

Legislative History for Connecticut Act

HB 6785	PA 183	1999
SENATE	3199-3204, 3292-3293	8p.
HOUSE:	3877-3932	56p.
Judiciary:	1274-1278, 1278-1310, 1348-1352, 1358-1366, 1371-1372, 1431-1448, 1500, 1502, 1522-1531, (2781-2784), (3079)	95p.
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In order to participate, probationers referred because they have violated a condition of probation and youthful offenders and participants in accelerated rehabilitation who are ordered by the court to participate as a condition of probation.

And it allows the bail commissioner and the court to require program participation as a release, as a condition for release on bail. This has been a very good pilot project. This expansion will give us greater experience in finding out whether this program can be further successful in helping deter drug offenders around and turn their lives around and if successful, this may serve as a model for the rest of the state in the near future and therefore I urge adoption.

THE CHAIR:

The question is on passage. Will you remark? Will you remark further? Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. If there's no objection, I would move this to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar Page 7, Calendar 564, File 561 and 789, Substitute for HB6785 An Act Concerning the Registration

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of Sexual Offenders, as amended by House Amendment Schedules "A", "B", and "C". Favorable Report of the Committees on Judiciary, Appropriations and Public Safety.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Madam President. I move adoption of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

The question is on passage in concurrence with the House. Will you remark?

SEN. WILLIAMS:

Yes, thank you, Madam President. This bill is in addition to what is popularly known as Megan's law. It makes a number of changes in the sexual offender registration format and addresses some potential loopholes that have been identified to the Legislature by the law enforcement agencies and branches.

In addition, it also makes some important changes that were recommended to the Legislature by victims and victims' advocates and I will try and walk generally through the most significant changes in the bill.

The bill requires offenders convicted of importing

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or possessing child pornography to register under the provisions governing offenses against victims who are minors.

It requires offenders committing crimes against minors or nonviolent sexual offenders, offenses who must register under the law to register in Connecticut even if they live out of state. And by law, people convicted in another state, a federal or military court or foreign country of a crime substantially the same as those covered by the registration law in Connecticut, must register within ten days of establishing residence in Connecticut under this bill.

It also requires, I'm sorry, Madam President, it requires, it requires that they register within ten days of residing in Connecticut as opposed to establishing residence and this would require a quicker registration for offenders in Connecticut.

It requires an out-of-state resident registered under another state sex offender registration law who regularly travels to Connecticut to register with the Department of Public Safety in Connecticut.

The bill allows the court, by the court's own discretion, to exempt certain offenders who have committed crimes against minors if the court finds their registration is not required for public safety. The

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potential exemptions apply to someone under the age of 19 who is convicted of second degree sexual assault for having sexual intercourse with someone between the age of 13 and 16.

It also requires that the court can order the Department of Public Safety to restrict the dissemination of registration information to law enforcement officials only and not make it available for the public for certain sex offenders if the court finds dissemination of the information is not necessary for public safety. The court can do this for offenders convicted of the Class B felony of sexual assault in a spousal or cohabitating relationship or convicted of any of the listed sexual offenses when the victim is under age 18 and so closely related to the actor that they are statutorily prohibited from marrying, meaning a parent or grandparent, sibling, aunt, uncle, stepparent, niece or nephew.

One may ask why grant the court these exceptions. We had testimony from victims and victims' advocates who stated that they were victimized a second time when the name and the address of a perpetrator of a sex offense crime under our statute was published because in point of fact, that offender would be someone in their own household. A father, or a relative, and that in those

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situations the victims themselves, while wanting law enforcement to retain the name and information for future use by law enforcement, would want the court to have the discretion to not make that public information so as to victimize the very victims of the sexual offense crime yet a second time.

The bill requires the Department of Public Safety to retake each registrant's photographic image at least every five years and requires all registered offenders to submit to having their photographic image retaken on the Department of Public Safety Commissioner's request.

It allows the judicial branch and any state agency not just the Department of Public Safety, to notify a governmental agency, private organization or individual, of registration information when the agency believes it's necessary to protect the public or any particular individual from a registered offender.

And current law requires anyone convicted or found not guilty by reason of mental disease or defect of the six most serious sexual assault crimes to provide a DNA sample prior to release from custody. This bill requires anyone convicted of any offense that requires the person to register under the sex offender registration provisions to also provide a DNA sample.

Madam President, I would be remiss if I did not

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point out that the work that went into this year's update to Megan's law benefitted greatly from the direction and guidance of those associated with the Governor's office, those associated with both the Democratic and Republican Caucuses and the House and the Senate, members of the Judiciary Committee, the Public Safety Committee and many others who worked many hours to put together this package which I think fairly closes some loopholes and adds additional protections to our society against those who would commit sex offender crimes and additionally adds further protections for victims of sex offender crimes as well, and I move adoption.

THE CHAIR:

Will you remark further? Senator Williams.

SEN. WILLIAMS:

If there's no objection, I would move this to the Consent Calendar.

THE CHAIR:

Without objection, so ordered. Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. Just for a couple other changes in markings. A few minutes ago we PTd from Page 5, Calendar 537 because the Clerk had not yet distributed the relative amendment. I would ask that

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Madam President, the First Consent Calendar begins on Calendar Page 3, Calendar 398, Substitute for SB1210.

Calendar Page 5, Calendar 537, Substitute for HB7057.

Calendar 538, Substitute for HB6814.

Calendar Page 6, Calendar 555, Substitute for HB7093.

Calendar 559, Substitute for HB6940.

Calendar 571, Substitute for HB7010.

Calendar Page 7, Calendar 563, Substitute for HB5432.

Calendar 564, Substitute for HB6785.

Calendar Page 9, Calendar 579, Substitute for HB6601.

Calendar 580, Substitute for HB5986.

Calendar 582, Substitute for HB6711.

Calendar Page 14, Calendar 308, Substitute for SB1083.

Calendar Page 15, Calendar 389, Substitute for SB1352.

Calendar Page 16, Calendar 428, Substitute for HB7056.

Calendar Page 20, Calendar 311, Substitute for SB558.

Calendar 320, Substitute for SB1019.

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Calendar 112, Substitute for SB1048.

And Calendar Page 22, Calendar 554, SR46.

Madam President, that completes today's First
Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. Would you once again
announce a roll call vote on the Consent Calendar. The
machine will be opened.

THE CLERK:

An immediate roll call has been ordered in the
Senate on the Consent Calendar. Will all Senators
please return to the Chamber.

An immediate roll call has been ordered in the
Senate on the Consent Calendar. Will all Senators
please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted,
the machine will be locked. The Clerk please announce
the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 1.
Total number voting, 36; those voting yea, 36;
those voting nay, 0. Those absent and not voting, 0.

THE CHAIR:

The Consent Calendar is adopted.

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Tuesday, June 1, 1999

APPLAUSE

DEP. SPEAKER HYSLOP:

Congratulations on your fourth anniversary of your 39th birthday. Representative Widlitz.

REP. WIDLITZ: (98th)

Thank you Mr. Speaker. For purposes of an announcement.

DEP. SPEAKER HYSLOP:

Proceed.

REP. WIDLITZ: (98th)

The Environment Committee will meet tomorrow morning at 10:30, room 1D to act on bills referred from the floor. Thank you.

DEP. SPEAKER HYSLOP:

Any other announcements or points of personal privilege? If not, the Clerk will return to the Call of the Calendar. Clerk please call Calendar 460.

CLERK:

On page twenty-nine. Calendar 460, substitute for HB6785, AN ACT CONCERNING THE REGISTRATION OF SEXUAL OFFENDERS. Favorable report of the Committee on Public Safety.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

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Thank you Mr. Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

DEP. SPEAKER HYSLOP:

Questions on acceptance and passage, will you remark?

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I think most members of the Chamber who have been here for a while recognize this bill. This is the most recent in a series of efforts to solve a problem which I think is very frustrating and in fact scary to a lot of citizens of our state.

The concern is, we know that there are sexual predators living in our state and we know that there are people who are convicted of sexual offenses. We would like as best possible to make it possible for citizens to find out when a person who is clearly a predator, a threat to their children in particular, lives near them so they can take whatever action they feel is appropriate to protect their children.

But I think it's fair to say Mr. Speaker exactly how you deliver on this promise has been a difficult problem for Connecticut's law enforcement community, the courts, the prosecutors and for all of us involved in public policy making. The good news Mr. Speaker is that

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over the past year a Committee has been convened to meet pursuant to a bill we passed here last year to try and look at all of the technical problems this policy has created and try and recommend solutions.

The Governor's staff, our law enforcement community, the prosecutors, legislators and others have worked together reaching out to the victims community, reaching out to local officials to try and come up with some solutions that make sense and I think we've got those here today. Before I explain the solutions Mr. Speaker, I think it's important to emphasize that this has become another radioactive political issue.

And there have been amendments offered here in the House and up in the Senate in the past that were not particularly well thought through, not to criticize the authors of those amendments but to criticize the process a little bit, put members of the Chamber in a bad position.

I think with that in mind, every effort has been made to resolve everyone's concern ahead of time. I think many members of the House and Senate have met with the various people involved in drafting this bill to make sure that their concerns were incorporated and resolved whenever possible.

The bill this year expands Megan's Law to cover

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offenses that have not previously been covered and to cover situations which have not previously been covered.

But at the same time it provides some limited discretion to our courts to waive the internet portion and the public registration portion of Megan's Law in situations in which endanger children victims of the sex offenders themselves. And I have to say this is a problem that no one even thought about in previous years.

But over the course of the last year the advocates for sexual assault victims in our state came forward expressing this concern and basically it's this. Many of the children who are the victims of sexual assault were victimized by people they know and in many cases members of their family. And to publicize the registration information about the offender in some cases publicizes the identity of the victim, and in at least a few cases that we're aware of the life of that victim has become complicated in ways none of us intended.

In one case a young girl indicated that although she was victimized eight years ago and her father was convicted of that offense, once the information was publicly released she was in essence ostracized in her community as were both of her parents, mother and

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father.

And this was at a time when they had gone to counseling and resolved many of their issues, and she asked us if we could figure out a way, without affecting public safety to provide some protection for her as a victim of the crime and I think this year's bill does that Mr. Speaker. Let me outline some of the specific changes. First of all, fourth degree sexual assault which is a misdemeanor.

In some cases already -- a conviction for that already requires persons to register. Although the limitation is so narrow that it was clear that it was creating some confusion. So on this year's bill, all persons convicted of sexual assault fourth degree are required to register and there is some limited discretion to not publicly release that information, depending on the circumstances.

Also being added to the list this year, Mr. Speaker, are persons convicted of importing or possessing child pornography. Persons convicted of that serious crime are now required to register and I think that's based upon on some clear and convincing evidence that our Committee received that people in this category, convicted of that offense, do in fact pose a risk to others in the community more often than not.

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There is a standing requirement under our law that persons who commit any felony, in part for sexual purposes, are required to register. And this is an attempt to get around the artful tactics of some defense attorneys to have their client plead guilty to a crime that's not currently not on the Megan's Law list and thereby avoid the registration requirement. Last year we expanded it to cover other felonies which are in part are related to sexual misconduct and this year's bill requires, defines more precisely what we mean by sexual purposes.

Another, I guess you could call loop hole was the fact that there are people convicted under Connecticut law who spent a lot of time in our state but who have their actual residence out of state. And this year's bill would expand the requirements for registration notification even to persons convicted of crimes in Connecticut but who are residents of other states if they travel regularly to our state to work or to attend school or for other purposes.

At the same time, persons convicted in other states of crimes which are essentially the same as on our list and who come to our state regularly will be required to register pursuant to a procedure outlined in the bill. The length of registration has been expanded to a

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lifetime requirement for registration, rather than the existing 10 years for persons convicted of the most serious, most predatory types of sexual misconduct.

Now for the first time Mr. Speaker, as I mentioned earlier, giving our judges limited authority to waive the public aspect of the internet registration. The internet and registration requirement. And basically this is how it would work. There's two categories, people who have already been convicted and who have already registered and people who will be convicted in the future.

For persons who have been convicted of crimes and fall under Megan's Law, in other words convictions dating back to 1988, assuming that was their one and only conviction and assuming they have never been subsequent, they were never incarcerated in connection with the original conviction and assuming they meet the other criteria outlined in the bill for future offenders, this gives the limited authority to a judge to withdraw the information from the internet and from the public aspect of the registration, as long as they come forward and register first.

They can then petition the court, and if the court makes a finding that the public safety is not in any way in danger and that the victim's identity might be

disclosed pursuant to the offender's registration then the court can in effect undo that. And just the same Mr. Speaker for future convictions in that category.

Where a minor might have been the victim and in essence the identity of the minor would be disclosed through the offender's registration. If the court makes a finding that public safety could still be protected without publicizing the name then it would give very limited discretion to the judge to waive the public aspect of the Megan's Law registration. And the reason for that is not in any way a sensitivity to the offender, it's a sensitivity to the victim.

And I'll repeat, this is something none of us ever considered last year and previous years when we talked about public registration. Our hope is that judges will defer to the wishes of the victim and the victim's family when those are brought to the judge.

In the case of, for example statutory rape, which may very well be consensual sexual contact, but outside the limits established under our current law which is one of the two persons involved in the sexual conduct is under the age of 16 and the other is more than two years old, that's a felony under our law, but it's not a violent crime.

It's clearly a serious crime but not a violent

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crime. It's not necessarily an indication of predatory behavior. I think as long as the people are within their same relative age, it might be the kind of situation which would not necessarily give rise to a public registration internet publication type situation.

I think several of us in our towns have been contacted by our own constituents who may themselves be the offender or family of the offender concerned that once the name goes on the internet the child who may very well have been the outcome of that sexual contact, would be humiliated.

And in fact my town, in East Haven, that actually did happen. And I really could not offer a satisfactory explanation to the mother of the child who was the other person involved in crime, so to speak. She was under 16 and the father was over 18 and an arrest ensued when she had become pregnant. So, very limited discretion to the judges under very, very limited circumstances. Only seeking to protect the best interest of the victim, not the offender.

Those procedures are outlined here for the first time under our statute. I think it's a good step bowing to the concerns of crime victims. Mr. Speaker, there's some very technical suggestions for example, it will allow the state police to suspend the registration

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requirement while the person is incarcerated for example.

So that people would not be misled to believe that there is a convicted sex offender in their neighborhood when in fact that person is incarcerated. It makes a technological change indicating that, although photographs are required, there may be other thing other than photographs which contain an image, for example a computer generated image which would qualify, not just the conventional photograph that we're aware of.

On aspect of the bill this year that proved to be very controversial. I think an appropriate balance has been struck with the concept of providing limited immunity to public officials carrying out their responsibilities pursuant to the Megan's Law. There were many people who felt uncomfortable being put in the position of cataloging convicted sex offenders, keeping update on their address and employment status, etcetera.

That if they made a mistake and then someone was subsequently victimized that they as a public official might be liable for negligence under those circumstances.

There's no protection being asked for as regards to the offender. In other words, the offender can't sue under existing law, public officials have immunity from

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them because they've already been convicted and we after all have enacted a statute. But for other people, for example potential victims or neighbors or others, there was a concern among many public officials, police officers and the rest. That perhaps they could be held liable for a mistake they make in compiling the registration information. This bill provides limited immunity for all public officials. But I would point out that it is qualified immunity.

And it is limited to those person who in good faith carry out their obligations notifying governmental agencies, private organizations and individuals of registration information pursuant to this law. So, intention misconduct for example, as a practical joke putting someone else's name or address on the internet, there would be no immunity for that. Bad faith conduct, in other words outrageous forms of negligence. Not even double checking the name or an address or knowing perfectly well that someone doesn't live there and putting it on none-the-less.

That, one would not have an immunity for that. But for good faith compliance with the obligations of the law, public officials would have immunity should this become law. A warning notice is going to be required for the internet publication. So that people who log

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onto the internet, see a name and address and in a sense they would be provided with a warning that this is not all the information that they need to determine what action they should take as a consequence, there may be people who will jump to a conclusion that someone is a child molester when in fact their sexual misconduct might be totally different from that category.

So the warning would make sure that people accessing the information inquire further and especially not in any way harass or injure or annoy persons who are the offenders. Mr. Speaker, there are three amendments which I would like to offer at this time. I'd like to point out that these amendments were crafted in consultation with all of the persons that suggested the original bill.

And I point it out, only because I know there's a concern among many members of the Chamber that a surprise amendment would be offered and people wouldn't necessarily have enough information to decide how to vote and might, their vote might be mischaracterized in a future election as was the case in the last election.

And that kind of problem comes across party boundaries, I'll say that for the record Mr. Speaker.

But I think this is such a controversial issue it's important to indicate that all of these three amendments

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I intend to issue have been cleared by all of the persons involved in drafting the underlying bill. First of all Mr. Speaker, the Clerk has LCO 9617 I'd ask that the Clerk call and I be permitted to summarize.

DEP. SPEAKER HYSLOP:

Clerk please call LCO 9617, to be designated House "A."

CLERK:

LCO 9617, House "A" offered by Representative Godfrey, etal.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. This amendment does nothing more than in five separate locations in the bill a list of crimes are listed and the words used are "such as" and then lists some crimes. This amendment would strike the such as and substitute in its place "including but not limited to" to conform those references with other areas in the statutes. I think's it's purely technical and I think it is a clarifying amendment. I urge its adoption.

DEP. SPEAKER HYSLOP:

Question is on the adoption of House "A" will you remark further on House "A?" Will you remark on House

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"A?" If not we'll try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEP. SPEAKER HYSLOP:

Those opposed nay. Ayes have it, House "A" is adopted will you remark further on the bill as amended?

REP. LAWLOR: (99th)

Thank you Mr. Speaker. The Clerk has LCO 9013, I'd ask that the Clerk call and I be permitted to summarize.

DEP. SPEAKER HYSLOP:

Clerk please call LCO 9013 to be designated House "B" and the Representative has asked leave to summarize.

CLERK:

LCO 9013, House "B" offered by Representative Amann, etal.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. This amendment contains a couple of extremely technical changes, but the most substantive change is the last indication there, striking out reference to the victim's age in the portion of the bill which allows a judge a limited authority to restrict dissemination of the information

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in the case of a statutory rape situation. In the file copy of the bill, references, that judge's authority to do so would end when the victim turns 19 years of age. The victim's advocacy community has asked us to delete that line because they said even victims who have become adults in essence would just as soon not have that information released in some cases.

And after all, the judge is not required to restrict the information, he is just allowed the authority to restrict the information. Essentially on the request of the victim in the best interests of the victim. And they've asked us to not limit it just until the victim's 19th birthday.

I think we can all imagine even as an adult having public disclosure of the fact that you were sexually molested by one of your parents, your uncle or something like that, it would bring further embarrassment to you.

I would urge adoption of this amendment.

