



EXHIBIT 26
DATE 3/15/2011
SB 185

A 501(C)(3) NONPROFIT PUBLIC CHARITY

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House Judiciary Committee

RE: SB 185 – INFORMATIONAL TESTIMONY on Abolition of Death Penalty

Submitted by Jessie McQuillan, Executive Director

- **The Montana Innocence Project does not have a stance on SB 185 to abolish the death penalty because our organization focuses solely on the issue of wrongful convictions. However, innocence work across the country has yielded critical information about the death penalty that is important for your deliberations. The Montana Innocence Project recognizes there are some major failings of the institution nationally, and the clear risk of death sentences and/or executions for innocent people.**
- **Nationally, 266 people have been exonerated by post-conviction DNA testing, including three in Montana. Seventeen of these innocent people had been sentenced to death before they were exonerated, but the revelation of DNA helped to free them before they were executed. These cases demonstrate that innocent people can be wrongly sentenced to die.**
- **There are also several cases (such as Cameron Willingham, Carlos Deluna, and Ruben Cantu) where people were executed but strong proof has recently revealed that they were probably innocent. Bear in mind that DNA evidence is only available in about 10% of cases, so proving innocence is very difficult and sometimes impossible in a majority of cases, including death penalty cases. Execution of innocent people represents a heinous and irreparable wrong—arguably the greatest harm a government could commit.**
- **The Montana Innocence Project and other Innocence Projects work to prevent wrongful convictions by learning from the mistakes we've made in the past. There are common causes for wrongful convictions (primarily: eyewitness misidentification, false confessions, forensic error, bad lawyering) and we are actively working with law enforcement and policy makers to improve our criminal justice system so that wrongful convictions are reduced. However, most of the reforms that we recommend to improve the accuracy of convictions—including a recent DNA preservation bill this very committee rejected last week—have not been adopted or enacted to date.**
- **Until major progress is made to improve the accuracy of our criminal justice system, we can rely upon the fact that innocent people will be convicted and sentenced. The risk of executing an innocent clearly exists. We have to ask ourselves how much risk is acceptable when a life is at stake, and an execution cannot be reversed, particularly when other aspects of the criminal justice system deserving our attention remain unaddressed.**