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EXHIBIT 6
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SB 185

Jim Bromgard
Testimony in Support of SB 185
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My name is Jim Bromgard and I thank you so much for giving me the opportunity to submit testimony.

In 1987 a little girl was brutally raped in her home in Billings by an unknown intruder. Based on the recollection of the traumatized little girl, the police made a composite sketch of the intruder. A cop I knew thought it looked like me and informed the investigators on the case. I was asked to be in a lineup and I eventually agreed. I knew I had never attacked this child.

At the lineup the little girl said she *thought* it was me but was not sure. At trial she said the same thing. I knew she was always trying to do the right thing and was thus always honest about her uncertainty.

So why did I get convicted? Well, the state presented "scientific evidence" against me. So the jury didn't have to worry if the little girl was sure. They had forensics to show I was there. Problem was, this "scientific evidence" was false. I wasn't there.

The state's forensic expert, who was the director of the Montana Forensic Science Division of the Department of Justice, told the jury that head and pubic hair recovered from the little girl's bed was indistinguishable from mine. He even said that there was less than a one in ten thousand chance that the hairs did not belong to me.

When I heard him say that, a part of me died. I knew the people on the jury were not scientific experts. I knew that when they heard the state's director of the forensic science division say that there was scientific proof that I brutally raped a little girl that nothing was going to help me.

Unfortunately, I was right.

I told the jury that I did not attack that innocent girl and I was home asleep on the night of the crime. But they didn't hear me. They had forensic proof. Only *their* proof was a lie and *I* was telling the truth.

It didn't help that my lawyer was useless. He did no investigation before trial. He hired none of his own experts and he made few objections.

I was 18 years old when I was convicted. I was sentenced to 40 years for an atrocious crime I didn't do and I entered prison as a sex offender. Because of that designation I was assaulted on a regular basis.

My jaw was broken, and I lived a life waiting for the next attack. I was only able to escape the abuse by serving my sentence in maximum security with 23 hours a day in a cell.

In 2002, after 14 and half years in prison, I was exonerated. DNA collected from the girl was tested, and it was not mine.

It was simply a fluke that the county kept the evidence in my case. They had every legal right to destroy it after my appeals were exhausted, but they simply forgot.

If her attacker had killed that poor little girl I would not be here today. There is no question that I would have been sentenced to death, and it wasn't until after my appeals that my innocence was proven. If I were sentenced to death, I would have been executed after my appeals, and it's likely my innocence would have never been proven.

You can't have a system that is perfect when it is run by human beings. When there is a brutal crime everyone wants an answer. Even scientists make mistakes and sometimes lie.

The expert who testified against me made claims about the reliability of his conclusions that were patently false. The hair he used against me was later tested by an independent lab and it ruled me out.

But an eight-year-old girl was raped. It was a travesty.

Does that mean accuracy and reliability go out the door?

I've been to conferences on wrongful convictions, and I can tell you that even DNA is misused and fabricated. Just a couple of years ago a young Texas man named Josiah Sutton was exonerated after being wrongly convicted of a brutal rape based on false DNA evidence.

Science is only as good as the human beings who present it, and human beings are fallible. If we are honest and we accept that these things happen, there is no place for a death penalty in our state.