DEP. SPEAKER HYSLOP:

Questions on the adoption of House "B" will you remark on House "B?" If not, we'll try your minds. All those in favor signify by saying aye.

REPRESENTATIVES:

Aye.

DEP. SPEAKER HYSLOP:

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Those opposed? The ayes have it, House "B" is adopted. Will you remark further on the bill as amended? Representative Lawlor.

REP. LAWLOR: (99th)

The Clerk has LCO 9505, I'd ask that the Clerk call and I be permitted to summarize.

DEP. SPEAKER HYSLOP:

Clerk please call LCO 9505, to be designated House "C" and the Representative has asked leave to summarize.

CLERK:

LCO 9505, House "C" offered by Representative Lawlor.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. This is some language requested by the judicial branch, the most important aspect of which is found in lines 4 through 7. The best way to explain this is under our current law, once someone is convicted or released from prison, basically once somebody is released from prison they're required to do a whole assortment of things, including having a photograph taken, a DNA sample, etcetera. Some people however, are never actually sentenced directly to prison, they're placed on probation immediately. Even

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people who are convicted of some of the listed sex offenses. Once someone is convicted they're referred over to the office of adult probation and then go through a whole assortment of things there.

There was one interpretation of the current law that seemed to require that the court personnel, in the courthouse itself do the DNA test, take the photograph, etcetera, which is something that the court is not equipped to do. This bill simply says that the court is required, they're still required to do a lot of things but they're not required to include the identifying factors which is the photograph, the DNA test, etcetera.

That is subsequently done by the office of adult probation or police agencies or whatever after the actual sentencing.

I don't think this in any way changes the procedures that convicted sex offenders follow, it just makes it clear that they don't have to do it in the courthouse at the time of sentencing, and I urge adoption Mr. Speaker.

DEP. SPEAKER HYSLOP:

Questions on the adoption of House "C" will you remark on House "C?" Will you remark on House "C?" If not we'll try your minds. All those in favor signify by saying aye.

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REPRESENTATIVES:

Aye.

DEP. SPEAKER HYSLOP:

Those opposed? The ayes have it House "C" is
adopted. Will you remark further on the bill as
amended? Representative Lawlor.

REP. LAWLOR: (99th)

Mr. Speaker, finally I'd just like to say, I hope we won't have occasion to have a divisive argument today on this topic. I think it's an important public policy commitment that we need to follow through on. And I would hope, and I don't think there's a whole lot of disagreement about the importance of this issue and especially in doing it right. And I think in the past it's been politicized by a lot of people not unique to any one particular party or philosophy.

I hope that doesn't happen again because I think we're all aware of some of the unintended consequences from the past debates. But on the positive side, I think a lot of good has been accomplished. And I know Representative Amann in a moment is going to address this issue and I'd just like to say. He's been involved in some very constructive activities in connection with this issue and especially visiting the various towns, bringing with him the officials, the front line people

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who really know the system and they really have a sense of what a community needs to be aware of in order to adequately respond to the understandable public outcry about the idea that there are convicted sex offenders in their community.

Including a visit to my town a few months ago I guess in the late fall or early spring, Jim and some other officials, the Chief State's Attorney, the Attorney General, Commissioner Lee, who entertained all of my constituents for quite a while. But they were able to convey what you do need to know in order to adequately assess the risk. And I think we all ought to be involved in that as public officials in our towns.

Because it's easy to frighten people. It's more complicated to tell them what they really need to know to deal with these issues, and I just wanted to take this opportunity to commend Representative Amann for doing such a good job at that, not just leaving the bill at the bill signing but trying to follow through on the commitment. I think all of us ought to follow his example in that regard, so I urge passage, Mr. Speaker.

DEP. SPEAKER HYSLOP:

Questions on the bill as amended? Representative Belden. Representative Belden.

REP. BELDEN: (113th)

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Thank you Mr. Speaker. Mr. Speaker, if I might go back to the last amendment that was passed and get a little clarification if I might from Representative Lawlor. In the section, the important section of the amendment which was LCO 9505. You talked about lines 4 through 7 being the most important part of this amendment.

And not having tied this into the entire file and everything, let me just ask for the record. I'm assuming that we're talking about the completed registration package at the time of sentencing but the individual may not be incarcerated or whatever at that time.

It indicates here that the completed registration package is sent to the Commissioner of Public Safety with respect to the person released by the court. Such package need not include identifying factors. Is there a requirement that these identifying factors be forwarded at a later time? Because in one sense it talks about a completed package but I guess it's not a completed package.

I just would like to get on the record what that's all about. Through you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

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REP. LAWLOR: (99th)

Thank you Mr. Speaker. The answer is yes, there is a requirement that that be done later. There's a definition in the bill of what identifying factors, that includes finger prints, photograph, or photographic image, and other types of descriptions for example tatoos, etcetera. This is simple stated courthouses are not set up to do this. Police stations are, and people who are convicted of these offenses are directed to the nearest police, usually the state police, to comply with the requirements.

There was some confusion, they would arrive at the state police barracks and the state police would say no you were supposed to do that at the courthouse and go back to the courthouse and they say we can't do it go back to the state police and it was sort of a ping pong effect here. With the court officials at the time of sentencing are required to do a variety of things but the photographing and finger printing should be done by the police and it is required as a part of every sentencing, this just clarifies how it's supposed to take place. And as I indicated before, everyone who has in any way a relationship to this issue has reviewed these and has consented to them as appropriate clarifications of the bill, of the law.

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DEP. SPEAKER HYSLOP:

Representative Belden.

REP. BELDEN: (113th)

Thank you Mr. Speaker. I just wanted to make sure, for the record that it was a requirement to complete the balance of the package since they talk about a completed package in the beginning. Thank you.

DEP. SPEAKER HYSLOP:

Representative Farr.

REP. FARR: (19th)

Thank you Mr. Speaker. Speaking briefly on behalf of the bill. I agree that this is a well balanced well crafted bill. I think it makes a lot of improvements in the bills that were passed in the previous years.

Let me also say though that there's a limit in terms of the effectiveness of the Megan's Law. Megan's Law after all is only giving a warning to people of the presence of people who are potentially dangerous within their community. I had a lot of concerns about the original Megan's Law and I guess my biggest concern was somehow it was going to lead to vigilante type of activities on behalf of some people who suddenly found out for the first time that there were convicted sex offenders within the community. Fortunately that hasn't happened in Connecticut.

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I suppose part of it is the fact that there turned out to be so many of them, and they're virtually in every community in the state people were kind of shocked by the number of people who were out there. As I say, I think this is the first step in protecting the public because it gives them a warning of those people. But the reality is that if we really want to protect them we have to do more.

We have to supervise these individuals, we have to extend the time of supervision and we have to try to treat them. There is a companion bill concerning persistent sexual offenders that we'll be acting on perhaps tomorrow that I think begins that process.

I think because of Megan's Law we now recognize that people, that there are dangerous people within the community and these people are going to be released back in the community once they come out of jail. So I think there is beginning to become a public recognition, the fact that we're going to have to deal with dangerous people when they come back. Whether they be sexual offenders or convicted murders, or drug dealers. They're generally going to come back to the community and we're going to have to reshape our criminal laws to make sure that we have adequate supervision, that we try to change their behavior while we've got them in custody

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so they don't re-offend. I would urge passage of this bill. Thank you.

DEP. SPEAKER HYSLOP:

Representative Newton.

REP. NEWTON: (124th)

Thank you Mr. Speaker. Just a question to the proponent of the bill. In section 9, subsection b that talks about this immunity and it talks about how we're willing to forgive state employees, officers, employees who might make a mistake on the printing of a person's name. But this bill does nothing to protect that person that might be printed wrong because that person made a mistake on printing.

Let me give you an example. I guess I was just married and I got a letter from DCF and didn't have any children at the time but there was a person named Ernie Newton. And so I get this letter at my house that said you have children and we want you to pay for them. My wife gets this letter, she read it. Holy, what's going on? The only thing that separated it was the person's Social Security Number was not my Social Security Number. The point I'm making is, when we pass this bill, and we talk about immunity for those people who make mistakes and print the wrong person's name. You're talking about you could wreck somebody's family.

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And every time we pass controversial bills such as Megan's Law, I understand that we have a pursuit bill that talks about immunity. What about that individual?

Who is the innocent person and we mess his family up because we put the second instead of the third? What repercussions does that person have because this person typed or made an error in judgement?

We're not talking about you know something that's well accepted in our society. We're talking about some serious charges here. And people do make mistakes but we also ought to give that individual some repercussion or some kind of way to recoup his name. Because once it's printed, even though you say I'm sorry we made a mistake, the die is already cast on that person.

And people will look at that person as a sexual offender, whether you all like it or not, they will. And all we're going to say is, I'm sorry. You know I think this bill has a lot of good points in it, but I think this immunity part is terrible. Because we've got to think about that innocent person who sees his name by mistake. And it's printed and that person comes in to clear his name but it's already printed? What about his children? How do we say we're sorry to those children?

So I think that, you know I wish that the Judiciary Committee and some of the other ones would have taken

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that person under consideration as we do our state employees and our police officers in considering that we're dealing with people's lives here.

And yes, if you're convicted you ought to be on the internet. But if you're not convicted, and we print your name by mistake, we could wreck somebody's family here. And I think that's the only flaw that I see in this bill. And it's unfortunate. It's really unfortunate. But I would hope that maybe we can fix it or get due process if that's what you want to say.

Thank you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Will you remark further? Representative Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I don't want to be the commotion that Representative Lawlor who was questioning about I'd hope there'd be no debate on this bill this evening, so there'd be a little. Last year and the year before we raised some questions and we took the risk of voting against it and this year, some of the responses to some of those questions are in this proposal for improving it. Because those were questions we saw I think Representative Lawlor recognized that. I still continue to see some of those questions in this law.

And let me say this. That I don't know about the

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smart defense attorneys like Representative Lawlor said, I mean if you're guilty of the crime, you're guilty of the crime or there's a lesser included offense, that's what a plea bargain is. But there will be never an end to including other crimes in this law. this is a warning. If every time someone doesn't plead to the crime, that we in the legislature or some advocate thinks they should have.

We'll be here next year amending the bill to include it. And before it's over we'll be including more things than we ever intended. And you may recall, from last year's debate, that in fact that prediction was occurring, it is occurring now. And we don't know where we're going to go, but I just stand here to warn you about that.

I had a couple of questions, or let me make comments rather than questioning Representative Lawlor at this point. But, on the section about immunity, I read it and if I'm wrong I wish I'd be corrected. I read it to say that the state and any political subdivision of the state and except in the cases of wantoned, reckless or malicious conduct and the officer or employer shall be immune from liability -- employee I should say -- immune from liability.

If I read this correctly this says that for the

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reckless, wantoned and malicious conduct exception applies only to the officer and employee, but not to the state or the political subdivision. So that in fact, if the political subdivision was acting maliciously, recklessly and wantonly in order to -- itself would not be, would in fact be immune even in those circumstances and I find that to be a detriment to this bill and inappropriate public policy.

Secondly, and I'm going to ask, this will be a question. We have this new procedure about if somebody comes from out of state on a vacation I guess to Connecticut and stays more than three days they now will have to register. Through you Mr. Speaker. Do I understand that correct? If they have been convicted in the other state? To the proponent.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. TULISANO: (29th)

Through you Mr. Speaker. Someone has been convicted of one of these like offenses in New York and visits Old Mystic, if you will and spends more than three days, do they now have to register with the Public Safety Commissioner as a sex offender?

DEP. SPEAKER HYSLOP:

Representative Lawlor.

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REP. LAWLOR: (99th)

Thank you Mr. Speaker. I don't think so, I was looking for the exact language in the bill but I think it refers to someone who regularly visits the state or who visits the state on a regular basis. And I think an individual three day trip wouldn't qualify.

REP. TULISANO: (29th)

Through you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Tulisano.

REP. TULISANO: (29th)

Then I would like to point out, I don't have the line number, section 4 sub b again, it says as Representative Lawlor just indicated. Within the state or temporarily resides in the state for purpose such as employment or schooling shall within three days register. Or temporarily resides is separate. So if you're temporarily residing in this state for two or three weeks I think it would be clear, I gather, I think that's a felony if you fail to register if you're required to. That person who comes here from another state would be guilty of a felony -- and I don't know first of all how they're going to be aware of it -- so I think that we ought to be very clear that this is one of the laws that we're passing that in fact by coming into

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the state for more than three days and temporarily reside here they have to register.

Then my next question would be, where do they register and what town do they put their name under, if they go to three different towns?

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I think it says ten days, and I think, my interpretation of this would be once you establish residence and theoretically it could be in a hotel or whatever then you've got ten days. And after the ten days are gone if you haven't registered then the penalties under the statute are triggered. So I think you'd have to be in at least one spot for ten days to be subject to the penalties. Through you Mr. Speaker.

REP. TULISANO: (29th)

Through you Mr. Speaker. Then okay, if you're in the state for two weeks on vacation you must register?

Through you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Through you, yes that's correct.

REP. TULISANO: (29th)

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And I read it to say three days, I hope I'm wrong. I'm reading maybe a different section than Representative Lawlor, but I don't have the line, I apologize. But it says, within three days after the commencement of the travel -- I don't even know it could take you three days to get here the way that's written -- on your first day here I suppose you'd have to register, because you started traveling from the west coast, you drove over, you got here, three days starting, one day in the state, you must register.

Through you Mr. Speaker. I hope Mr. Lawlor is right, that it's ten days, maybe a little less offensive. Mr. Speaker, does the Chairman know of any other criminal in which we impose jurisdiction upon an offender for failure to comply with something in another jurisdiction?

As I understand this statute we require somebody to register in another state if they have some kind of registration form. Even though the state there doesn't, may not require, may have a different standard than we do, 24 days instead of week or something. We say within an X number of days they must register. It doesn't say it must comply only with their regulations or anything else. Is there any other criminal in which we try to impose our law on a third jurisdiction?

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DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

The first one that comes to my mind Mr. Speaker, would be regulations regarding guns.

DEP. SPEAKER HYSLOP:

Representative Tulisano.

REP. TULISANO: (29th)

We have a criminal law in Connecticut for having a gun in California? Through you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. No, we have current penalties in Connecticut based on convictions from California if you possess a gun in Connecticut.

REP. TULISANO: (29th)

I understand that, through you Mr. Speaker. What I suggest, what my question is, based on the proposal before us, it will be a violation of Connecticut law if one travels to another state on vacation and doesn't register, if they have a registration system. Is there any, for not registering in that state.

For what they've done in the third state, not what they've done in Connecticut. Is there any other law

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that Representative Lawlor is aware of that we do that.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. This particular topic is covered under recent federal legislation which requires each state to do what is called for here. And so it's in effect a federal mandate in that respect. And also the interstate compact on probation and parole. And virtually all of the offenders affected by this will also be on probation or parole as they're covered, would require that as well. That's existing law in both those respects. Through you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Tulisano.

REP. TULISANO: (29th)

First of all I'm not sure the federal government has jurisdiction no matter what it says. We've gone through this the last couple of weeks. They've made a number of mistakes recently and the Supreme Court has indicated that they cannot, such as in the welfare area authorize states to take action against people who move into their other states, based on the 15th amendment of the Constitution. So I'm not sure they do everything right because they've done it.

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And if there's a compact and somebody's on parole and that's a parole violation in this state in the agreement between the states I understand that Mr. Speaker. I'm asking is there any other statute where we're going to make it a criminal -- let me give you an example Mr. Lawlor that I had last week.

A woman will be off probation within three years. She will have the requirement of registering for ten years. So she will not be subject to probation or parole or anything else at the end of three years. But under our current law she has to register here for ten years.

This now means that wherever else she goes, should they have a registration law it would be a violation of Connecticut law for failure to comply with say California or Utah law. Through you Mr. Speaker. Is that correct? I'm just asking is there some other laws where we do this?

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I'm not sure I share the interpretation that that would be the effect of Connecticut law, but if I could have a moment to look at the bill. The first question is that what the bill would do and the second question is there any precedent

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for it. I'm not sure that's what the bill would do, so if I could have a moment Mr. Speaker.

DEP. SPEAKER HYSLOP:

The Chamber will stand at ease. The Chamber will come back to order. Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I appreciate the opportunity to review the bill so I could precisely answer Representative Tulisano's question. I think there is a technical matter. It does appear that it would penalize someone who may no longer be on probation or parole who would be in another state and may fail to do something in that other state. It's possible if that happened they would not necessarily fall under the jurisdiction of the Connecticut courts.

And in that situation there probably would be no jurisdiction to carry out a prosecution in that case and in that regard I do not know of any other precedent.

DEP. SPEAKER HYSLOP:

Representative Tulisano.

REP. TULISANO: (29th)

Thank you Mr. Lawlor. I don't wish to belabor the debate. But like I said originally I am the crummigin I guess of the Chamber, for a lot of questions we have. And I continue to have with regard to this bill. And let

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me just point this out." That with regard to the last statement made by the Chair of Judiciary. We have two issues here, this and the immunity case, both of which I think are jumps in our standard of law.

And some would ask, is it worth holding up the bill for these issues and my answer to you is, yeah.

It's always worth holding up bad law to make better law.

You may disagree that it's bad law. That's a choice each and every legislator must make in their own hearts and in their own minds. But the fact of the matter is, in this state, and in most states that I know of, we never have made it a crime for doing something else in another state which we prohibit.

Let me give you an example. Prostitution is illegal in Connecticut and legal in Nevada. I guess the next step is, and it is logical because now we do it if we pass this section of the bill. It would be appropriate for this state to say, that it will be a crime for any citizen of Connecticut to leave Connecticut for engaging in the illegal act of prostitution in Nevada which there is legal and is illegal here.

There are two cases, one that I know of and I think the second is Finland. The British Isle has just passed civil legislation seeking to extend it's criminal

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jurisdiction over it's citizens which go to Thailand for sex with underage people. As offensive as that is, I think it is kind of offensive to start to say that we are going to start to beginning to judge criminal activity and behavior in some other jurisdiction and we're, we don't have that. Now of course the limit on that is that their own citizens are doing it and have left that place.

That is a big jump that has yet to be litigated. That's happened in very few and rare cases. What we have here is big paint brush affecting tons of people in lots of areas. I would disagree that this is limited to 14 days, I think it is three days both ways in the state and traveling out of state.

I think we could make potential additional criminals out of people we didn't intend to do. So, now whether they hold this bill up to fix this up or not, I probably wouldn't vote for it, I don't want to kid anybody. To correct it, would not make it a better bill for me. But to correct it an do it tomorrow morning, and we've got plenty of time -- believe me if you want to pass a bill in this place we spend \$3 billion without anybody knowing what we're doing in 24 hours, \$375 million last year.

So we can do it. I just ask you and I ask Mr.

