



NEW YORK STATE SENATOR

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## Sen. Schneiderman, Assm. Jeffries, Civil Rights Groups Announce 'Actual Innocence' Bill To Exonerate Wrongly Convicted

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*Groups Laud Major Legislation To Improve the Criminal Justice System*

NEW YORK – Joined by civil rights advocates, Sen. Eric T. Schneiderman (D-Manhattan/Bronx) and Assm. Hakeem Jeffries today unveiled legislation to help exonerate innocent people who were wrongfully convicted in cases that lack DNA evidence. The

“Actual Innocence Act of 2009” establishes “actual innocence” as a lawful basis for vacating a prior conviction and removes certain roadblocks that can prevent the wrongfully convicted from presenting proof that conclusively establishes their innocence.

“New York is behind the curve when it comes to giving the courts an opportunity to reverse wrongful convictions in non-DNA cases. Experts have proven that DNA exonerations represent only a small fraction of all wrongful convictions, that’s why innocence claims must be fully and fairly aired,” said sponsor Sen. Eric T. Schneiderman, Chair of the Senate Codes Committee and member of Chief Justice Lippman’s task force on wrongful convictions. “This ‘actual innocence’ legislation is about justice and fairness – it ensures that innocent people don’t spend decades behind bars while real criminals go free.”

For wrongfully convicted individuals in these non-DNA cases – even if new evidence comes to light – New York State law offers only limited hope for relief by establishing procedural obstacles that can deprive them of having an innocence claim thoroughly heard. The tragic result – as demonstrated in hundreds of DNA exoneration cases throughout the country – is that an innocent person can spend years in jail while the real perpetrator is free to commit more crimes and terrorize countless victims.

“In many cases, those convicted of serious crimes do not have access to attorneys with the experience and expertise to help prove their innocence. This legislation levels the playing field and will ensure that in non-DNA cases, the wrongfully convicted will have a greater opportunity to prove that they were actually innocent,” said Assm. Hakeem Jeffries, the bill’s Assembly sponsor.

The Schneiderman/Jeffries bill (S.6234) creates a freestanding ground of “actual innocence” upon which a criminal court could grant a post-conviction motion to vacate its prior

judgment of conviction. The motion can be granted only where a defendant is able to present “reliable and relevant” proof that “conclusively establishes” the defendant’s actual innocence of the crime of which he or she was convicted.

To ensure that a defendant cannot benefit from prior inaction or delay aimed at “gaming” the system, the bill would specifically permit the court to deny relief where it determines that the defendant’s failure to act was intentional.

“Prolonged and unnecessary incarceration of the innocent is detrimental to all - the wrongly incarcerated, society, the criminal justice system and the victim. I can only hope that the proposed legislation ensures that others wrongly incarcerated like me, never have to suffer like I did in securing their freedom through the criminal justice system,” said Marty Tankleff, who was wrongfully convicted for the murder of his parents based on a false confession.

“New York State’s criminal justice system, like many other states, has too often stressed the ‘criminal’ more than the ‘justice,’ sometimes resulting in innocent people being convicted and incarcerated. But new tools are available to prove the innocence of the wrongly convicted, and I am proud to co-sponsor this legislation which will make them more fully available in New York State,” said Sen. Velmanette Montgomery (D-Brooklyn).

“I strongly support this legislation. Opening the courthouse doors to prove the innocence of those wrongfully convicted is not only just, but must also be the moral obligation of the state,” said bill co-sponsor Sen. Thomas K. Duane (D-Manhattan). “If this bill provides for the exoneration of just one person it will be worth it.”

“The Actual Innocence Act is a tremendous step toward justice for wrongfully convicted and factually innocent prisoners in New York. While procedural barriers serve a purpose in

limiting frivolous claims, they must yield in cases where compelling evidence of innocence comes to light after conviction for justice to prevail. The proposed legislation effectively balances the interest in maintaining valid convictions and exonerating the actually innocent,” said Glenn Garber, Director of the Exoneration Initiative.

“The authority to take away one’s liberty is perhaps the state’s most awesome power. And yet New York’s rules of criminal procedure place an extraordinary burden upon the individual who wishes to put before the court compelling evidence of his wrongful conviction. This bill restores fairness and integrity to the criminal justice system when the evidence indicates the state has put an innocent person behind bars,” said Robert Perry, Legislative Director of the New York Civil Liberties Union.

“Experts estimate that DNA testing is possible in just five to ten percent of all criminal cases – and even among those cases, evidence is often lost or destroyed and cannot be tested to prove innocence. This proposed law is critical for helping people prove their innocence when DNA testing is not possible,” said David Loftis, Managing Attorney at the Innocence Project, which is affiliated with Cardozo School of Law.