individual actors. Nobody will be released from prison the day the bill takes effect, its just about being heard if they have a credible case of innocence.
- Senator Altschiller asked what constitutes a non-meritorious claim.
  - Winnie Ye responded that the bill requires the petitioner to assert innocence, identify newly discovered evidence, and provide detailed factual support. If these standards are met it opens the door for a hearing to learn more. She stated that courts may dismiss petitions that do not meet these requirements. Previously, petitions filed over three-years were automatically denied.
- Senator Altschiller asked whether according to part two lines five through twelve if all listed elements in the statute must be satisfied.
  - Winnie Ye responded that all elements, including the enumerated criteria, must be met for a petition to proceed.

**Emily Garod** the Strafford County Attorney testified in opposition. She stated that the bill could create unintended consequences, particularly due to language such as “evidence not available at trial.” She stated that such language is overly broad and could lead to a large number of filings.

- She explained that she personally handles pro se filings from incarcerated individuals and described prior policy changes that resulted in a significant increase in filings. She stated that motions for new trials require extensive review of trial records, transcripts, evidence, and legal filings, often many years after the original case, and that attorneys handling those motions may not have been involved in the original trial.
- She described an example in which she spent approximately 40 hours responding to a motion that she characterized as based on fabricated claims. She emphasized that each motion requires substantial time and resources.
- She also raised concerns about the impact on victims, explaining that reopening cases requires contacting victims and asking them to revisit traumatic events, sometimes decades later.

- Senator Gannon asked whether an individual in a situation like Jeffery Scott Hornoff's would be barred from filing under current law.
  - Emily Garod responded that she had not heard his testimony directly but stated that in her experience she has never had someone come forward with new evidence and had her look at it.
    - Senator Gannon asked if that was because of the three-year cutoff.
      - Emily Garod responded that she did not believe so because if anyone approached her and asked her to evaluate evidence of course she would. She also that prosecutors review credible new evidence and that New Hampshire has strong public defender resources to investigate cases at the time of trial.
      - She said with the passage of time you are less likely to get credible evidence with the exception being maybe scientific evidence.
- Senator Gannon raised concerns about balancing victims' rights with correcting wrongful convictions in cases of scientific evidence.
  - Emily Garod responded that she supports narrowly tailored provisions involving new forensic or scientific evidence but opposed broader language such as "evidence not available at trial."
- Senator Abbas asked how she would fix that language. He gave the hypothetical of a prosecuting authority withholding evidence from the defense and it being discovered internally within the office after the three year cut-off.
  - Emily Garod responded that the language should be limited to specific categories such as newly discovered scientific evidence or evidence wrongfully withheld in violation of constitutional obligations, referencing Brady violations.

**Thomas Velardi** Director of the Division of Public Protection at the New Hampshire Attorney General's Office testified in a neutral capacity. He stated that this is the third iteration of the bill and that although New Hampshire has been described as an outlier, prosecutors already have ethical obligations to revisit cases when new evidence arises.

- He provided an example from his own twenty-three years of experience in which a case was reopened and charges were dismissed after new evidence was discovered. He personally petitioned the Strafford county Superior Court to reopen the case and dismiss the charge.
- He said that every prosecutor in the State of New Hampshire has the same ethical obligation to look at newly discovered evidence and make the right next step in regards to what to do with that evidence.

- He stated that existing legal mechanisms such as habeas corpus and coram nobis allow courts to address wrongful convictions in certain circumstances.
- He expressed concern that the language of the bill is unclear and differs from standards used in other states. He recommended adopting a standard used elsewhere that allows petitions based on newly discovered evidence that could not have been discovered with reasonable diligence at trial and is material to the case.
- The one simple sentence most other states use is: "New evidence that is discovered that is material to the defendant which he could not with reasonable diligence have discovered and produced at trial". He stated that if you were to look at the newly discovered evidence laws across the country that this is the standard.
- He also referenced RSA 651-D, which allows for DNA retesting when new scientific methods become available, arguing that the state has done this before and recognized that science is advancing.
- He argued that because the bill includes class A misdemeanors there will be a flood of these motions in all of the circuit courts on top of the flood seen in the superior courts.
- He stated that everyone comes from the same place, and that everyone wants people who are convicted to be correctly convicted by proof beyond a reasonable doubt, but he does not believe that the bill will do what it's intended to do the way it's written.

**Robert Tanguay** testified in support. He stated that the bill does not go far enough but represents a step in the right direction. He emphasized that the bill only allows petitions to be filed and does not guarantee relief.

- He stated that despite what opponents of the bill were saying, the bill does not automatically grant anyone a new trial. He explained that current law uses mandatory language preventing a trial after the deadline, while this bill would simply allow matters to go forward. He stated that the bill changes the issue from "shall not" to allowing a person to proceed so that the court may consider the request, noting that later procedural steps are discretionary. He stated that concerns about the courts being flooded with cases may happen or may not happen, but that this should not control the decision.
- He stated that the issue should be viewed holistically and referenced the Salem witch trials, stating that people were executed and it was not until four years later that the wrongfulness of those actions became clear. He stated that these are serious matters and that everything is deeper than appearances.
- He stated that the idea of punishment is reform and said that this principle is reflected in the New Hampshire Constitution, not the extinguishment of

mankind. He stated that even when people commit crimes and are convicted, they do so for reasons, and that society should seek to understand those reasons in order to address them.