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Lawlor to decide whether or not we think it is good public policy for Connecticut to begin on that step. I think it isn't. I would prefer it be correct, but I leave that to this Chamber. Thank you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Will you remark further on the bill as amended?

Will you remark further? Representative Merrill.

REP. MERRILL: (54th)

Thank you Mr. Speaker. A question for the proponent of the bill please. A question to the proponent.

DEP. SPEAKER HYSLOP:

Proceed.

REP. MERRILL: (54th)

During the past year, I was also one of the people who voted against this law last year, for similar reasons that have been cited by Representative Tulisano.

And during the last year I've had several constituents call with issues. And I realize there's an old saying in the law that hard cases make bad law and that frequently we do talk about anecdotes. But I think in this case an anecdote is both useful and a question I would like to ask if this amendment will do anything to address what I think is probably still an issue in the bill.

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The story is this: There was a constituent who was married at a young age. He and the young lady were both married at the age of 18. They then divorced sometime thereafter, about 19 or 20 years old, so they were married for a short time. She went back to live with her parents. At that time they then went out on a date against her father's advice they kind of got back together for an evening, had sexual relations.

She came home, her father was very unhappy and convinced her later to bring charges against the man and he was accused of rape. The charge was reduced to a fourth degree sexual assault. And this is now some 10 or 12 years later, he has now remarried, has two children and is now required to be on this sexual offender list.

Is there anything in this amendment that would rectify what I think sounds like a rather unfair situation, because it has indeed ruined this man's life.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. Although it's slightly different than the story that was told before our Committee, I think it was a different area of the state, but that's exactly the situation which is envisioned by

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the expanded discretion being provided to judges in the bill.

In other words, if in fact that was the first and only conviction for a crime and if in fact a person was not incarcerated as a consequence of the conviction -- which is usually a pretty indication of how serious the crime was -- and assuming the judge makes a finding that this is in the best interest of all involved and would not in any way affect public safety, then under those circumstances -- even for the people who have already been required to register -- the judge would have the discretion to undo that public aspect of the registration.

In other words take the name off the internet, take the public registry out of the police station. The police would still have it for their legitimate law enforcement purposes. Otherwise it would not be publicly available. And yes, there would be discretion.

It wouldn't automatically come out, they'd have to go to court and ask for that to happen, but it does provide some guidance to the judges to take that action where appropriate.

DEP. SPEAKER HYSLOP:

Representative Merrill.

REP. MERRILL: (54th)

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Thank you Mr. Speaker. And thank you Representative Lawlor for the answer. I think this is among the many reasons that some of us felt the bill was extremely flawed last year. I'm glad to hear that at least some of these problems are being cleared up. And I distinctly remember the debate about why we should include fourth degree sexual assault as one of the things that's included on the list.

My feeling at the time and still is, we're casting much too broad a net with this situation that the original intent of the legislation was to provide information to the public about truly dangerous criminals.

I think when we reach down to this level you can begin to see some of the reasons cases are indeed pled down to fourth degree. Usually because they were pretty bad cases as a first degree case. So I think many of us over the last year have had situations like this. And particularly the statutory rape kinds of concerns I think are very legitimate concerns that we had with the original bill, I am glad that we're trying to fix some of the problems. I'm still uncomfortable with the concept. I'm not sure it's really solving problems, but at least it has done that.

I do have one more question if the Chamber would

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indulge, to Representative Lawlor. That question is, about the civil liability issue. If the section I see that deals with the relief of civil liability. If there is, I just want to make sure I understand what this bill is doing. If a secretary at the police department or anyone involved with putting a name on a list gets the name of John Smith and puts the wrong John Smith on and the wrong name goes on the list and that person is then, that name is put out to the community, we are now granting civil liability from any following civil suit to any person involved with that situation?

I mean anyone who either typed the name on the list, was responsible somehow for putting that wrong name on, is that the case? Through you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I'm glad Representative Merrill has asked that question. Because I think it is very important to clarify what the intent is here and that is there are certain obligations under the law. And obviously one of the obligations is to compile and disclose accurate information regarding actual sex offenders.

Although it appears as though it's a broad immunity

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-- I might add it's not an immunity with which I'm particularly comfortable not in this context or really in any context -- I think if you can prove someone was negligent they ought to be held accountable. I think it's fair to say that it's our intent based on all the discussions that have happened before this time, when we talk about good faith, we're talking about they're actually making every reasonable attempt to compile accurate information.

And so if in fact it is inaccurate information being included on a registry I don't think that was any of the drafter's idea of good faith. In fact, that would be bad faith. I would also point out, that under the current law as it relates to all municipal and state officials, as far as I know virtually everyone in that category would have, would be indemnified against their activities as public officials. In other words if a police officer or a clerk typist or whatever and you make a mistake and you are sued in your capacity as a town or state official then under our existing law the town or the state -- as the case might be -- is required to provide you with an attorney and pay the damages based upon whatever negligence took place.

Assuming you did it in your official capacity. I mean recently the Chief State's Attorney was found

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liable in a case and the state obviously is obligated to defend him and then to pay the damages. So everyone is already indemnified. This adds something extra, which I must say I'm uncomfortable with, I don't like this idea but many people felt it was necessary.

But I think it's intended to be narrowly tailored to not include real mistakes that could have been -- when inaccurate information is provided when it should have been accurate when simply a check would tell to verify an address or a phone number or a name. If people don't do that I can't imagine that anyone would consider that good faith and I hope they would not receive immunity under those circumstances. Through you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Merrill.

REP. MERRILL: (54th)

Through you Mr. Speaker. Mr. Speaker, I want to be clear on this. So normally you would come under that exception because if you're under the scope of your employment you would not be civilly liable for anything that you do under the scope of that employment. But now we will have no one will be liable, in other words, the employer also will not be liable for your good faith mistakes? Through you Mr. Speaker.

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DEP. SPEAKER HYSLOP:

Representative Lawlor.

REP. LAWLOR: (99th)

Thank you Mr. Speaker. I just, through you, as a point of distinction between indemnity and immunity. Indemnity means you're still liable, you can be sued and there can be a judgement against you except you don't have to pay and you don't have to hire a lawyer. It's like when you buy auto insurance and someone sues you, your insurance company will provide you an attorney and assuming it's within the policy limits they'll pay.

It's the same thing that if you work for a town or the state if you get sued, that's what happens. There could still be a verdict against you, you'll be named in the lawsuit, you'll be in the courtroom, but you don't have to pay. And that's something they have with or without this statute. The question is, can you actually sue them in the first place?

I would argue that someone who takes no time to verify an address for example, that's certainly not good faith. Because the law requires them to compile accurate information and provide it on the internet. And if they don't do it I would hope that they would be held liable and the town or the state as the case may be would have to pay damages in that situation. Through you

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Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Merrill.

REP. MERRILL: (54th)

Through you Mr. Speaker. Thank you. I think though it is extremely telling that this immunity has been requested. Because clearly the people who are charged with doing the things that we've told them to do, namely put these names on a list, is causing some discomfort to some people.

And I think it's interesting that already lots, and lots of issues regarding immunity from what could happen to people who indeed in good faith make a mistake that's not negligence, I assume that's kind of out of the equation, are very worried clearly about what's going to happen.

Because you are going to ruin, potentially ruin someone's life and career. By putting a name on a list and if that name is not the correct name, even if it's a good faith attempt to get the right name it still means that someone's life has been destroyed potential.

So I think I, like Representative Lawlor, have some discomfort with starting down this path. I absolutely understand why people want this immunity, I would want it too. But I think it does point out that we have some

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issues with this legislation that are not fully resolved or resolvable probably with what we're doing here.

Thank you.

DEP. SPEAKER HYSLOP:

Representative Mikutel.

REP. MIKUTEL: (45th)

Thank you Mr. Speaker. Mr. Speaker I just want to briefly comment on this. I think we should remind ourselves that the driving force behind Megan's Law was the horrible crimes that were committed against certain children. And as a response this legislature passed its own version of Megan's Law which cast a rather wide net.

And I do believe, and a lot of people do agree now that that net captured people who shouldn't really be in this sex registration system. I think public safety should be the criteria that we use in determining whether or not someone should register as a sex offender.

But I really want to point out what Representative Farr has said. And that is Megan's Law will only go so far in protecting the public. It's important for us here to realize that this is not the whole answer. The other part of the equation deals with treatment, supervision and at times confinement. And that issue I'll address more fully when we bring up the persistent sexual offender bill. Because that's the other piece of

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the problem that we need to address. Thank you Mr. Speaker.

DEP. SPEAKER HYSLOP:

Representative Amann.

REP. AMANN: (118th)

Thank you Mr. Speaker. Mr. Speaker, before I get into responding to some of the debate that I've heard I just first want to take this time to thank Representative Lawlor since 1995 who has been as the Chairman of the Judiciary Committee extremely helpful from the day one that I approached him on Megan's bill. When Mrs. Kanka first came to Connecticut to try to get this law passed as the original sponsor, Michael certainly was the one we had to speak to, to see if he would at least give us a public hearing on it. And he did more than that. He has worked with me for the last four years on getting this legislation passed and crafted in a way that would meet all sorts of constitutional muster.

I also have to thank the Governor's office who has also been an advocate since 1995 and if the Chamber will just bear with me the following people I think should be recognized as others who have been extremely helpful over the last year and actually the last four years of this debate.

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So I would just like to personally thank Representative Jarjura, Representative Winkler, Representative Powers, Representative DelGobbo, Senator Upson, Representative Melody Currey, Senator Smith, Senator Scarpetti, Senator Williams, Representative Roy, Representative Collins, Representative Simmons, Representative Farr. And also from the Governor's office Bob Hammersly and Mike Gechetti, also members from the Chief State's Attorney office, Attorney General, Public Safety, the public defenders office, prosecutors office, Police Chiefs Association, correction and probation officers. If I missed anybody I apologize, because my thoughts are with you for all the people that have been very helpful on this legislation.

I do take offense to a few things that were said about this law being bad law. I think if they shared with me and took a walk and talked around the state of Connecticut like I have to PTAs and parents, they think Megan's Law is a darn good law.

And maybe because all the little technicalities here, that we discuss here, we get lost into the original concept of what Megan's bill is about and that's about the right to know Mr. Speaker. The right to know that the someone who lives next door to you

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could be a threat to your child. Remember that Mrs. -- Megan Kanka was a seven year old girl. I think we've lost focus of that.

A seven year old girl that was lured into a home where there were three pedophiles who moved in out of prison, decided to move into together, move into a house across the street, in the neighborhood just like yours and mine. They plotted this, each one of them had a background of sexual misconduct, pedophilia, rapes, rapists and they plotted to move in together.

And you know where they moved in? A neighborhood just like ours to do one thing, to prey on children, that was their intent. They weren't just being roommates because they all wanted to be buddies. They planned this. And finally one day while Megan Kanka, this one individual who made friends with these people for a while. Megan Kanka knew them as neighbors and everybody knew them as neighbors not as pedophiles because they look just like you and I.

They worked in the neighborhood, nobody had any suspicion but one day they lured Megan in -- a seven year old girl -- with a puppy. Said would you like to come in and see the puppy? And let's remember when they got in that house, when she was gone, when she went into the house looking to find a puppy she was struck on the

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back of the head by a baseball bat, she was bludgeoned until unconscious, she was raped, and when this individual found that she was not dead he then tried to suffocate her with a plastic bag.

When that didn't work he bludgeoned her again until finally she was dead and he dumped her body in a pool of water near the home. Prior to 1995, ladies and gentlemen, the laws in the state of Connecticut protecting Children were non-existent when it came to sexual pedophilia. The sexual rapist, or predators, people that get their sexual gratification on going after children. What we decided to do and I think Mrs. Kanka did and she was brave to say that if she only knew that those individuals were pedophiles, that's all she wanted to know. She thought that every parent should have the right that after predators, pedophiles someone that are predators that still have this sickness of going after children even when they're released from prison that they have a right to know, is bad law, well I'm sorry.

I think the people of the state of Connecticut disagree that it's bad law. I think it's a right that they want to know and all parents want to know if that occurs. Ladies and gentlemen there are certainly some things that have happened during the, since 1997 when

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the federal statutes came in that I agree with, that wasn't the intent of the law.

Megan's bill wasn't the intent to put people with statutory rape and some of these other things, that wasn't our intent, the intent of this Chamber. This Chamber has talked about the worst sexual pedophiles of all, the ones that are a danger to your children the ones that are probably going to occur to do this crime again.

But unfortunately we also have to live under federal statutes and we try to abide by those statutes.

And we've done what we can to try to remove some of the pieces of this bill that are not palatable. It wasn't the intent of myself being the sponsor to put somebody on there for statutory rape. I think it should be under the discretion of a judge that if this person does give a danger to a neighborhood or to a child or to any individual that they have the right to tell that individual that they should be on the internet or should be registered.

But they should also have the say the power that they don't have to be. What we're going after are the ones, are like what happened to Mrs. Kanka's child, Megan, the ones that are going to feed on the sexual gratification and possibly harming or the murder of a

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child. That's what we're trying to do in the state of Connecticut.

The liability part, believe me we've been hammering this out for a few years, trying to give the chiefs of police and other law enforcement the protections that they feel they need. We've had many discussions, many disagreements. And we believe that we've given something this year that does provide the liability that they're looking for.

But I'll say it now and I've said it before if there's any law enforcement agent that makes the decision, who makes the willful decision to worry about liability before protecting a child from a sexual predator then that individual should seek a career change and I'll say that until the day I die.

And if I went to jail because of a sexual predator -- I knew a sexual predator was out there and if I notified a person and I was sued for that I'd wear it as a badge of honor ladies and gentlemen. And I think many of you will too. This legislation clarifies some of the areas where people said they wanted us to work on. We've done that. And I think it's important that the changes that we made, make this law a better law.

But as Representative Mikutel said earlier, that we're not done. There's always been three different

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stages to Megan's Law, three steps. That is registration, notification and in some cases permanent incarceration. We've done the two major steps, we'll be doing a bill later on this week, I hope, which is civil commitment bill. And the civil commitment bill will get the most deviate offenders hopefully in jail for a longer period of time where they can seek help and more importantly that some of them never see the light of day.

And I think once we do that we've done the original intent of what Mrs. Kanka wanted to do with this bill. Is that some of these individuals, some of these individuals should have never been let out of prison in the first place. And we read about those cases, day after day after day.

And I think, we're heading in the right direction.

So I thank you Mr. Speaker for giving me the opportunity to respond to some of the things that were said. I believe that this law is probably the best protection children have had in the state of Connecticut and again I remind you that prior to 1995 there were no laws on the book to protect children from sexual predators. So thank you very much Mr. Speaker.

DEP. SPEAKER HYSLOP:

Will you remark further on the bill as amended?

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Will you remark further on the bill as amended? If not, staff and guests to the well of the House, the machine will be open.

CLERK:

The House of Representatives is voting by roll call members to the Chamber. The House is voting by roll call, members to the Chamber please.

DEP. SPEAKER HYSLOP:

Have all members voted? If all members have voted please check the machine to make sure your vote is properly recorded, the machine will be locked and the Clerk will take a tally. Representative Diamantis.

REP. DIAMANTIS: (79th)

Again Mr. Speaker, my button is broken, in the affirmative please.

DEP. SPEAKER HYSLOP:

Representative Diamantis in the affirmative. The Clerk will announce the tally.

CLERK:

HB6785 as amended by House "A," "B," and "C."

Total Number Voting	137
Necessary for Passage	69
Those voting Yea	130
Those voting Nay	7
Those absent and not voting	14

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DEP. SPEAKER HYSLOP:

Bill as amended passes. Clerk please call Calendar 353.

CLERK:

On page thirty-four. Calendar 353, substitute for, SB1229, AN ACT CONCERNING SHELL FISHING BY NONRESIDENTS.

As amended by House amendment schedule "A." Favorable report of the Committee on Environment.

DEP. SPEAKER HYSLOP:

Representative Backer.

REP. BACKER: (121st)

Thank you Mr. Speaker. I move Joint Committee's favorable report and passage of the bill.

DEP. SPEAKER HYSLOP:

Questions on acceptance and passage, will you remark?

REP. BACKER: (121st)

Yes, Mr. Speaker. Before us all once again is a bill that previously passed in the House. Will the Clerk please call LCO 6172, and may I be allowed to summarize.

DEP. SPEAKER HYSLOP:

Clerk please call LCO 6172 previously designated House amendment "A" the Representative has asked leave to summarize.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 4
1052-1449

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REP. FARR: And what about the statutory duty? Doesn't this get into somebody who --

REP. TULISANO: Well --

REP. FARR: -- any motor vehicle case you would --

REP. TULISANO: Statutory duty --

REP. FARR: -- classify it --

REP. TULISANO: -- is a form of negligence, actually. Most of -- you're negligent in that you broke the statutes which you would normally plea. So that could be cleaned up a little more too.

REP. FARR: Okay. Thank you.

REP. LAWLOR: Further questions? If not, thanks.

REP. TULISANO: Thank you.

REP. LAWLOR: First, we're going to have the panel on the Governor's proposal on Megan's Law involving most of the relevant agency heads and I don't know how you would like to apportion the presentation, but however -- just identify yourself as you begin, please.

MIKE CICCHETTI: Good morning, Representative Lawlor. I'm Mike Cicchetti from the Office of Policy and Management. I have with me, behind me, representatives from Public Safety, the State's Attorney's Office, Board of Parole, Department of Correction, and OPM, persons who staff the Section 11 Committee.

HB 6785
HB 6784

So what we're going to do is I'm going to read some testimony and then if there's any questions, technical questions, I can either answer them myself or direct them to the appropriate agency.

REP. LAWLOR: I'm looking behind you, if you were going to rob a bank in Connecticut, today would be a good day. They're all here.

MIKE CICCHETTI: We should all feel pretty safe here,

though.

Good morning, members of the Judiciary Committee. Again, for the record, my name is Michael Cicchetti and I'm the Undersecretary of the Office of Policy and Management.

First off, I would like to thank you for affording me the opportunity to speak in front of you today.

I'm here to testify in favor of HB6785, AN ACT CONCERNING THE REGISTRATION OF SEXUAL OFFENDERS. Section 11 of Public Act 98-111 established a committee to report to the Governor and to the General Assembly with recommendations concerning the issue of registration of sex offenders.

This committee was chaired by the Honorable Judge Aaron Ment, then Chief Court Administrator and representatives from the Chief State's Attorney's office, the Office of Adult Probation, Connecticut Police Chiefs' Association and with the Department of Public Safety, Department of Correction, Psychiatric Security Review Board, the Connecticut Sexual Assault Crisis Center, and OPM.

The bill before you today includes the recommendations of this committee plus other provisions intended to meet federal standards and improve public safety in Connecticut.

