

Convict fighting sentence-review law

By **NANCY MEERSMAN**
Union Leader Staff

While the Rockingham County Attorney considers asking for a sentence review to boost prison time for convicted child molester Joshua Grant, another defendant is challenging the state law permitting prosecutors to ask for changes in the sentences imposed by trial judges.

Chad Evans' lawyers contend his right to due process was violated when an extra 15 years was added to his 28-years-to-life term for second-degree murder, for repeatedly injuring and eventually killing his girlfriend's baby.

If the former Rochester resident loses the state Supreme Court appeal, he stays in prison for a minimum of 43 years. If Evans wins, he can request pa-

role after 28 years.

A win for Evans could also mean the Rockingham County Attorney won't be able to seek a stiffer sentence for Joshua Grant.

Judge Tina Nadeau presided over the trials and sentencing in both the Grant and Evans cases.

The Attorney General's Office sought a 60-year-to-life prison term for Evans in the death of 20-month-old Cassidy Bortner.

Rockingham County Attorney Jim Reams had asked for a minimum 40 years and maximum life sentence for Grant who was convicted of repeatedly sexually abusing a seven-year-old girl.

For many years, defendants have had the right to seek reviews of their sentences if they felt they were too harsh. The reviews are conducted by three Superior Court judges. The cur-

rent members of the Sentence Review Division are Harold W. Perkins, chairman, Carol Ann Conboy and Patricia C. Coffey. They can add or reduce prison time, or keep the sentence the same.

The Legislature amended the law permitting sentence reviews effective Jan. 1, 2002, to allow prosecutors to seek changes in sentences they aren't happy with.

The Appellate Defenders Program is asking the state Supreme Court to rule that it is a violation of due process to allow prosecutors to go for harsher sentences once a defendant has been tried, convicted and sentenced by a trial judge.

Evans' lawyers argue that the law violates the double jeopardy and due process clauses of the New Hampshire Constitu-

tion.

They also contend the law cannot be applied to Evans because he was convicted prior to its passage.

"... under New Hampshire law, a defendant has a fundamental due process right to know, at the moment of his sentence is imposed, the full extent of his punishment, as well as the extent to which the court retains discretion to augment the sentence at a later date," wrote David M. Rothstein from the Appellate Defenders Program.

"Giving the state the right to seek to increase an imposed sentence would violate this right."

The Attorney General's Office has not yet answered the appeal.