- He stated that he was glad New Hampshire does not have the death penalty because society needs the ability to determine why crimes occurred. He added that some people may be beyond reform if they are absolutely insane, but otherwise reform should remain the goal.
- He stated that the bill is important because it allows the justice system to move forward when other evidence exists. He then stated that the larger issue is that the judiciary says it is underfunded and that the state has failed to provide adequate funding. He stated that this contributes to problems in the family courts.
- Senator Gannon directed Robert Tanguay to tighten up his remarks and stay on the bill.
  - Robert Tanguay responded by asking whether the bill could apply to family court.
    - Senator Gannon responded that the bill applies only to criminal matters.
- He then stated that Atlas Glass case is a famous Supreme Court case that allows matters to be declared void ab initio and vacated. He stated that the whole idea of the justice system is to find truth and to reform people. He stated that judges are supposed to be the elders of the community, not young upstarts with an axe to grind and a lust for money.
- He stated that he wanted to complete his earlier thought that the judiciary is not being funded properly and that he believes this is by design. He stated that people who control the world do not want the liability of average citizens being able to take them to court.
- He stated that court has often been described as a rich man's game. He then criticized judicial immunity, stating that it violates Article 8 of the New Hampshire Constitution. He also stated that other legal doctrines may comply with the federal constitution but do not comport with the New Hampshire Constitution.
- He urged the state to fund the courts more fully. He stated that if someone could be innocent, or if someone could do additional work to reform themselves, then courts need resources so they cannot claim underfunding as an excuse. He stated that going to court should be a simple and easy process, and that the legal system should function as a system of reform whether civil or criminal.

- He concluded by stating that he hoped the committee would take his comments to heart. He stated that he could not make the senators vote a certain way, and added that people choose which laws to follow anyway. He stated that there is a two-tier system of justice in New Hampshire.
- He clarified that he was not saying the committee members caused it, but wanted them to be aware of the systemic problem as they considered future bills from the House.

**Cynthia Mousseau** of the New England Innocence Project testified in support of the bill. She stated that she had been a public defender in New Hampshire for almost a decade before joining the organization. She stated that she is the sole full-time innocence practitioner in New Hampshire and the only person doing this work in the state. She stated that she was there to tell the committee that without this bill, she cannot do the work she is there to do.

- She responded to prior testimony that suggested the bill was unnecessary in New Hampshire. She stated that she could assure the committee that at least 20 people currently waiting for her services would disagree. She stated that those individuals have cases involving a number of different issues that have arisen, some involving science.
- She then referred to a question previously asked by Senator Abbas regarding an example of something that would not involve new science but would still fall under the bill. She stated that the committee need look no further than the case of Jeffrey Scott Hornoff, whose testimony they had just heard. She stated that in his case, the real perpetrator came forward and confessed. She stated that this was not new science, but newly discovered evidence. She further stated that it was not something available to his attorney at the time of trial. She explained that because of that, it would not have been covered through an ineffective assistance claim or through some other constitutional violation.
- She stated that county attorneys and the office of the attorney general had emphasized habeas corpus and coram nobis as adequate remedies. She responded that those remedies require constitutional violations.
- She stated that newly discovered evidence consists of things that occurred afterward, meaning new developments that arose later, new evidence that was discovered later, or new science. She stated that these are matters an attorney could not have known about at the time and therefore the attorney would not be ineffective for failing to find them.
- She acknowledged that these cases are time-consuming and serious and stated that she would not deny that. However, she stated that the practical reality is that people are sitting in prison for 35, 40, or 50 years.

- She stated that to her, it is worth taking the time to carefully review those matters, consider them adequately, and give those people the right to apply to get back into court.
- She then addressed prior comments from the office of the attorney general that newly discovered evidence is not defined. She stated that it is defined and that it is something already considered under the current statute, except that a person cannot apply after the three-year period has passed.
- She stated that she knew this because she had just done this in court. She stated that she had just litigated a newly discovered evidence case. She stated that it involved a full claim and that she had to prove exactly the kinds of elements the county attorney had highlighted earlier.

**Sherly Harianto** testified in support of the bill and stated that she was speaking as a self-represented individual and expressed concern that courts do not always fully investigate claims or consider all relevant evidence.

- She stated that instead of thoroughly examining matters, many people are subjected to what she described as fabricated consequences.
- She further stated that evidence tending to show that a person was innocent and had not done anything wrong is often buried or ignored. She said that instead, decision-makers reach out to what she described as higher opposition or higher authorities to make charging decisions even when the person was not wrongfully involved or had not done wrong. She stated that she did not know exactly how to phrase it correctly, but that was her concern.

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Date Hearing Report completed: April 20, 2026