The Section 11 Committee raised concern about situations in which registration information regarding the sex offender may reveal the identity of the victim of the sexual assault, thus re-victimizing them. This is clearly not the intention of Megan's Law and it needs to be addressed. The last thing that anyone wants is to subject victims to additional hardships.

The two areas of primary concern are incest and spousal sexual assault. The bill before you gives judges the discretion in these instances to order the Department of Public Safety to restrict the registration information to law enforcement purposes only and not make such information available for public access provided that the court finds the dissemination of the registration

information is not required for public safety.

Additionally, prior to making this decision, the court will consider any information or statements by the victim. These restrictions are narrowly drawn and will last only so long as circumstances warrant.

The Committee also had concerns about crime registration for certain cases of statutory rape. Therefore, the bill before you would allow a court to waive the registration statutory rape offenders who are under the age of 19 at the time of the offense and the victim was over 13, but less than two years younger than the offender.

As in the instances previously described, the court also must find that public safety does not require registration of the offender. I would like to point out that this change would not apply to those convicted of crimes involving victims under the age of 13.

Connecticut's version of Megan's Law needs to be modified in order to comply with federal requirements. Failure to comply with these federally mandated changes could result in the potential loss of revenue of 10% of the Burn Grant Funding or some \$650,000 per year to the State. Many of these changes are minor, but I would call your attention to the following:

Violent sexual offenders are now subject to registration for life. They cannot seek release from registration obligation after ten years as they can under current law.

Recidivist and aggravated offenders are now subject to a lifetime registration obligation. Registrants from this state who regularly travel to other states and registrants from other states who regularly travel into Connecticut will have to cross register in each state they travel. Connecticut will participate in a national Sex Offender Registry Program.

This bill would add to the offenses covered under

Megan's Law. Those convicted of importing or possessing child pornography, as well as persons convicted of sexual assault in the 4th degree would now be subject to the registration requirement. It is our feeling that the public should be aware of those convicted of these crimes.

The bill also includes a provision increasing the penalty for any offense committed against registrants because of their status as convicted sex offenders. The purpose of Megan's Law is to make it possible for the public to protect themselves from those who have demonstrated a capacity for committing sex offenses. It is not intended as an additional punishment for these offenders. This enhanced penalty is intended to deter any efforts to draw these people from their homes or worse, vigilantism.

The internet and the information available at local police departments or State Police troops are the essence of Connecticut's version of Megan's Law. However, this is no reason to prevent or even discourage local police department or State Police troops from pro-actively notifying their communities about sexual offenders if they so choose. The decision to pro-actively disseminate information should be a local law enforcement and community decision based upon the totality of the circumstances. Municipalities have indicated a reluctance to do any proactive notification without some sort of protection. This bill addresses this issue by granting limited immunity to State Police or local police departments.

If the local police departments or State Police troops do choose to pro-actively notify the community, they should be civilly protected.

In a related issue, the need for community education programs dealing with the issue of sexual assault and sex offenders became quite evident through both the public hearings and the numerous meetings of the Section 11 Committee. Thus, we strongly recommend that community education and public awareness be continued as outlined in Public Act 98-135.

Public education should focus on the limitations of the registration systems and what the community and parents can do to avoid becoming victims of sexual assault.

In order to address issues dealing with compliance of those required to register, the Governor's proposed budget includes additional funding of over \$775,000 for the Department of Public Safety Sex Offender Unit. This money includes funding for nine additional positions in the unit and money for operations and enforcement.

In addition to HB6785, I would like to request your favorable consideration of HB6784, AN ACT CONCERNING SEXUAL OFFENDERS, which is also before you today.

The bill implements the recommendations of the committee to study sexually violent persons and will make significant enhancements to the detention and supervision of sex offenders in Connecticut.

I believe there is going to be another panel discussing that bill immediately following this one.

In conclusion, HB6785 will significantly improve the process of making information available to the public about convicted sex offenders so they can better protect themselves and their families. It also protects the identity of victims of sexual assault. The bill fulfills the mandates of federal guidelines and registration of sexual offenders and thus helps avoid the loss of federal funds.

I thank you again for the opportunity to address you and I respectfully urge the committee to issue a favorable report concerning this bill.

REP. LAWLOR: Thank you. You had mentioned in your testimony that this legislation adds some offenses to the list of offenses which require you to register. Which ones are those again?

MIKE CICHETTI: They are two which deal with importing

child porn and possessing child pornography and then sexual assault in the 4th degree.

REP. LAWLOR: Okay. And has any allowance been made in the sexual assault in the 4th degree addition for cases which really don't involve any type of predatory behavior?

MIKE CICCHETTI: No. I believe it's just a blanket requirement that they register if convicted of that offense.

REP. LAWLOR: So in other words, two persons who are having consensual sex in a lover's lane-type location, they're actually violating the law -- I'm sorry, sexual 4th degree is what you're saying.

MIKE CICCHETTI: Sexual assault in the 4th degree.

REP. LAWLOR: I'm thinking of public indecency. Okay. Never mind.

In the section you were describing on immunity from any type of civil liability. The language you've got, would that protect a law enforcement agency which fails to update its information even if it might be a year or two since a person moved out of town and they still list a certain address as the residence of a sex offender even though they were notified that the person had moved and something happens to the new resident of that address? They'd be protected under this language?

MIKE CICCHETTI: So if someone moved from one town to another --

REP. LAWLOR: Let's say I rented an apartment and it turned out that two years earlier a sex offender lived in that apartment and although -- let's say the State Police had updated their internet registry, but the local police had never updated their list so that local people were being told that a sex offender lived in my apartment even though they knew two years ago that that particular guy had moved out. I wouldn't -- would the town have immunity in that situation?

MIKE CICCHETTI: They would have immunity unless their actions were reckless or wanton or intentional.

REP. LAWLOR: Okay. So even where clear negligence, years have gone by, old addresses are on the list and people are victimized, innocent people are victimized, you think that the town should have immunity for that?

MIKE CICCHETTI: Well, in that instance it maybe considered reckless. I don't --

REP. LAWLOR: I certainly don't think it would be reckless.

MIKE CICCHETTI: -- I'm sorry.

REP. LAWLOR: It's just pure negligence. They just never -- they stopped updating their list a couple of years ago.

MIKE CICCHETTI: As the bill is written, it if was negligence, yes, they would have immunity.

REP. LAWLOR: Alright. Are there other questions? Representative Farr.

REP. FARR: Just -- I don't know if you can answer this question or not, but the recent incident at UConn involved somebody in another state who apparently was found not guilty by reason of insanity in that state. I don't know whether -- my understanding is if that person had been found not guilty by reason of insanity in Connecticut, they would have to register. And would have been on our list. Is that correct?

MIKE CICCHETTI: Yes.

REP. FARR: And I don't know if anybody knows --

MIKE CICCHETTI: But if he was not guilty by reason of insanity, he would still have to register in Connecticut.

REP. FARR: Right. Does anybody know was that person did not have to register in Massachusetts? Or was he a

registered sex offender in Massachusetts?

MIKE CICCHETTI: I believe he was registered in Massachusetts, but I can't say that for sure.

REP. FARR: And under this law if he's a registered -- even with the proposed changes, since you're adding language about coming to another state, my understanding is that would be regularly coming to another state. So in other words, if he had come to UConn to go to school, he would have had to register. But since he was just coming to UConn to try to snare somebody -- find another victim, presumably that wasn't a regular visit. There's no requirement of registration. Is that correct?

MIKE CICCHETTI: No. If he regularly travels into the State, he's required under this law to register. Now, if he's travelling into the State with the intent to commit a crime, I doubt that he is going to register.

REP. FARR: Well, I'm sure he's not going to, but I'm just trying to figure out whether if there's anything we could have done in this case, in that particular case, to tighten this up and it doesn't sound like there's much we could have done.

I'm also a little concerned -- in that case there's no picture. People are circulating a sketch of the individual. But there's no photograph available. I don't know why that is and I don't know if anybody here can tell us why there would be no photograph. The individual, if he's a sex offender in Massachusetts, can't we get a photograph?

MIKE CICCHETTI: I don't know how Massachusetts sex offender registration works. So I can't answer that.

REP. FARR: Okay. I'm sorry to put you on the spot, but I think it's a concern to a lot of people who have a lot - parents who have students up at UConn who are concerned about this case.

Thank you.

REP. LAWLOR: Senator Upson.

SEN. UPSON: Yes. Thank you. Good to see somebody from Waterbury here.

MIKE CICCHETTI: Thank you.

SEN. UPSON: Retroactivity. I don't know, does this direct -- I know we have a problem, I think, because one of the last registration bill we passed became law was applied retroactively. Is that still true with this?

MIKE CICCHETTI: Yes. The violent sexual offenders - it's retroactive to ten years, but the offenses against a minor only goes to the -- the effective date was October 1, 1998.

SEN. UPSON: A minor is sixteen and under? Or eighteen and under?

MIKE CICCHETTI: Sixteen and under.

SEN. UPSON: Alright. Has anyone in this august group here --

MIKE CICCHETTI: I'm sorry, Senator. It's for purposes of this registration, it's seventeen and under.

SEN. UPSON: Seventeen and under. Has anyone in this group thought about what happens during an action for dissolution and how certain things are - allegations are made against -- even a false -- let's not say a false arrest, but one party will try to have another one arrested and have you -- is there any leeway in this particular act for that type of evaluation if someone is truly -- I hate to use the word "truly", but someone is a sexual offender or has been a victim of an argument among spouses?

MIKE CICCHETTI: There is a provision in this bill that would allow judges, at their discretion, to suspend registration requirements for someone convicted of sexual assault against their spouse, depending on the circumstances.

So, yes the answer is -- I think the main focus of the bill is to look to protect the identify of victims of spousal assault because if you have a husband on the registry, you're convicted of spousal assault and the obvious victim was his wife.

SEN. UPSON: But right now that can't happen. Is that correct? There's no --

MIKE CICCHETTI: Under the current law, no, that cannot happen.

SEN. UPSON: Alright. And are there any guidelines for a judge to make that decision?

MIKE CICCHETTI: No.

SEN. UPSON: And would that be the same judge who heard the original case?

MIKE CICCHETTI: I believe so.

SEN. UPSON: Alright. Because I know of a --

MIKE CICCHETTI: The sentencing judge.

SEN. UPSON: I know of an example already of someone who has come forward to me and it was eight years ago and they were involved in a messy divorce and allegations were made and charges filed and I guess there was nothing to it, but they got divorced and now this person has to register eight years later. And I'm sure there are other people in the same -- do you have any idea how many people are in that category?

MIKE CICCHETTI: In the --

SEN. UPSON: For example, by making it retroactive, how many people are you sweeping up?

MIKE CICCHETTI: I don't know how many have been convicted of spousal assault, but it is keyed off for conviction. If they weren't convicted of it, if they were merely arrested or charged with it, then they wouldn't be required to register.

SEN. UPSON: Say again.

MIKE CICCHETTI: If they weren't convicted of the crime - in other words, if they were just indicted or arrested, they wouldn't be required to register.

SEN. UPSON: Okay. Thank you. Did you answer the UConn question when someone comes here for school? Was that answered?

MIKE CICCHETTI: If someone comes here, if someone regularly travels to Connecticut, for example, because they're going to school here or they work here, then they would be required under this bill to now register in Connecticut as well as the state they're from if they have requirements in that state.

SEN. UPSON: Aren't we finding a lot of people are not registering at all? That this is meaningless?

MIKE CICCHETTI: Well there are some compliance issues, but those are being addressed.

SEN. UPSON: Who is responsible for arresting people that don't -- if they don't register, how do you know they don't register?

MIKE CICCHETTI: Well, we have -- I believe the way the system works is we have court records to know who has been convicted of what crime. If they don't register, it's my understanding the system operates the sex offender unit at Public Safety notifies the local law enforcement agency where that person is believed to be living and then it's up to the local law enforcement agency to make the arrest.

SEN. UPSON: Who follows up with the local law enforcement people? Like the people from West Hartford behind you and Cromwell who are never asleep.

MIKE CICCHETTI: I'm sorry.

SEN. UPSON: I said, who follows up with the West Hartford people and Cromwell people?

MIKE CICCHETTI: To make sure that they made the arrest?

SEN. UPSON: Uh-um. Nobody.

MIKE CICCHETTI: I don't know. It goes back between the locals and the Public Safety.

SEN. UPSON: What if Henry Lee is interested in doing something else besides this?

CMRS. DR. HENRY LEE: Do you want me to answer or not?

SEN. UPSON: Just don't take the hearing over.

CMRS. DR. HENRY LEE: Alright.

SEN. UPSON: Which he always does. You're better than we are, Doctor Lee.

CMRS. DR. HENRY LEE: Basically, the program so far is very successful. There are 1,900 people already sort of we follow, 1,131 up to date already registered. Only 556 did not. That 556 we now break that down. Only 25 in the State Police jurisdiction. The rest is local. We are going to notify the local to assist them to identify them. Meanwhile we try to verify their address so the local will be responsible with the State's Attorney's office to make arrests.

SEN. UPSON: So, one-third of the people are not registered. Is that correct?

CMRS. DR. HENRY LEE: Yes, about one-third.

SEN. UPSON: Alright. It sounds better the way I put it.

CMRS. DR. HENRY LEE: We are verifying their locations, address and everything. So it's a slow process, but as you can see, started beginning, January. There are 752 not registered. In this couple of months already, 200 and more have registered.

SEN. UPSON: And if someone leaves the state, then what do you do?

CMRS. DR. HENRY LEE: Some leaving the State we try to notify other states and hopefully shortly have a national sex offender registry.

SEN. UPSON: That's what you're going to need --

CMRS. DR. HENRY LEE: Right. That's what -- the whole country going to have a network. Thank you.

SEN. UPSON: Thank you.

MIKE CICCHETTI: And this bill would --

REP. LAWLOR: Can I just ask Doctor -- I just want to get that math straight again. You said there are 1,900 some odd --

CMRS. DR. HENRY LEE: Yes, 1,900 total number on internet - 213 more --

SEN. UPSON: You said on the internet?

CMRS. DR. HENRY LEE: Yes. On internet.

SEN. UPSON: Oh.

REP. LAWLOR: And then --

CMRS. DR. HENRY LEE: Two hundred thirteen in other states.

REP. LAWLOR: Two hundred and thirteen of the 1,900 are from out of state?

CMRS. DR. HENRY LEE: Right. We verified, but did not comply come give us the DNA sample - 556. The rest are already photograph taking, fingerprinted, and the DNA sample, everything being on file.

REP. LAWLOR: And the total of 1,900 is the total that you're estimating are currently living in the State of Connecticut?

CMRS. DR. HENRY LEE: No. Minus 213 out of state.

REP. LAWLOR: Okay. So --

CMRS. DR. HENRY LEE: So 1,700.

REP. LAWLOR: Seventeen hundred and change are the total amount of people --

CMRS. DR. HENRY LEE: Supposed to be.

REP. LAWLOR: And that's based on --

CMRS. DR. HENRY LEE: Court record, everything in the record we can find.

SEN. UPSON: Our court records?

CMRS. DR. HENRY LEE: Our court records.

REP. LAWLOR: Now, we had asked - the Legislature had asked a couple of years ago how many people would have been convicted of the crimes that were being incorporated into the Megan's Law proposal back then in the previous ten years and we got numbers ranging from 5,000 up to 20,000.

CMRS. DR. HENRY LEE: Right. About -- because a good portion is still incarcerated. They're still under Commissioner Armstrong's control. So we don't have to put them on the internet right away.

REP. LAWLOR: Okay. Commissioner Armstrong, how many sex offenders are currently incarcerated? Do you know?

CMRS. JOHN ARMSTRONG: I would have to guess, somewhere in the range of about 500.

REP. LAWLOR: Five hundred. Okay. So we had 5,000 to 20,000 and you've got 1,900 plus 500 incarcerated. That's 2,400. I'm just wondering how we had such a huge disparity in the information.

CMRS. JOHN ARMSTRONG: One thing I have to caution on --

REP. LAWLOR: Commissioner, could you come up near the microphone because there's a transcript being prepared.

SEN. UPSON: Maybe there's another chair we can get.

REP. LAWLOR: Yes, feel free to do whatever you need to
--

CMRS. JOHN ARMSTRONG: Just to caution somewhat, with regard to those numbers, those might be the primary offenses and as you know, the statute covers anyone who was convicted of a sex offense.

So, I'm counting some numbers of known serving time currently for a sex offense where there are additional numbers which we have to do a case-by-case file and criminal history review to see if they qualify under any one of the other mandatory requirements to register.

So, you may be doing time today for a 1st degree assault, which doesn't involve sex, you may previously, five years ago, been convicted of a sex offense (inaudible - background conversation from the panel). Those we also pick up as they're coming into the system, document who they are for registration requirements, and take the DNA during the course of their incarceration.

So there are a number of those that are still, again, in our custody. We're evaluating and taking samples on them.

REP. LAWLOR: I would still be curious about the methodology that we use to come up with the total pool of people who are supposed to be registered. Is anybody familiar with how -- I guess this information originally came from Judicial. Is that right?

MIKE CICHETTI: Would it depend on how far back --

REP. LAWLOR: Go back ten years, does it not?

MIKE CICHETTI: Ten years just for violent offenses, but not for offenses against a minor or sexually non-violent sexual offenses. Only go back --

REP. LAWLOR: Does your proposal go back ten years for the --

MIKE CICCHETTI: It goes back ten years for sexual violent offenses. But not for offenses against a minor and non-violent sexual offenses. Those go back to October 1, 1998. So if you had asked, going back ten years for all those, that would probably or most certainly increase the numbers. I don't know if that's, in fact, the case, but it's just a possibility.

REP. LAWLOR: So sex offenders who victimize children --

MIKE CICCHETTI: I'm sorry.

REP. LAWLOR: Sex offenders who victimized children five or six years ago, where there was no violence involved, don't have to register. Is that the deal?

MIKE CICCHETTI: Yes, but if it was the most egregious of offenses, they would be considered sexual violent offenses as opposed to just merely offenses against a minor.

REP. LAWLOR: Okay. And Commissioner, I know I've gotten some calls from constituents about cases which are about to go up on the internet and the people involved don't think they should, for a variety of reasons, and for example, there was a case where the statutory rape situation and I think this legislation seeks to clarify that where there was clearly no -- it wasn't a predatory-type offense.

What does your agency tell people when they call to say okay, I'm a convicted sex offender or my child is or whatever and I just don't think this ought to be on the internet? How do you handle that kind of a concern?

CMRS. DR. HENRY LEE: Well, basically we would have a legal - have some lawyer on our staff review each case independently. We have a Sex Offender Unit and as a matter of fact, Lieutenant Long is currently in charge of that. Each case is carefully reviewed. And records checked to verify whether or not included in the statute or not.

REP. LAWLOR: But do you feel that you have any

discretion?

