

# **FACTS ABOUT HB 351-FN – Promoting Death Penalty Expansion**

## **Unnecessary, Expensive, and Prone to Mistakes**

### **HB 351-FN is a solution in search of a problem.**

Child murders are very rare in New Hampshire and our state has a good record of appropriately prosecuting them. In the most recent case of a child death last year in NH, the mother was clearly mentally and emotionally unequipped to deal with the demands of a special needs child. Rather than pursuing capital convictions for such individuals, we should provide better and more timely social and mental health services to parents in distress.

### **HB 351-FN would be extremely expensive.**

The Department of Justice has stated that “death penalty cases are more expensive to investigate and litigate than non-death penalty homicide cases.” The state of New Hampshire has already spent more than 5 million dollars over the last 10 years for the prosecution, defense and other non-counsel services of a single death penalty case.

### **HB 351-FN increases the likelihood of wrongful conviction and execution of innocent parents.**

Parents and others are often convicted of murdering children when in fact no crime has occurred at all. In these heartbreaking cases, parents who tragically lost their children to sickness or accident are then wrongfully convicted and sentenced to death based on faulty evidence and/or prosecutorial misconduct. A few of these cases are detailed on the back of this fact sheet.

### **Cases covered by HB 351-FN are particularly vulnerable to faulty evidence and prosecutorial misconduct.**

Any time a child dies it is highly emotional. Child deaths bring great public and political pressure to attribute blame and solve the crime, and this is precisely when the criminal justice system has the most chance of getting it wrong. This is why child murder cases are often riddled with conclusions based on junk science, suggestive interrogation leading to false witness testimony, wrongful witness identification, and prosecutorial misconduct.

There are numerous examples where inadequately trained medical examiners wrongfully attribute a death of a child from natural or accidental causes as homicide. One of the most common attributions for child death leading to murder prosecutions is *Shaken Baby Syndrome*, but recent scientific and forensic advances are casting doubt on such once-firm conclusions.<sup>1</sup>

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<sup>1</sup> Shaken Baby Syndrome, Abusive Head Trauma, and Actual Innocence: Getting it Right (University of Michigan Law School) <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1559&context=articles>

## ***Wrongful Convictions in Child Deaths***

### **Cameron Todd Willingham**

Cameron Todd Willingham was convicted in Texas of killing his three children by lighting his house on fire. He was executed in 2004 despite his vocal claims of innocence. After examining the evidence, four national arson experts concluded that the original investigation of Willingham's case was flawed, and it is possible the fire was accidental. Prosecutors provided favorable treatment to a drug-addicted jailhouse snitch in exchange for his testimony that Willingham had confessed to the murders. Less than a year after Willingham's execution, arson evidence presented by some of the same experts who had appealed for relief in Willingham's case helped free Ernest Willis from Texas's death row. The experts noted that the evidence in the Willingham case was nearly identical to the evidence used to exonerate Willis.<sup>2</sup>



### **Sabrina Butler**

Sabrina Butler was a 17-year-old in Mississippi in 1989 when her 9-month old son, who had a heart murmur, stopped breathing. After attempts to resuscitate her son, Butler rushed him to the hospital, where the infant was pronounced dead. Butler was arrested for child abuse due to the bruises left by her resuscitation attempts. She was convicted of capital murder and sentenced to death. Her conviction was overturned by the Mississippi Supreme Court in 1992. (*Butler v. State*, 608 So.2d 314 (Miss. 1992)). The court said that the prosecution had failed to prove that the incident was anything more than an accident. In 1995, she was acquitted after a very brief jury deliberation. It is now believed that the baby may have died either of cystic kidney disease or from sudden infant death

syndrome (SIDS).

### **Debra Milke**

Debra Milke was arrested for the 1989 murder of her 4-year-old son, Christopher. Despite the complete lack of forensic or physical evidence, nor any implications against Milke from two defendants, she was convicted of murder and sent to death row on the sole basis of the testimony of Detective Armando Saldate. Saldate claimed Milke confessed to the murder and tried to seduce her way out of the charge. In 2013, after 20 years on death row, an appeals court overturned Milke's conviction after learning that prosecutors withheld Saldate's personnel record from the jury, which included a long history of providing false testimony, lying under oath and felony extortion. Milke was freed in March, 2015.



### **Kirk Bloodsworth**

Kirk Bloodsworth was arrested in 1984 in Maryland for the rape and murder of 9-yr-old Dawn Hamilton and sentenced to death twice in separate trials. The circumstantial evidence was the testimony of five witnesses who placed him either with the victim or near the scene of the crime. In 1992, Bloodsworth lobbied successfully for DNA testing of crime evidence, which incontrovertibly established his innocence. He was released in June 1993. The same DNA evidence would later identify the actual perpetrator, who was serving a prison sentence for another rape and whose physical appearance bore no similarity to Bloodsworth's.

<sup>2</sup> "Texas Man Executed on Disproved Forensics" by Steve Mills and Maurice Possley, Chicago Tribune (December 9, 2004); "Was an Innocent Man Executed in Texas?" by Anderson Cooper 360 Blog (April 9, 2007).