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DATE: September 26, 2011

TO: All Senators

FROM: Senator Anthony H. Williams

SUBJECT: Co-sponsorship of legislation: **Post Conviction DNA Testing**

In the near future I will be introducing legislation amending the Post Conviction DNA Testing Act, 42 Pa.C.S.A. § 9543.1. This legislation would codify a recent Pennsylvania Supreme Court ruling declaring that a confession does not bar access to post conviction DNA testing.

Earlier this year, the Supreme Court addressed the question of whether a prior confession bars a person from seeking post conviction access to DNA testing in *Commonwealth v. Wright*, 14 A.3d 798 (Pa. 2011). In order to successfully seek post conviction access, the applicant must assert that there is a reasonable possibility that his requested DNA testing would produce exculpatory evidence establishing his actual innocence. As the Court discussed, it is well-settled law that a confession is not dispositive of a person's actual guilt or innocence. A confession is only admissible at trial if it is given voluntarily and knowingly, and its admissibility is not dependent upon the truth or veracity of the contents of the confession; thus, the Court emphasized that a prior ruling that a confession was admissible and given voluntarily should have no weight in subsequent phases of the case in considering whether DNA testing may establish a person's actual innocence. Therefore, the Court held that "[A] confession, in and of itself, is not a *per se* bar under Section 9543.1(c)(3)," the Post Conviction DNA Testing Act.

As the Court noted, simply because a confession was deemed voluntary and admissible at trial does not mean that it is true. At times, innocent people confess to crimes they did not commit and should not be denied access to DNA testing that may establish their innocence. If you wish to co-sponsor this legislation, please contact Shannon A. Sargent, Esq., at 787-5970 or email ssargent@pasenate.com. Thank you for your consideration.