CMRS. DR. HENRY LEE: We don't. We don't have any discretion. We just enforce the law whatever you guys pass.

REP. LAWLOR: So I think -- is public indecency one of the crimes that's currently covered?

CMRS. DR. HENRY LEE: I don't think indecent -- only against a minor.

REP. LAWLOR: Alright.

SEN. UPSON: I just want to finish -- I'm almost finished. Doctor Lee, while you're here, this does not apply, however, to anyone under 18 years of age. Is that correct? Anyone who has committed a sexual - any sexual offender who committed the same while they're under 18 years of age, this does not apply to. Is that correct?

CMRS. DR. HENRY LEE: We have some State's Attorney office lawyer here. Do you want to answer that?

SEN. UPSON: Lawyers don't have all the answers. Yes, who am I asking the question to?

STEVE SEDENSKY: Steve Sedensky from the State's Attorneys Office in Bridgeport, Connecticut.

SEN. UPSON: Steve, the registration of sexual offenders, does it apply to people who commit a sexual offense while they're under the age of 18 years of age?

STEVE SEDENSKY: Yes, it does.

SEN. UPSON: They have to be registered?

STEVE SEDENSKY: They have to be registered, yes.

SEN. UPSON: Does it apply to sexual offenders who commit an offense when they're under the 16 years of age?

STEVE SEDENSKY: If they were convicted as an adult,

then they are required to register.

SEN. UPSON: Well, that's new, but is that true?

STEVE SEDENSKY: That is true if they were transferred up to the adult court. If they're not in adult court, they're going to be treated as juveniles.

SEN. UPSON: And are there -- both of you can answer this. That's right, Attorney Cicchetti also. Are there -- of the sexual offenses what percentage goes up and what doesn't up -- when are they treated as adults and when they're not?

STEVE SEDENSKY: That, I wouldn't know which percentage goes up. Most of ours have to do with over 16.

REP. LAWLOR: I think it's a mandatory transfer if it's the traditional sexual --

SEN. UPSON: That's what I'm trying to find out because my understanding was that this did not apply to those juveniles who are sexual offenders who are under 16 years of age. I'm sure this august body can give us an answer.

JACK BATES: If they're adjudicated as a juvenile they're not required to register.

SEN. UPSON: Alright. Thank you. And who just gave the answer to that?

STEVE SEDENSKY: That was Jack Bates from OPM.

SEN. UPSON: Alright. So that's the first thing. They're adjudicated a juvenile offender.

REP. LAWLOR: But if they're as an adult, if a 15 year old gets transferred to adult court and gets convicted as an adult, he's on the internet, right?

SEN. UPSON: But back to this now, how -- and the percentage -- can you give me a percentage of those sexual offenses where someone is adjudicated a juvenile offender where they're not registered?

MIKE CICCHETTI: I don't believe we have that

information.

SEN. UPSON: Is it a small group -- without percentages, is it a small group, a medium size group, a large group?

MIKE CICCHETTI: Are you talking about whether when they get transferred?

SEN. UPSON: No, no. He said if someone is adjudicated a juvenile offender, obviously the case is not transferred and they don't have to report as a sexual offender later on.

MIKE CICCHETTI: In other words, how many persons are adjudicated juveniles that have committed a sexual offense?

SEN. UPSON: If you can give me percentages.

MIKE CICCHETTI: I actually don't --

SEN. UPSON: See, that's my problem. This should also apply to all sexual offenders. And you haven't discussed that. Do you have an opinion on that before I leave? Why doesn't it apply to those people also? At least the 14 and 15 year olds.

MIKE CICCHETTI: If it's a serious sexual offense, they'll be transferred automatically to adult court.

SEN. UPSON: That's true. I don't mean to put you on the spot, by the way.

MIKE CICCHETTI: And then if convicted they will be on the -- they will be subject to registration.

SEN. UPSON: But this bill or law --

MIKE CICCHETTI: If they are adjudicated --

SEN. UPSON: You want it to apply to everyone no matter how serious or not.

MIKE CICCHETTI: If they are adjudicated as a juvenile no, they would not be subject to registration.

SEN. UPSON: And I said that is something that should have been considered because I think they should also because they're still sexual offenders. And they're not going to change. So why -- and they're going to grow up and commit another offense. So why isn't this also been thought of? Again, I don't mean to put you on the spot.

STEVE SEDENSKY: One of the solutions is that you could make those cases all transferrable to the adult court, but I don't know that you could reach down into the juvenile court and start making those adjudicated juvenile offenders subject to Megan's Law. If you want to make them subject to Megan's Law, I suggest you move them up to the adult court.

SEN. UPSON: But if they are going to be sexual offenders - the purpose behind Megan's Law is to have these people reported and registered. Just because they're younger age doesn't mean they also shouldn't be registered later on.

MIKE CICCHETTI: I think it would also get into the issue of the confidentiality of the juvenile --

SEN. UPSON: Again, if someone has a sexual problem or is an offender, -- alright, I don't mean to belabor it, but I just think that we've got to think about that too because they're sexual offenders too that maybe just as much going to be recidivists committing these crimes again as the ones you are registering.

Thank you.

REP. LAWLOR: I think Representative Amann had a point on this issue.

REP. AMANN: Thank you, Mr. Chairman. Just Senator Upson's information that this has been discussed in the working group, Senator and I intend and I'm sure some others -- we've had some conversations of possibly when the working group gets together to try to address this.

And I think I have to answer the question that

let's not forget the main focus of Megan's bill. It's the right to know. So confidentiality, in my interpretation under Megan's Law, is out the window. If we can somehow address the bill that a sexual offender is just as dangerous if they're under 16 years of age as they're over 16. I know we have to be delicate how we write that legislation. Of course, constitutional concerns, but I think that is one that in our working group we will be addressing and Senator, I know that we would like you to be part of that.

SEN. UPSON: When is this - is this for this year?

REP. AMANN: Actually, we were going to have a meeting last week, Senator, but unfortunately I was under kind of a flu. So we had to cancel the meeting.

SEN. UPSON: But this year you're pursuing it?

REP. AMANN: Yes.

SEN. UPSON: Thank you. Again, I don't mean to put you on the spot. I'm just --

REP. AMANN: If I could just, Mr. Chairman, -- okay. First, let me compliment the working group on all the work that all of you have done on Megan's bill. I appreciate it. I never thought that four years later we'd still be continuing to talk about it, but I guess because it has been a good bill and a successful bill, I don't think any of us ever saw the many different things we have to do to address it. I know that many of us wanted to walk through this bill slowly and make sure that anything we've done, if we were tested constitutionally, would pass constitutional musters, but I have to also compliment the internet system. I have heard nothing but positive on it from constituents in my area and I know as we keep on going forward with this legislation, it's going to be one of the most important pieces of legislation, I think, that we give to communities back home.

I have to ask you a couple of questions. On this liability, you know that's been something that's really bugged me in the last few years and I'm

hoping and I know Chairman Lawlor -- I'm not going to speak for him, but I know he has some feelings about it too.

Is this going to satisfy the liability question? I certainly don't want to come back here next year talking about liability. We've talked about it in '95, '96, '97, '98. I don't know how much more protection that we need to put under this legislation. Is this going to finally answer the question because I don't want to hear it next year?

MIKE CICCHETTI: Yes, as drafted, I believe it would allay the fears of the local police departments to go out there and take that active step to notify.

As you know, under the current law, they're protected against registrants. I believe they're worried about liability from other sources.

REP. AMANN: Well again, we've addressed this. We've had our discussions privately and I'm just hoping that this will finally satisfy everybody's concerns out there.

On compliance, I'm very concerned about non-compliance right now. I know that it's very difficult for, especially local municipalities might not have the resources to get the job done back home immediately to our satisfaction here in the Legislature, but are we trying to put a time limit on it? Are there problems that we need to address in the Legislature whether they be financial questions? Is it manpower questions? Because the minute, Mike, something happens out there where these people are non-complaint, you know the finger is going to be pointed at your working group, at law enforcement, and the Legislature for not doing out job.

Do we have some sort of time elements on this to get this thing so that people who are non-compliant? We talk a tough game. It's supposed to be Class D Felony. No questions asked, but so far from what I understand there's been no arrests made. Correct?

MIKE CICCHETTI: I believe there have been some arrests made.

REP. AMANN: There have?

MIKE CICCHETTI: I can't speak in terms of a time limit. I believe Doctor Lee would be better to address that issue, but in terms of resources, we've added nine positions to the Sexual Offender Unit and the Governor's proposed budget is \$750,000.

REP. AMANN: Well, first of all, if any legislators aren't familiar with the Sex Offenders Unit, you should get information about this unit. They're an excellent unit. They're doing a superb job and if we're going to write these wonderful pieces of legislation, we certainly should back up the folks that are out there trying to do the job. So anything that we can help with the Sex Offender Unit, you let us know, Mike.

I have something that just came across my desk today and maybe you can answer it for me. It's -- I won't say where it's from or who it's from. There is a concern from somebody that there's someone on the Sexual Offender Registry and on the internet that is going to a school bringing their -- I'll say niece or nephew to that school on a daily basis. Many of the parents are very concerned about it. Law enforcement has called me on it personally to say they're not quite sure how to address this problem.

Could you -- is there anything we can do under current law that you know of, if anybody on the panel, for a concern of parents that know this person is a sexual offender bringing someone in their family to school on a daily basis? Is there anyway we can prevent that or is there anything we can do?

MIKE CICCHETTI: From bringing their children to school?

REP. AMANN: Yes.

MIKE CICCHETTI: No, there's nothing under the current Megan's law or in the bill that would allow, I

guess, the local board of education or the local police department to prevent that person from going to school unless there's something in their sentence.

REP. AMANN: Well, I think there is a very legitimate concern. I mean, one of the things that when we put the registry out there is to at least know who these individuals are and the best way we react to that is, especially if there are, as you know, many of them will go by living next to a school, a day care, or whatever. This individual, for some reason, is not -- he's hanging around the school. He's bringing the individual in the morning. He's hanging around in the afternoon. And I don't think that his only intentions of hanging around that school is just to pick up his niece or nephew. And maybe there -- I'm not quite sure if we can do anything now, but I think maybe in our working group we should at least talk about it.

MIKE CICCHETTI: Yes. It is certainly something we can discuss. I don't know if -- and I can say for sure that there's nothing in the current law or the bill that would prevent that person from bringing their children or their niece or nephew to school or in terms of hanging around the school, I think that would be a local issue.

REP. AMANN: Right.

REP. LAWLOR: Can I just jump in, Jim?

REP. AMANN: Sure.

REP. LAWLOR: I think although in one part there isn't, but in another part of the law which dates back four years now, there's a mandatory period of probation following a release of at least ten years and in some cases, up to thirty-five years and certainly, any probation officer or parole officer could tell the offender that you can't go near a school and could violate the parole or probation for that reason.

So, I think that's a very important thing to keep in mind and in this particular case, it would be

good to find out if that guy is still on probation or parole.

- REP. AMANN: Mr. Chairman, okay. That's just for clarification. So you're saying in your opinion that would be a violation of parole?
- REP. LAWLOR: Sure. Stay away from - yeah. I think no question about it. Because you would have to -- I mean, that was part of the original Megan's Law.
- REP. AMANN: Right. Which I recall, but I know that's kind of a -- I'm asking because I want to give an answer as best I can to the law enforcement agency. I think -- I understand where you're coming from, I just don't want it to be too gray that we are going into a constitutional question of preventing someone from bringing their child to --
- REP. LAWLOR: I think it's a question of whether he's still on probation or something. We will talk about that later on.
- REP. AMANN: Very good.
- REP. LAWLOR: I think that was part of the original proposal to -- even after they get out of jail and make sure --
- REP. AMANN: Right, stay away from kids. Right, which in other cases I know that we have done that in violation of parole. The gentleman used to dress up, I guess, as Santa Claus, as a good example.
- I guess one more question. I do -- there have been a few departments that have -- I'm sorry. Did you -
- STEVE SEDENSKY: If the person is still on probation and that is not a condition of his probation, the probation officer could go to the court and request a modification of the probation to have that included as a condition. And the court could change the conditions of probation if they felt it were appropriate. So that any condition that the court could have imposed originally, they can add as a condition later on.

REP. AMANN: Okay. Thank you very much. Last question, Mr. Chairman. Have we had any discussions or ideas - we talk about notification and again, that's been another bone of contention within the committee and our discussions who should and whatever, but are there ways that you thought of to encourage law enforcement when there is a sexual offender of a violent nature to take it upon themselves to do it? Nothing has ever prohibited them since the original legislation in '95. Were there any ideas of encouraging? I see Beacon Falls is recently doing it. I know Thomaston has done it. And so I would like -- I just wondered if there is any sort of encouragement so we can get that information out to the public when there are violent offenders because that has been the original intent of the law.

MIKE CICCHETTI: I believe the biggest encouragement that the Legislature can give them is to grant them the immunity that they're looking for. I believe that's the single and most effective -- and I can't speak for that for sure and I believe that some of the local police chiefs are going to speak, as well and they should address that issue more.

REP. AMANN: So you believe, Mike, that with this immunity clause, you might see more of this going on? Correct?

MIKE CICCHETTI: Yes.

REP. AMANN: Alright. I also want to compliment Chief Salvatore who I know took it upon himself to do it too and again, we have this information out there. It's great it's on the internet, but I also think that seeing law enforcement taking it upon themselves to notify neighborhoods has always been the original intent of what Mrs. Kanka wanted the bill to do.

I thank you very much and I thank everybody that has worked on the bill.

REP. LAWLOR: Representative Farr.

REP. FARR: A couple of things. First of all, just correct something that was said. There has been an

arrest for somebody for failure to register because it happened in my district and by my police chief. So it isn't accurate that there's no -- there has been nobody arrested for not registering.

Secondly, there's nothing in this bill that deals with the existing cases. We have discretion with the court for not requiring registration for someone who is a spousal assault or for certain types of cases we allow discretion of the court as to whether or not there has to be registration.

I didn't see anything that would apply that so that somebody who previous to the effective date of this bill was convicted of sexual assault could petition the court or the victim could petition the court not to require registration. Is that correct?

MIKE CICCHETTI: That's correct.

REP. FARR: It's not in there and I would assume there would be no objection to us allowing --

MIKE CICCHETTI: No. I believe it was, for whatever reason, it was not looked at how to deal with people that have already registered and there would be, obviously, no objection from us and we can certainly work with the working group to come up with the best way to try to address that issue.

I mean, you want to keep it narrow to the people that you're dealing with and not open up a hearing, so to speak, for everyone --

REP. FARR: Right. I was just dealing with those -- in my community there is somebody with a spousal assault that's registered. I don't know what the benefit is. I said put it on the marriage licenses so that somebody doesn't marry them again or something, but there's nothing that inherently makes them dangerous to the rest of the community, but now everybody knows his spouse is now victimized by that.

MIKE CICCHETTI: I absolutely agree and I think it's something that we're certainly open to and we'll work with the working group to try to come up with

a system to address that.

REP. FARR: The other question going back to the issue of numbers. You included 4th degree sexual assault in this.

MIKE CICCHETTI: Yes.

REP. FARR: Do we have any idea of what kind of numbers we're dealing with with that charge? How many people are we going to be looking at? Does anybody have an estimate?

CMRS. DR. HENRY LEE: Roughly 800.

REP. FARR: And they would have to be registered for ten years?

MIKE CICCHETTI: Yes.

REP. FARR: And there's no discretion on that 800?

MIKE CICCHETTI: In terms of?

REP. FARR: In other words, the judge would not have the discretion in a 4th degree sexual assault whether he would require registration?

MIKE CICCHETTI: No. It's for sexual assault before it's keyed off the conviction.

REP. FARR: Okay. This is the last observation. The sort of the unintended consequences of what's happening here. My understanding when we did Megan's Law originally it was intended for sexual predators. This now is far broader than that because it has to do with all sexual -- I'm sorry, sexual predators on children. This is now beyond children, obviously. The majority of these sexual offenders are not predators on children. Is that correct?

MIKE CICCHETTI: That's correct and the reason, the main reason for the expansion of that is to deal with federal guidelines. The federal crime is that there have been several updates of federal guidelines that have come down and we have to comply with them

otherwise we forfeit 10% of our Burn Grant money. So that's the main reason for the expansion of the crimes that require registration.

REP. FARR: I would make the observation though that this sort of unintended consequences of what we're doing which I think in this case is a good one, is that it focuses law enforcement officers more on the criminals instead of just the crimes. And it's my observation that we spend a lot of resources investigating crimes when those crimes are committed by a handful of criminals and if we spent more resources monitoring those - the bad guys, we would have less crimes to investigate.

I've been involved on the Re-arrest Task Force. People don't go out and track down people who didn't show up in court. We know they're out there doing crimes, but we don't have the resources to do that, but we spend our resources looking at the crimes, investigating the crimes they're committing.

The same thing is true in the sexual area. These are people with high recidivism rates. If you keep track of these individuals, you don't have to investigate the crimes because in theory, we can perhaps prevent those crimes.

So, I want to congratulate the panel for the recommendations.

Thank you.

REP. LAWLOR: By the way, what is sexual assault 4th degree?

MIKE CICCHETTI: It's a list of -- I have the --

REP. LAWLOR: It relates to contact, right?

MIKE CICCHETTI: Yes.

REP. LAWLOR: Just touching people?

MIKE CICCHETTI: If you want, I can read it through. Or I can just give it to you.

REP. LAWLOR: Just for the members of the committee, it would be like touching someone's buttocks or breasts or something like that. It doesn't involve intercourse or anything like that?

MIKE CICCHETTI: It's basically sexual contact with different types of victims.

REP. LAWLOR: Okay.

STEVE SEDENSKY: The one we usually prosecute is sexual contact without consent which is different than forced sexual contact.

REP. LAWLOR: Like grabbing someone in an intimate area, basically?

STEVE SEDENSKY: Yes.

REP. LAWLOR: Okay. Thank you. Are there other questions? Are there any other members of the panel that are going to testify? Okay. Senator Upson.

SEN. UPSON: You don't get any federal funding do you for this in the area of the State of Connecticut?

MIKE CICCHETTI: No, we don't get any direct federal funding to operate our Megan's Law, but if we don't comply with the federal guidelines, we would lose -

SEN. UPSON: Federal guidelines for what?

MIKE CICCHETTI: For registration of sexual offenders.

SEN. UPSON: Oh, there are federal guidelines?

MIKE CICCHETTI: Yes and they're very detailed.

SEN. UPSON: And?

MIKE CICCHETTI: If we don't comply,-- they don't give us any money to operate our Megan's Law. But if we don't comply with the federal guidelines we lose 10% of our Burn Grant money.

SEN. UPSON: Of your what?

MIKE CICCHETTI: The Burn Grant money.

SEN. UPSON: And how much is that and what is that?

MIKE CICCHETTI: The total is about \$6.5 million. Senator, if I could correct myself. We actually do get a federal grant to help with the computer system in terms of Megan's Law. But there's no direct money from the whole entire --

SEN. UPSON: And is it - how long has the federal government been involved in Megan's Law?

MIKE CICCHETTI: It was approximately three years ago.

REP. LAWLOR: There are two laws. One is a federal Megan's Law and then something called the Jacob (inaudible) Act which is very similar.

SEN. UPSON: Jacob what?

REP. LAWLOR: (inaudible) Act. It's another --

SEN. UPSON: And is there a move -- what would we need to have -- would we need state compacts or what would we need to have a uniform system throughout the country of registration, etc.?

MIKE CICCHETTI: Actually, there's a national -- underway is the creation of a national sex offender registration which the FBI handles. Basically, this bill would require us to participate in that program where we would send our information to the FBI and they would create a national registry.

SEN. UPSON: So you wouldn't need an interstate compact? You wouldn't have to agreement between the states?

MIKE CICCHETTI: No, each state does their own Megan's Law. Whatever version of it they so choose, but in addition to that there would be a federal registry.

SEN. UPSON: Alright, forgetting the registration. On the underlying crimes, is there a -- this may not

be a perfect example. Right now if I am convicted of drunk driving in Massachusetts, that also in Connecticut is a -- it's something against my license and it can be used against me, I guess, for a second offense. Am I correct there? Well, it is.

Let's say, and there's also if I'm speeding in Massachusetts. There's reciprocity. Are there any -- is there development of reciprocity with these types -- forget Megan's Law, with these types of crimes with other states? Do you know?

MIKE CICCHETTI: I don't know it because I think in terms of the --

SEN. UPSON: Do you understand what I'm saying?

MIKE CICCHETTI: Yes, but I think the driver --

SEN. UPSON: Because we have all been arrested for speeding, you know what I mean.

MIKE CICCHETTI: Right.

SEN. UPSON: You get a point against you even if you are arrested in Massachusetts.

MIKE CICCHETTI: This is more administrative than criminal.

SEN. UPSON: I beg your pardon.

MIKE CICCHETTI: I believe and I can't say for sure, but I believe in terms of the driving record, that would be more of an administrative reciprocity than a criminal reciprocity. I don't think there's any reciprocity in terms of serving out the remainder of a sentence in another state.

In terms of if you're convicted in another state of a crime similar to those that you are required to register under our laws, and you move to Connecticut, you are required to register if you fit into the time lines.

SEN. UPSON: And how would you know if somebody moved

from Massachusetts?

MIKE CICCHETTI: Basically, Massachusetts would notify our Public Safety and then we would be aware the person moved into our state.

SEN. UPSON: And then it would then go down through to Cromwell or West Hartford?

MIKE CICCHETTI: Yes.

SEN. UPSON: And then how do you monitor Cromwell or West Hartford?

MIKE CICCHETTI: Depending on which crime they're convicted of, their address is verified every 90 days or one year.

SEN. UPSON: By the State Police?

MIKE CICCHETTI: By Public Safety.

SEN. UPSON: Public Safety. So Public Safety or your group can maintain the registry. Correct?

MIKE CICCHETTI: Yes, Public Safety maintains the central registry. The local police departments merely have the information regarding people in their jurisdiction at their police stations. They don't maintain the central registry.

SEN. UPSON: But there's no penalty or there's no enforcement on the fact that the local agency, local police departments giving out that information. There's no enforcement in that respect?

MIKE CICCHETTI: They're required to have that information available.

SEN. UPSON: And if they don't?

MIKE CICCHETTI: There's no penalty if they don't, but they're statutorily required to have this information available.

REP. LAWLOR: But you're proposing to give everyone

immunity if they don't do it in this bill?

MIKE CICCHETTI: That would be a willful violation which is they wouldn't have immunity for it.

SEN. UPSON: Explain that.

MIKE CICCHETTI: They would have -- if they chose -- if they willfully chose not to have the information available, then that would be a willful violation of the statute and that is not covered. They're not granted immunity for willful violations.

SEN. UPSON: Whose they?

MIKE CICCHETTI: The local police departments or the local State Police troops or resident trooper, whichever jurisdiction --

SEN. UPSON: Whose they?

MIKE CICCHETTI: They would be the local police departments.

SEN. UPSON: Whose they? Do you mean the police chief? Or do you mean the Captain or do you mean the dispatcher? Whose they?

MIKE CICCHETTI: It would be the chief.

SEN. UPSON: Okay. I just wanted to -- you know.

MIKE CICCHETTI: I didn't understand the question.

SEN. UPSON: Well, the panel wasn't helping either. So that's why I was looking in disgust here when I was trying to make sense.

So it would be the police chief and then are you going to plead willful and how are you going to prove that?

MIKE CICCHETTI: Well, if they decide --

SEN. UPSON: No, if the police chief.

MIKE CICCHETTI: If the police chief decides --

SEN. UPSON: Thank you.

MIKE CICCHETTI: - to make it a policy not to have this information available, then he is the one making a willful violation of the statute.

SEN. UPSON: So you would have to have some policy versus not neglect -- this is unusual. I don't think we ever put a burden on -- have we, Chairman Lawlor, on a police chief to enforce the state mandate or have we?

REP. LAWLOR: I think the only thing they're being required to do is make the registry available under state law. But they're looking for immunity for anything else they might do in connection with that.

SEN. UPSON: So make available means it's there in the department?

REP. LAWLOR: Yes, that's what the law requires, as I understand it, that's it. Right.

MIKE CICCHETTI: Yes.

SEN. UPSON: Do you ever test that to someone from Public Safety go to all 169 towns and check to see what's available? Henry left.

MIKE CICCHETTI: We do not do that. Public Safety does not do that.

SEN. UPSON: Matinee performance. What?

MIKE CICCHETTI: Public Safety does not go to --

SEN. UPSON: They don't do that?

MIKE CICCHETTI: -- to each department and check.

SEN. UPSON: Well, how do you know if this is being disseminated?

MIKE CICCHETTI: We don't know if every -- each town that has its own police department is doing it, but

they are required by statute.

SEN. UPSON: Well, it would seem to me, Chairman Lawlor, there should be some sort of requirement on the part of Public Safety to make periodic checks to see if, in fact, you're going to do this and I'm not saying this won't happen with the two departments out there and it will, but it would seem to me that that's if you're going to enforce this and what happens to a town that doesn't have a police department? Just uses the State Trooper. Then they can enforce that part.

MIKE CICCHETTI: Then the resident trooper has -- he has to make that information available.

SEN. UPSON: And are there other guidelines for that? What if the State trooper doesn't do it?

CAPTAIN PAUL FITZGERALD: I am Captain Paul Fitzgerald of Public Safety. The agency has written policies that direct the resident trooper to disseminate that information after he's reviewed it and accepted it from headquarters. And we disseminate that information to the local police departments in a similar fashion and all the chiefs of police are very knowledgeable of this and are compliant with this law, like many of the other laws that we entrust them to enforce and we don't envision any problem or any need to inspect their performance.

SEN. UPSON: So it's like -- you're right. Like many of the other things we pass down. Right. Okay.

Thank you.

REP. LAWLOR: Thank you. And just -- Senator Upson was asking about the interstate travel, I guess, of these guys and I just wanted to encourage all the agencies I know that the Interstate Compact on parole and probation is currently being redone in a very comprehensive way. I know they're giving consideration to incorporating the Megan's Law registry with those requirements about who can move under what circumstances and how they have to register, etc., and I think if you just become involved in that process, we'll have a state of the

art system. So that's something else to -- I know Chairman Mullin is very involved in that process already.

So, are there any other questions on this topic? Okay. If not, thank you very much.

MIKE CICCHETTI: Thank you.

REP. LAWLOR: Just to point out, we're over the first hour time limit for agency heads, etc. We have eleven others signed up on the agency head list. We'll get to them. We'll rotate them in with the members of the public as we go through it.

Switching to the members of the public list, first is Andrew Groher. He'll be followed by Ken Laska, Jim Guston, Joe Meaney, and Louise Hyppa.

And we would encourage that the presentations be confined to three minutes so we can get through the entire list. We've got quite a few people signed up to testify.

There maybe questions and answers that follow your presentation. That would not be counted in the three minutes, obviously.

You guys are testifying as a panel, is that it?

ANDREW GROHER: Yes.

REP. LAWLOR: Okay.

ANDREW GROHER: Good afternoon, Chairman Lawlor and members of the Judiciary Committee.

My name is Andy Groher. I'm here with Steve Ecker and we're both here on behalf of the Connecticut Trial Lawyers Association to testify in support of HB6962.

I want to say just very briefly that in our opinion the decision of the court in Binder vs. Sun Oil Company has completely turned the law around as it was in this state concerning apportionment of fault between negligent and intention tortfeasors and

children and their families.

Thank you very much for the opportunity to address this committee on this very important issue.

REP. LAWLOR: So if I'm understanding your testimony right, you think that this might have an impact on the movement of cases in the system?

LOUISE HYPPA: Yes. I think it would - it could dramatically. The potential is dramatic. Right now we have a process where because we're working together a lot with the defense bar, we do a lot of evaluations in the pre-trial process prior to conviction. So we're able to expedite cases. A vast majority of the cases in juvenile court are less than nine months old. And so we really move cases very quickly. There's also with young people you want to try and have the time period very short in terms of the incident and getting to the disposition of the case.

REP. LAWLOR: And does this parallel the way it's done in the adult system?

LOUISE HYPPA: No.

REP. LAWLOR: How is it different?

LOUISE HYPPA: The adult system, this would open it up absolutely wide open and there are constraints in the adult system with records, especially the medical and psychiatric information.

REP. LAWLOR: I agree. Thanks. Are there any other questions? If not, thanks very much.

LOUISE HYPPA: Thank you.

REP. LAWLOR: Going back to the public. Chief Salvatore and Chief Strillacci.

CHIEF ANTHONY SALVATORE: Mr. Chairman, thank you very much. I'm Chief Salvatore, the Chief of Police from the Town of Cromwell representing the Connecticut Police Chiefs Association and with me is Chief Strillacci, the Chief of Police from the

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West Hartford Police Department. Both of us are legislative co-chairs. Thank you very much for allowing us to speak before you this afternoon.

We're here to speak on behalf of HB6784 and HB6785 and briefly, I was a member of that committee. I had the distinct honor of serving on it and we believe that HB6785 is a good piece of legislation. And we encourage you to support it.

Just to answer a couple of questions I had earlier. There were guidelines developed on an interim basis by that committee. They were passed along to the Legislature and we're hoping that they will be passed. If you want to take a look at those guidelines you could actually see them on the Connecticut Chiefs web page, CPCANET.ORG and in addition to that, they also went out to all members of our association and we encourage them to strictly follow them. And what that does is give them some kind of guidelines so that they can follow the dissemination of information on sexual offenders.

What we would really like to talk to you about is obtaining some money for the municipal police departments on behalf of the notification process and the enforcement process. We believe that that would be an area that would be better served if that could be looked at so that we could go out there in addition to what we're mandated to do and to do more with regards to notification if the need be in addition to the enforcement process.

And we would encourage you to please look at that.

Chief Strillacci also has a few words.

CHIEF JAMES STRILLACCI: Thank you. Senator Upson had questions about who is making sure we do our job. Well, it works in both directions. We make sure the State does their job and they make sure we do ours.

We aggressively check on sex offenders in our communities. We don't wait for DPS to send us a hard copy. We log onto the net and we check that because it's quicker. We go out personally and we

verify addresses and locations and make sure people are where they are supposed to be. We assigned a detective to run down all these that are not in compliance or the list is not in compliance. We found that in both of the cases they do not reside in their towns. We found errors in addresses where they were in other communities.

We found one that was in town and was not in compliance and prepared a warrant for his arrest. Whereupon, he got in compliance in a hurry. We found another fellow who lied about his address, registered under a straw address and was living in our community. We did arrest that person.

So it doesn't take anybody to hold a gun to our head to do what we're supposed to do.

CHIEF ANTHONY SALVATORE: And as far as the immunity, if I may add, the reason for the additional language on the immunity is not that with regards to a list if we don't provide the list. What we're looking for is if we want it to go above and beyond having the list in our headquarters and we go out and disseminate flyers or information with regards to individuals living in a specific neighborhood, we believe that if we do our job as stated in the intent of the law, that we would be covered in any court case.

REP. LAWLOR: Even if the information is wrong that you're handing out?

CHIEF ANTHONY SALVATORE: Excuse me?

REP. LAWLOR: Even if the information is wrong that you're handing out? Wrong address, for example.

CHIEF ANTHONY SALVATORE: I think with the checks and balances that we're following, I don't think anybody is going to go out and disseminate information, a police agency is going to go out and disseminate information unless they're positive that the information that they're disseminating is correct. That's why we believe that that information should be disseminated on the local level to avoid those types of situations such as I

did in my community. I did have an individual that I felt fit the bill. I went ahead and printed up some flyers. I had my officers go door-to-door within a certain area of where the individual was going to live.

Now, I wouldn't have done that unless I made sure that number one, I reviewed the case with the individual that was arrested for. I also took a look at his -- there are stipulations with regards to parole and probation, which you pointed out. Individuals going on to school property, etc., etc., and I did all of that before I went ahead and had my officers go door-to-door.

REP. LAWLOR: That's great, but I think that the problem that concerns some of us that we have about the immunity thing that is even if you didn't do that, and you were handing out a notice, wrong address, for example. And the person who lived at that address was victimized, they would have no recourse against anybody if everyone had immunity.

CHIEF ANTHONY SALVATORE: Part of what we looked at in the committee was putting a waiver on there, on our books or a notice on our books that said that this information is only to be used for legal purposes and not to be used against individuals for committing violations of Connecticut General Statutes.

REP. LAWLOR: Right, but if, for example, someone -- I live at 3 Atwater Street in East Haven and if someone put a flyer out --

CHIEF ANTHONY SALVATORE: Someone or a law enforcement agency?

REP. LAWLOR: At 3 Atwater Street in New Haven, for example. If they made a mistake and they said East Haven or they had the wrong street number or something like that. No one ever checked and someone burns down my house, for example, and it turned out my address was on the list at the police department, I'd like to think that I could sue somebody for making that mistake and with the immunity I couldn't. That's the problem.

CHIEF ANTHONY SALVATORE: Well, as I said, the intent of the immunity was if we took a proactive stance.

REP. LAWLOR: What the bill says is that any -- that local and state law enforcement agencies are completely and totally immune no matter what they do unless it's willful or wanton. And so if someone makes a mistake, no matter how bone headed it might be, they're going to have immunity.

CHIEF ANTHONY SALVATORE: And we feel they should be immune as long as it was not willful or wanton. If we know that there's a mistake and we fail to correct it, that's a willful act.

REP. LAWLOR: So, if someone puts my address on just because they didn't bother to check, and it was a mistake, --

CHIEF ANTHONY SALVATORE: I think a mistake is an error for which we should not be penalized by civil liability. We are taking a --

REP. LAWLOR: Do you have similar protection in any other thing that you do?

CHIEF JAMES STRILLACCI: We would like to have some civil protection.

REP. LAWLOR: Sure, we would all like to have it, but --

CHIEF JAMES STRILLACCI: Not to the best of our knowledge.

REP. LAWLOR: Okay.

CHIEF JAMES STRILLACCI: You have to remember that this is something new and above and beyond. What this is -- the best protection for our community against sex offenders is addressed in HB6784, is keeping the people in jail. Exactly. And we would really prefer to see more of that and less of going door-to-door and notifying people.

REP. LAWLOR: Right. Representative Farr.

FRED PARKER: But he had a license for the gun.

REP. LAWLOR: Oh, he did.

MILNA ROSARIO: Yes.

FRED PARKER: Yes.

REP. LAWLOR: Great. Okay. Are there other questions?
If not, thank you very much.

MILNA ROSARIO: You're welcome.

FRED PARKER: Thank you.

MILNA ROSARIO: Thank you.

REP. LAWLOR: A law abiding citizen. Not you guys, the
shooter.

Next is Ann Parrent.

ANN PARRENT: Good afternoon, Representative Lawlor,
members of the committee. Thank you for this
opportunity to speak to you today.

My name is Ann Parrent. I'm a staff attorney with
the Connecticut Civil Liberties Union Foundation.
My testimony today concerns HB6785, AN ACT
CONCERNING THE REGISTRATION OF SEXUAL OFFENDERS.

I'm one of the attorneys for the plaintiffs in a
lawsuit entitled Doe vs. Lee which was filed in
federal District Court three weeks ago. This
lawsuit alleges that the public disclosure
provisions of Public Act 98-111, the current sex
offender registration law are unconstitutional
because they violate the due process clause of the
14th amendment. We support HB6785 to the extent
that it would address certain aspects of the due
process efficiencies in the current law which are
raised in our lawsuit.

In five other states the courts have issued
decisions holding that laws permitting public
disclosure of sex offender status are

unconstitutional unless they provide a procedure to determine whether there's a need for disclosure in each individual case. These courts uniformly hold that the objective of protecting the public from dangerous sexual predators does not justify inaccurate or misleading public disclosure of information about people who pose no threat to public safety.

They also hold that it is the responsibility of the State to determine that an individual does, in fact, pose a threat to public safety before the State labels them as a sex offender in the eyes of the public.

Connecticut's version of Megan's Law violates these due process principles because of its one size fits all approach. Public Act 98-111 which was passed last year, mandates registration and public disclosure of sex offender status with absolutely no effort on the part of the state to separate offenders who are likely to re-offend from - who are unlikely to re-offend from those who might pose a more substantial risk of public safety.

As a result, individuals who are convicted of a single offense and paid their debt to society years ago are now being paraded before the public as sexual predators will all the ruinous consequences to them and their families.

Without a procedure for determining whether an individual is potentially dangerous, the law threatens to unfairly and needlessly ruin the lives of sex offenders who have paid their debt to society, successfully rehabilitated themselves, and pose no danger to the community.

At the same time, the over inclusiveness of the sex offender registry undermines the purpose of informing the public of offenders who are truly dangerous.

HB6785 would provide judges with the discretion to exempt certain offenders from registration as sex offenders if they pose no threat to public safety. In this regard, the bill recognizes that the law

can sweep too broadly if it does not provide for some sort of individualized assessment of the risk of recidivism.

This is an important first step in bringing the law into compliance with due process principles.

Thank you for the opportunity to present our views on these important issues.

REP. LAWLOR: I noticed -- I know in Utah their recent requirement that names be posted on the internet, including for old convictions, was enjoined by the federal court based on an ex-post facto argument. Is that part of your challenge?

ANN PARRENT: That's not currently part of our complaint in federal court here. The Second Circuit has rejected the ex-post facto challenge to the previous version of the law. We disagree with that decision and we also believe that the internet dissemination is more punitive than the previous law so that it may raise those ex-post facto issues. However, our current lawsuit addresses only the due process issue at this time.

REP. LAWLOR: Well, I don't know if you're familiar with it or not, but I was just told this. I was at a meeting on Saturday where someone was there from Utah and pointed out that this issue had -- this decision just came down on January 22nd. And it seems that their statute is relatively similar to ours.

ANN PARRENT: Yes. I mean there's no question that with the addition of the widespread public disclosure of the internet portion of the bill, the law becomes much more punitive and it is substantially different than the prior version of the law. We may well take a look at developing that claim.

REP. LAWLOR: And I don't know if you've had time to review the proposal and the Governor is here today regarding civil commitment and other things. That involves the classification system where sex offenders would be screened and some triage would take place of who is dangerous and who is not. In

your view, would that satisfy the concerns that you have about no due process consideration being given to whose really --

ANN PARRENT: I can't speak to the specifics of the Governor's bill on the civil commitment in terms of how it would interact with this. Certainly, the principle is the same though that a much better way of assessing the dangerousness of a "sex offender" is by conducting some evaluation by people who are trained to do that rather than what the current law does simply designating them as dangerous by reason of their prior offense.

REP. LAWLOR: Okay. Are there questions? Representative Farr.

REP. FARR: I still don't follow the logic of attacking the internet dissemination. If somebody has been convicted of an offense, that's public record. I don't understand how you could argue that somehow well, if we disseminate that public information that's punitive.

ANN PARRENT: The problem is that in creating the internet site and posting people on the sex offender side, the state has created the public perception that these people are dangerous and pose a threat to public safety. That's different than certainly disclosing a criminal record.

REP. FARR: But their perception -- the state is creating the perception that somebody is dangerous because they've been convicted of a serious crime. So, I'm a little at a loss to understand - I mean, I can understand if you had -- were posting the names of people who haven't been convicted, that were only charged of something, but you've got convicted felons and to say that notifying people that convicted felons are out there creates the image that these people maybe dangerous, well, you know, it doesn't take a genius to figure out somebody who has already been convicted of a serious felony maybe dangerous.

ANN PARRENT: Well, I have two points in response to that, Representative Farr. The first is that it's

a different thing to create a special website for a special category of people because it implicitly conveys the message that these people are particularly dangerous in a different way than people who have simply been convicted of a crime.

The second point is I think we've heard some of the questions and testimony today that illustrates the problem here. Some of you have given examples of the kinds of people that should not appear on the internet as dangerous sex offenders. I think Senator Upson mentioned the messy divorce situation. Somebody else mentioned the statutory rape situation. I think there's a developing understanding that this one size fits all approach doesn't work because, in fact, a conviction for an offense doesn't translate into dangerousness which is the message that you're creating with the internet site.

REP. FARR: Okay. Thank you.

REP. LAWLOR: Are there further questions? If not, thank you very much.

ANN PARRENT: Thank you.

REP. LAWLOR: Beverly Brakeman-Colbath. And if -- I just want -- we're trying to skip back and forth between the state officials list that we had earlier. And so Beverly, you will be followed by Heidi Clark from the Psychiatric Security Review Board. Okay.

BEVERLY BRAKEMAN-COLBATH: Hi. Representative Lawlor, Representative Doyle, Representative Farr, and members of the Judiciary Committee.

HB 6962
SB 1312

My name is Beverly Brakeman-Colbath. I'm with the Connecticut Sexual Assault Crisis Service. I'm here in a little different capacity today. I have testimony on HB6785 from a victim that I'd like to read and I'll try and do it in the three minutes.

"I'm writing you this letter to express my concerns for HB6785, and how Megan's Law has impacted and may continue to impact my family and me.

Due to my situation, I am uncomfortable speaking publicly and chose for my daughter's sake to speak out with others' assistance so that you may act with full understanding in considering the legislation.

My daughter is an incest survivor. Sadly, my husband, also a victim of incest, repeated the pattern with our daughter. Our daughter, I, and my husband have been through extreme emotional trauma and pain. In 1991 our nightmare began and continues in lesser degrees with these issues permeating our every day occurrence.

Eight years have passed. Many of those have been the longest and most difficult years of our lives. Five years ago we began living as a family. Thanks to therapy, both court appointed and that which we pursued independently and continue to utilize, we all have come a long way.

Sadly, Megan's Law has had only a negative impact on our lives. In my neighborhood where I've resided for over 15 years the president of the Neighborhood Association has and is passing out lists of sex offenders at the monthly meetings, an action he felt necessary to protect the neighbors. A group in which I helped organize neighborhood picnics, now poses possible confrontation with my husband's actions and my family's nightmare.

The generalizations that people quickly jump to maybe used to restrict or abruptly stop children from playing with my daughter. It may encourage excluding her from typical childhood activities. Someone may directly confront my daughter and ask her about her father being a sex offender. These are just some of the issues that she and we as a family are confronted with every day.

I truly see the need to assess sex offenders and have only the high risk offenders' information available to the general public. The risk assessment should note not just the level of a conviction, but also a multi-faceted assessment incorporating treatment, probation, and potential

for recidivism.

Yes, this is expensive, but so is the emotional and physical safety of all individuals.

The changes in HB6785 that consider the restriction of registrant information to law enforcement personnel when the identify of the victim could be jeopardized as long as the perpetrator is not a high risk and/or repeat offender is my mind an absolute necessity.

This needs to be instituted and not only for those offenders who are presently in the legal system, as as is stated in the bill, but also those who have already been convicted. If the law is enacted as fully represented in this bill, my daughter, I, and my family can continue to be victimized since there is no grandfathering clause.

Only those that are presently in the legal system are addressed.

The aspect that allows for the victims say prior to any change in the restrictions seems of paramount importance.

The removal of the restriction of information once the victim becomes 19 continues to perpetuate victimizations. Victims should be allowed to deal with their issues when they are emotionally able to do so.

I realize that Megan's Law is an emotionally and politically charged issue. It also can be an extremely costly one to institute. With the reality I've lived with for the past 8 years, I speak from the deepest emotional level, as well as a financial one.

I hope and pray that this Judiciary Committee can expedite bringing this legislation to the level it needs to be to protect, as was its initial intent, but not perpetuate victimization as it has thus far."

And that is from Susan.

I also wanted to say that we're submitting testimony on raised HB6962. We do support that legislation and raised SB1312, AN ACT CONCERNING JUVENILE MATTERS, which we also support.

REP. LAWLOR: Thank you. Beverly, in the proposal on civil commitment, I think there's an advisory group established and I don't think it involves - includes the victim advocate's office or does it? Because I know earlier you had suggested that that office be added on the Information Advisory Board which we did in our substantive information this morning and I assume you think that would be a good idea for the Civil Commitment Advisory Board, as well.

BEVERLY BRAKEMAN-COLBATH: Yes. And Gail Burns-Smith will be talking more on that issue when she comes up also.

REP. LAWLOR: Alright. Great. Are there other questions? Yes, Representative Powers.

REP. POWERS: Thank you, Mr. Chairman. When you read the letter, there was a list of concerns from the Mom about things that -- and I think you said could happen to the daughter.

BEVERLY BRAKEMAN-COLBATH: Yes.

REP. POWERS: So at this point none of those things have happened. Is that right?

BEVERLY BRAKEMAN-COLBATH: At this point what's happened with this family is the neighborhood association has started to pass around this information. But the family has not experienced direct consequences, but I think what's important is that they're living in fear about those consequences and it's only really a matter of time, probably. They, in this neighborhood association situation the mother actually went to the leader of the neighborhood association ahead of time and had a discussion with that person who was kind of surprised.

So, it's -- they may not have had direct

experiences, but we also know that they're living in a state of constant fear about that.

REP. POWERS: Is that the fear on the part of the parents or is the little girl concerned, as well?

BEVERLY BRAKEMAN-COLBATH: Actually, the entire family is. And the girl, the daughter is 11 and she has actually -- she actually wanted to come here today, but her parents did not think that was a good idea, but she has asked for a meeting with maybe some members of this committee to talk about the affect that it's had on her life.

REP. POWERS: Okay, at 11 she is old enough to be aware of the possibilities of these things happening?

BEVERLY BRAKEMAN-COLBATH: Very much so.

REP. POWERS: But so far her friends have hung in there, right?

BEVERLY BRAKEMAN-COLBATH: I think so. I haven't gotten into a whole lot of details. I think at this point the family is more in kind of a state of vigilance about the whole issue.

REP. POWERS: Right. And I don't mean for -- just you listed a series of things that you were concerned about. So I just wanted to understand if those had happened.

Thank you.

REP. DOYLE: Any other questions? Thank you.

BEVERLY BRAKEMAN-COLBATH: Thank you.

REP. DOYLE: Next up is Heidi Clarke. Good afternoon.

HEIDI CLARKE: Good afternoon. Members of the committee, my name is Heidi Clarke and I'm the Program Coordinator for the Psychiatric Security Review Board.

HB 6784

I'm here today to present testimony that was prepared by Martha Lewis, the Executive Director of

REP. FARR: Oh, okay. So I can ask all those questions. He's got the answers to everything. Right.

REP. LAWLOR: He's getting warmed up over there.

REP. FARR: Where is he? He's hiding.

REP. LAWLOR: Are there any other questions? If not, thank you very much.

Next is Gail Burns-Smith.

GAIL BURNS-SMITH: Good afternoon, Representative Lawlor, members of the committee. My name is Gail Burns-Smith. I'm the Executive Director of Connecticut Sexual Assault Crisis Services.

We've submitted written testimony and I'd like to summarize on two bills in particular that we want to draw your attention to.

HB 6784

The first is HB6785, AN ACT CONCERNING THE REGISTRATION OF SEXUAL OFFENDERS. Really the two primary things that we would like to point out, although generally we support this measure, is that this proposal does not call for risk assessment of offenders to be done prior to releasing them to the community. And we believe that that's a serious flaw in this proposal.

Simply stating the statute that a sex offender was convicted of provides a community with no useful information to determine whether or not such offender poses any risk to that community. Although there are no absolute tests which will predict for the 100% accuracy the risk an individual poses, there are valid assessment tools which can at least give the community better information than currently exists with our current registration system.

We would encourage this committee to ensure that the courts have that best information before allowing any offender to waive registration.

Additionally, in number two in my written testimony, in Section 6b. This allows for the court

to restrict the dissemination of information in certain incest child sexual abuse and spousal rape cases. We absolutely support that. The one thing that we would ask that this committee consider, however, is that this bill says that when you get to be 19, that you no longer have that kind -- the court will no longer have that kind of option. We believe that it's important to protect children, but victims do not so easily outgrow their shame and the concerns about being recognized as a sexual assault victim. So we would ask that you remove that last portion and indeed, give victims a peace of mind that they so rightly deserve.

REP. LAWLOR: So your interpretation of that language is that the court could exercise that discretion except once the victim is older than 19?

GAIL BURNS-SMITH: That's correct.

REP. LAWLOR: Then they no longer --

GAIL BURNS-SMITH: If they got to the age of majority, that the court would no longer have that discretion and we think that that actually should not happen.

REP. LAWLOR: I see. Okay.

GAIL BURNS-SMITH: Additionally, on HB6784, AN ACT CONCERNING SEXUAL OFFENDERS. We've very concerned about this proposal and believe that it's seriously flawed in many respects.

This bill calls for DHMAS to be the lead agency in the area of sex offender assessments and to also take the lead in establishing standards in credentialing for professionals who do this work.

What is so concerning to those of us who have been actively involved in this field is that so much of this is already in place and DHMAS simply doesn't seem to understand that those things are already in place. There already exists national standards that are put out by AFTSA, the Association for Treatment of Sexual Abusers and in our own state, the Connecticut Association for the Treatment of Sexual Offenders has clinical standards that have

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Thank you very much.

SEN. WILLIAMS: Representative Doyle.

REP. DOYLE: A quick question.

RAPHAEL PODOLSKY: Did I say the wrong words?

REP. DOYLE: No. Good evening, Raphie. Were you involved in the tort reform discussion --

RAPHAEL PODOLSKY: Sort of marginally. I wasn't at the core of them. So I don't purport to know the details of all the negotiations.

REP. DOYLE: You were --

RAPHAEL PODOLSKY: But I was around then and I --

REP. DOYLE: You were closer than I was, let's say. And I was -- I'm trying to get to the fact some people -- I asked the previous speaker was there back then -- there was some sort of deal or a perceived deal with the legislation and I know the Binder decision changed it. Do you want to comment on that?

RAPHAEL PODOLSKY: I guess, I don't want to claim, but I have first hand knowledge. I was told that by other people and I was certainly aware of sort of the delicate balancing process that was going on, but I cannot tell you with certainty whether the intentional tortfeasor issue was or was not specifically a part of any package deal that came out. So, I think you have to ask somebody else. I just don't know the answer to that question.

REP. DOYLE: Okay. Thank you.

SEN. WILLIAMS: Further questions? Thank you.

RAPHAEL PODOLSKY: Thank you very much.

SEN. WILLIAMS: Is Chris Pawlik here? Am I pronouncing that right? Robert Kolesnik.

ROBERT KOLESNIK: Good evening and thank you. Actually, HB 6785

I got here quicker than I thought.

My name is Robert Kolesnik. I'm an attorney in Waterbury, Connecticut. Thirty-two years in the business. My law firm is Kolesnik, Norris, and Rado. One of my partners, Daniel Rado is with us here today.

I just learned of the legislation, the proposed HB6785 just a few days ago and I felt constrained to come as a member of the public and as a private lawyer to tell you a little bit about some of my experience and I'll try to be as brief as possible.

The retroactive registration requirement is causing a great deal of trouble to a lot of people. And we certainly understand the purpose behind the Megan's Law registration requirement.

I won't deal with the issues that CCLU has already dealt with. I agree with a lot of the things and I'm familiar with most of the cases that have been decided in other states.

I have a specific example, a true story to tell you about and I won't be very long. To tell you how the retroactivity requirement is causing such hardship in the lives of people.

I represented, about eight years ago, a man I'll refer to as John Doe and we're about to file our own injunction in the federal court on the retroactivity.

He was in the middle of a divorce case. He and his wife were very young at the time, just kids. They had a child together. They were divorcing. During a reconciliation attempt and I have his permission, of course, just to use John Doe, but to tell you the facts of this case without mentioning his name.

During a reconciliation attempt by both these young kids, they went off in a car and made love. A little later on, her parents found out about it and decided that there should be a spousal abuse, spousal rape charge leveled against my client. At the time, I represented him in the divorce case and

I represented him in the criminal case.

He was, in fact, arrested for the spousal assault. He could not afford a jury trial on that case. To (inaudible) my own conscience in representing him, and to try to deal with the prosecutors at the time, I got a polygraph test and I have a copy of it here with me and the polygraph test showed that he was telling the truth, that he did not force his wife into anything and that she had asked him and willingly wanted to and, in fact, enjoyed the love making and wanted -- and they thought they were going to reconcile and it fell through and she got upset and her parents got upset.

But he was not guilty of anything. The young man had no money and could not afford a jury trial. I was able to use the polygraph which, of course, is not admissible in a jury trial and he was going to be a he said/she said. So he couldn't risk it and he couldn't afford it.

So we pled nolo contendere to a reduced charge, Sexual Assault 3, I believe it was and he got probation and then ultimately the divorce case went on. It was settled and resolved and that was eight years ago.

He then married after that and, of course, he wasn't advised by the judge when he pled nolo contendere that he would have to register as a sex offender because that wasn't in the law then.

It's in now, the new law, last year's law and in the very same paragraph that says everyone from 1988, I believe, forward has to register. About three lines down it says, "and the judge must make sure that they understand that when they give the plea of nolo contendere or the plea of guilty, they must understand fully the consequences of that plea, i.e., that they will have to register as a sex offender."

Well, of course, I must tell you that there have to be hundreds of people out there who have pled nolo contendere to false charges and I know at least three of them and they are left with absolutely no

choice but to do that because of the way the system works.

Well, my young man now, is eight years -- eight years has passed and he has remarried a lovely lady. They just had their second child about a week ago. For the last month or her pregnancy, her anxiety level, because of the call from the State Police Officer threatening them with arrest if he didn't register, her anxiety level almost caused her a miscarriage. They have another child. They have a home in a wonderful neighborhood now. He has a job in a very big company and at least one person in that company has been let go because he registered under the law and he was fired because the other people refused to work with him.

My man has not yet registered and he's subject to arrest. Now, if he registers he will definitely lose his job. His child will be ostracized in the neighborhood. His wife will be embarrassed and mortified. She, of course, knows about this, knew about it at the time. He is not a sex offender. He's been found guilty of an offense that requires registration. He had no prior record of this kind. He's not an offender. He will never offend again. He did not offend then.

Unfortunately, he's the crack in the floorboards that no one thought about when the law was passed.

In my experience, 32 years of litigation I do a lot of family law. I have seen a number of false charges, false complaints of sexual abuse, sexual assault, sexual abuse on children in the middle of custody cases where one spouse alleges that the other spouse touched inappropriately or did some more serious things with their child. I just finished a nightmare case like that where the person was innocent and \$60,000 in legal fees later, which he can't pay, by the way. He's paying us like \$100 a month for the rest of his life - \$60,000 later, he was basically proven right.

The abuses are tremendous especially in the area of family law where there are divorce cases going on and custody cases going on. My experience with the

child abuse cases are that once the reporting requirement starts, it becomes a snowball and keeps rolling and rolling and rolling and cannot be stopped and many of the professionals along the way and I've cross-examined them, are incompetent to assess whether there's been actual abuse or not and they jump off on the safe side of the fence and call it abuse even when they're not certain. And then we have to deal with them on cross-examination.

I wondered and I'm not a constitutional lawyer and I maybe off base in some of my remarks here, but I wonder how this is any different than the age registration cases and maybe you've already thought about that. But what came to mind as I was writing this about three hours ago in Waterbury, is that haven't we already gone this route with registration of AIDS patients and haven't the courts said you can't do that?

I had a daughter who took care of AIDS patients in the hospital and she was frightened for her life saying, "Dad, we don't know who - we don't know who has it and who doesn't have it and it's just so frightening." And we really had to get her out of there.

So, we can't know about those things. I'm not going to deal with the entire gamut of Megan's Law, only this aspect of it, the retroactivity. The retroactivity, where you apply it, especially to people who have pled nolo contendere, because maybe it was a false charge and maybe they didn't have the money to contest it, and it was a he said/she said and the risk of conviction was too great, so they cut a deal to a reduced charge and probation because that was the only practical alternative. It's working a tremendous, tremendous hardship.

By my calculations, there are several hundred people who have not yet registered. Maybe two or three hundred, maybe more and you probably know more than I do about this. Is there any way that this committee could possibly communicate with the Department of Public Safety while you're working on this legislation and ask them to at least declare

some kind of a moratorium on the people who haven't registered because there maybe a lot of people and I think there are a lot of people out there, if they haven't registered, they haven't registered for a good reason like this, but they're facing criminal prosecution soon. We are about to go into the federal court to try to stop that.

I'd ask this committee if it's within your power, at least to communicate, possibly, with the Department of Public Safety, with the State Police, the State's Attorneys - is it possible while you're working on fine tuning this, especially in the area of retroactivity to declare some kind of moratorium on arrests? Because that would only compound the injustice as far as the limited class of people I am talking to you about.

These people live in agony and in anxiety over when the knock is going to come on their door because they haven't registered and they shouldn't have to register because he's innocent, but because of a technicality, a plea of nolo had to be entered.

So, I'd ask you, if possible, to consider working on something that addresses this possibly by an amendment to the proposed HB6785 that goes into effect immediately and not on October 1 and some kind of an amendment which addresses that class of people who are still out there who still have not yet been forced to register because they've chosen the very precarious path of not registering and risking arrest because of a law that's really unjust as far as they are concerned.

So, it's a limited class of people I'm speaking to. I'm sure it was overlooked when the original law was passed. I'm sure people didn't debate the merits of what about all those nolo contendere pleas? This person -- I've heard a lot of good testimony this afternoon. This person I represent is certainly not a predator. His actions have demonstrated that he's not a threat to anyone. His new wife and he have been in my office three times already in the last month. The tears flowed. She had her baby last week. I told her please don't worry about this. This is pro bono on my part, by

the way. I'm not up here being paid for anything.

This problem is crying out to be remedied. I think it was an oversight. I think it was a mistake in the legislation. I think nobody thought about this. This family's life is going to be ruined. They just bought a new home in a wonderful neighborhood. How can their daughter play with everyone else when they find out? We know he's going to lose his job because one other person has already lost their job. They won't be able to pay the mortgage. The house goes into foreclosure. They have a new baby.

That's as much as I have to say. I have the polygraph test right here that says he never did it. But the system made him plead nolo contendere, unfortunately. That's not your fault, of course, but you certainly can address it and I submit there's probably a lot of people out there right now just like that.

SEN. WILLIAMS: Thank you. Representative Farr.

REP. FARR: Just one question. Isn't he already on the Megan's Law web page?

ROBERT KOLESNIK: Pardon me?

REP. FARR: Isn't he already up on the internet?

ROBERT KOLESNIK: Unfortunately, as a non-registrant, he may very well be. That's a very little consolation, I mean, to anybody. I understand that. It's a horrible situation. I'm not so sure the non-registrants have yet obtained that level of destain that people have for the registrants, but I don't know. But yes, you're right. I think he probably is - I think his name is up there. Fortunately, he's moved to a different community and they may not recognize in this new community the name from the old community. So he's walking a tight rope right now, pursuant to my advice.

I've talked to the State Police officer who called him. I've told him the story. He's indicated to me and I will mention no names, that he's sympathetic.

He feels terrible. He understands my person's plight, but unfortunately, they're going to have to follow the law and of course, I understand that. Do his duty and at some point in time, arrest him.

So I beg of you if there is anything you can do in the next few weeks or month or so for people like him, even if you change the law and made it effective immediately in the next month or so, if you pass something saying those retroactive people, before one arrests them, give them an opportunity to come in and prove themselves because he certainly can. I don't think there's anybody, if I presented this case in an administrative hearing, I don't think there's anyone out there who would say you have to register, assuming all my facts are true. And I think you probably would agree with that. But if he's arrested now, he's immediately arrested and he's facing another felony. If he is, by the way, we're going to plead not guilty, allege the defense of constitutionality, wait until the CCLU's case is decided. We're going to bring our own federal court action and hope, in the meantime, you know that case is going to sit on the fence as the DUI cases did for a year or so until the court cleared up the revocation of the DUI law in the New London case. So nobody is going to do anything with these arrest cases anyway until this matter is cleared up.

So if he is arrested, what's going to happen? All that is going to happen is he's going to be arrested. The State's Attorney is going to put it on, I imagine, he's going to put it on the shelf until either the litigation goes forward because he's not going to want to try the case of constitutionality in the criminal courts. He's going to wait until the federal court speaks on it or the Legislature fine tunes, at least the retroactive part of it.

And by the way, I support all of the other speakers this afternoon who urged other reforms prospectively. The fact that I don't speak to them, I just don't want to be repetitious. My particular interest is my particular client and those like him. I think the retroactivity is particularly

reprehensible. There's no way he could have been advised by the judge as the present statute says. That judge must ascertain that they understand fully the consequences of their plea and the registration. That's about four lines down from the 1988 date in the same paragraph. Of course, it was impossible and I just think it's just only time before the court reverses that.

If there's any way that you could possibly do it without us having to go to court and spending a lot of money, money that these kids don't have, by the way, but I'll do it anyway and I mean that, for very little or no money because I believe in them. They're good people and sometimes we do things, as Mr. O'Neill knows, Representative O'Neill knows, sometimes we do things for reasons other than money.

They really deserve some help.

SEN. WILLIAMS: Representative Amann.

ROBERT KOLESNIK: Thank you for your attention.

SEN. WILLIAMS: Excuse me, there's a question here from Representative Amann.

REP. AMANN: Thank you, Mr. Chairman. I'm sorry. I had a screening meeting, so I did miss the beginning of your testimony. Your client was found guilty or not guilty? I apologize.

ROBERT KOLESNIK: Yes. First of all, I have filed copies of my testimony. So there is one available, but very briefly, eight years ago, in the middle -- two young kids in the middle of a divorce case go out one afternoon in an attempt to reconcile. And they go out together. They have lunch. And they go parking in the car and they're making love. And then shortly thereafter, the reconciliation -- that evening the reconciliation attempt fails and she goes home and her parents basically say to her, you shouldn't have done that. I told you not to make love to him. You're in the middle of - they had a child together, by the way. These were not --

REP. AMANN: How old were they?

ROBERT KOLESNIK: Nineteen and twenty-five. The girl was nineteen and he was twenty-five. So she files a spousal abuse - spousal rape claim against him and he's arrested and because he didn't have the money to try the case, and because it was a he said/she said, we pled nolo contendere to a reduced charge of probation. Before I did that, and I'm so glad I did today, I have with me a copy of the polygraph test that I made him take before I exercised my very vigorous efforts in his behalf and the polygraph test, if they are to be believed, says that he never did it.

REP. AMANN: How many years ago?

ROBERT KOLESNIK: This was eight years ago.

REP. AMANN: Eight years ago.

ROBERT KOLESNIK: And so he's in that twilight category where he has no hearing, he has no right to any hearing, he's got to register, his life will be ruined if he does. He has a wonderful family now. And he was innocent, but because of the system and he couldn't fight the charge --

REP. AMANN: Well, in all due respect, you say he's innocent. We're not quite sure. We're not involved in the case. We're taking your work on that.

But let me just go on to my next question.

ROBERT KOLESNIK: The polygraph --

REP. AMANN: I understand. I understand. I understand polygraphs. My next question to you, though, eight years ago he pled guilty -- did he have any prior record? First time arrested?

ROBERT KOLESNIK: First time and none since.

REP. AMANN: Okay.

ROBERT KOLESNIK: And now a lovely family --

REP. AMANN: I hear what you're saying.

ROBERT KOLESNIK: You heard that part of it.

REP. AMANN: I understand that.

ROBERT KOLESNIK: Right.

REP. AMANN: I guess my question to you is, you're asking us - you know, we've come across in the new legislation with this on the internet that since October that if they do not register, they're in violation with a Class D felony hanging over their head. You're asking us to do what? You want us to stop what we're doing in the middle of this right now? You want us to put a moratorium on it? What were you requesting from us?

ROBERT KOLESNIK: I'm asking you to consider for those who have not yet registered --

REP. AMANN: And how are we supposed to know who and who that is and who that isn't?

ROBERT KOLESNIK: The State Police know --

REP. AMANN: Well, the State Police know. So we're going to pick and choose who we should be arresting when everybody at that right now is under violation under that law. That's what you're requesting us to do.

ROBERT KOLESNIK: If it's a bad law, that's exactly what I'm requesting.

REP. AMANN: You believe it's a bad law. We don't -- many of us differ or we wouldn't have passed that law. I hear what you're saying. What you're doing is you're asking us to stop in the middle of where we're going for this one particular individual --

ROBERT KOLESNIK: There are more like him.

REP. AMANN: You're the first one I have heard of. I'm asking you, that's what you're requesting from us?

ROBERT KOLESNIK: Yes. Not only for this particular

individual --

REP. AMANN: Let me just explain something to you. I don't totally disagree with what you're saying.

ROBERT KOLESNIK: Sure.

REP. AMANN: I have to admit, I'm the original author of the bill in 1995. The intent of this bill has always been to go after the most violent of violent offenders. I know that somewhere in the last year or so some of this stuff we've gone off track on some of the stuff and people still believe that in working groups and in conversations that some people believe that these people, such as your client, should be on. Me, personally, I would tend to say that in some of these cases I am sympathetic and understand someone's plight.

My point is that the law is the law right now. And for you to ask us to do this for this one individual, puts us in quite a dilemma for the 500 or so other offenders out there that are not complying.

Now, it might be true that one or maybe 30 or maybe -- let's say half of these people are in the same situation as your client. What are you asking us to do about the other 250 or so or more that are actually are just in non-compliance and are very much sexual predators out there? How do we pick and choose?

ROBERT KOLESNIK: I think that there are two things. Number one, if you can, you can pass something, effective on passage, regarding the retroactivity and giving those people who are required to register the due process hearings that the other federal courts have said we should have anyway. And give them that due process hearing before they're arrested.

Or two, you can recommend to the Department of Public Safety that they look over the files and if they are going to, if you won't agree to some kind of a moratorium until the Legislature and the federal court deals with the issue, look over the

files. Why don't you start with the people -- if they are going to arrest, start with the people who have been convicted by a jury, first of all, and of those, the violent ones. I'm not an expert in this area. There are other people who are. And you've heard some testimony. The violent ones are the -- I've heard the name, the word, "predator" here. So if you're going to arrest someone, take a little bit of a look at it. You already know who they are and you know what they've been charged with. Not you, personally, but the State Police do.

We found about -- my client found out about this because he got a very shocking call from the State Police Officer about a month ago. He didn't even know the law had been passed, nor did I. And the officer who was very courteous, by the way, very kind, said, "Look, I just want to let you know you're on the list and you should go and register or else we're going to have to arrest you after a certain date." And he was just doing his job, of course. But that officer had his file and had the list of the non-registrants and, in fact, I understand the list has been published of the non-registrants. It is not unworkable and wouldn't require any kind of an effort, I think, for the State Police, if they are going to arrest, to at least look over the files. It would be in the public interest if they must go forward while we're doing all of this and I hope they don't, but if they must go forward, it would seem to be in the public interest to pick those who are to look like the most violent offenders if they're going to arrest somebody for not registering and someone in a situation like this, maybe put them on the end of the list. I mean, they can only process so many at a time, I would imagine.

But for him now to be arrested and he's not the only one. I'm not here to plead only for my client. I'm here to plead for that class of people who have not yet registered and I submit that I think and I'm not a human factors expert, but I think that a large number of those people who haven't registered probably fall into the same class of people as mine, that they probably were not guilty, but because of a technicality, especially in the area

of family law, there are so many abuses here, probably pled nolo because he had no choice.

REP. AMANN: I would agree with you that probably some people on that list are in the same category. But I certainly do not agree with you that it's the majority. I am privy to a lot of that information and there's a lot of bad cats out there walking the streets.

ROBERT KOLESNIK: I'm sure you're correct.

REP. AMANN: Okay.

ROBERT KOLESNIK: I don't know that.

REP. AMANN: So I mean my point is your testimony, though intriguing, puts, I think, many of us in quite a dilemma on how do we pick and choose these individuals? And you know, being an attorney for as long as you have, that that's not an easy thing to do once you write a piece of legislation.

ROBERT KOLESNIK: I know that.

REP. AMANN: Certainly, we are not in the intent to ruin people's lives. If there are individuals out there that somehow have fallen through the cracks, unfortunately, that happens a lot. It does. And you know that.

ROBERT KOLESNIK: I understand that. And I know my remedy is with the courts. I mean, one of the things I thought of doing was moving to re-open his conviction on the grounds that he wasn't advised by the judge in accordance with the new statute, by the way. That's another - I'm sure that none of this --

REP. AMANN: You know, I -- Mr. Chairman, both chairmen, in fact, I'm won't belabor this. I apologize. I did miss a lot of the testimony. I would have liked to answer a few other questions. I was in the middle of screening and I do apologize because there were some other folks I would have liked to have asked questions to. So maybe I'm putting some of my frustration more on you than I did some of

the other people that testified.

ROBERT KOLESNIK: That's okay.

REP. AMANN: But I do understand where he's coming from. I would like an opportunity to talk to the committee later about it and also Danielle and Mike Cicchetti later on, maybe after your testimony, if I have a chance.

ROBERT KOLESNIK: Sure. Anything you can do to help him, we would appreciate.

REP. LAWLOR: And if I could, Mr. Chairman, I think Representative Amann and the Governor's proposal, as well, acknowledge that there may well be people who are not necessarily dangerous, but who are, just the same, convicted sex offenders and that as complicated as it may be, maybe there is some system that could be written down, which is always our challenge. It's one thing to have sort of broad concepts and one thing to write the actual rules which would allow a process to sort out the not dangerous ones from all the rest and I think it's fair to say that if someone could come up with a system that satisfied all of our other concerns, not to create a loophole, in essence, that the bad guys could drive through, then it's worth doing and we've heard in the context of statutory rape-type cases, there's a lot people in a similar category. They got the phone call from the police and something that was obviously against the law, etc., for which they were held accountable is now turned into a different thing and I just wanted to -- just so that we're clear. When you say that your client was innocent, it's not to say that the incident didn't take place. Right? That he acknowledges there was sexual relations, etc?

ROBERT KOLESNIK: Oh, yes.

REP. LAWLOR: It's just a question of whether or not there was consent and that was the he said/she said debate. Right?

ROBERT KOLESNIK: They made love twice.

REP. LAWLOR: Okay.

ROBERT KOLESNIK: Once at 2:00 p.m. in the afternoon, another time at 5:30 p.m. and had lunch in between and visited a friend.

REP. LAWLOR: But the innocence is the question of consent, not a question of I wasn't there, I was out of town that day, etc.

ROBERT KOLESNIK: No. Absolutely. It was later that it turned out to be forcible.

REP. LAWLOR: Just out of curiosity. Didn't that person apply for accelerated rehabilitation? Didn't your client apply for AR?

ROBERT KOLESNIK: They wouldn't allow it. The victim objected.

REP. LAWLOR: I see. Okay.

ROBERT KOLESNIK: A crack in the floor boards. Trust me.

REP. AMANN: If - Mr. Chairman, did - has she ever gone back on her testimony?

ROBERT KOLESNIK: There's never been an occasion to -- no.

REP. LAWLOR: Just one last question. Obviously, it's complicated and time consuming, but I'm wondering if anyone ever explored the possibility of a pardon, given what you've said. I mean, whether or not there was consent and let's assume for a moment that it's possible that your client is guilty for what he's charged with, have you gone down that road?

ROBERT KOLESNIK: I can address that. My client had forgotten about all of this. It wasn't until a month ago that he got the call from the officer that he had to register. He didn't even know this had been passed. And his new wife, by the way, knew all about it. He made full disclosure. So, it was no surprise to her. So on the issue of a

pardon, we'd love to have time to pursue that. I'd love to have time to re-open the original case, if I could, on the grounds that he wasn't advised by the court that he had to register, but we're expecting a knock on the door and a warrant very soon. And let me tell you, they're living in fear and that's why -- they are literally trying to scrape together a few hundred dollars to pay costs, sheriff's costs and entry fees so that we can file some kind of injunctive relief, if we could ever prevail on it. Injunctive relief, that is, to prevent the enforcement of the penalty provision until such time as the Legislature revisits this or the federal court decides the case, the class action that's been filed.

So, time is our problem. And they were delighted when I told them I was coming here. I had heard about this late last week and I said I'll come and I'll tell your story with your permission. And they were thrilled and delighted that I came and it really is pro bono. They're wonderful people and I don't mean to try to evoke tears, but they really are and they're living in anxiety and agony and I'm sure there are people, by the way, who have been victims on the other side who can say the same.

So, it's a question of balancing the interest from reading it and from talking to people here in the Legislature, I kind of know this was like an oversight and maybe -- nobody can think of all of the implications of any bill that's passed, but until it's passed and the fallout. But -- well, you've heard enough. You know the situation.

So, if you can do anything, by way of a stop gap measure, if it doesn't endanger the public, if it doesn't violate the purposes for which you passed the legislation - nobody wants to do that. I've been on the other side of these cases too where there have been legitimate assaults and no one can argue with --

REP. LAWLOR: Can I ask you another question, sir?

ROBERT KOLESNIK: Of course.

REP. LAWLOR: I'm just intrigued that earlier on you said that the people, his co-worker had been fired as a consequence of showing up on the internet and I'm assuming, whatever job he has, like many jobs when he applied for it he was asked has he ever been convicted of a crime. Do you know how he dealt with that question when he first applied for the job?

ROBERT KOLESNIK: I do and I'm not at liberty to say.

REP. LAWLOR: Okay. Alright.

ROBERT KOLESNIK: But you can imagine.

REP. LAWLOR: Okay. I understand.

ROBERT KOLESNIK: And maybe it wasn't so honorable, but a wife and a baby and a house and at least he knows he's innocent and I think he's innocent.

REP. LAWLOR: Well, it's not a crime to lie on a job application unless you're applying for a state job.

ROBERT KOLESNIK: I know, but --

REP. LAWLOR: I was just curious.

ROBERT KOLESNIK: -- maybe one can be criticized for that. But I assume there was at least one other person -- there was one other person in the organization who also did it because -- whatever.

But it was the co-workers who apparently were up in arms. I'm not going to work with a sex offender. And the company of 150 people.

So, it's a toughie. It's a toughie. It's really balancing the interest. It's a tough job and that's why I never ran for the Legislature. God bless you all.

SEN. WILLIAMS: That is the last witness that we have signed up. Is there anyone else wishing to testify?

Thank you very much.

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**Testimony
For the Judiciary Committee**

**Office of Policy and Management
March 15, 1999**

House Bill No. 6784
An Act Concerning Sexual Offenders

This testimony is submitted to request favorable consideration of House Bill No. 6784, *An Act Concerning Sexual Offenders* which implements the recommendations of the Committee to Study Sexually Violent Persons. The committee's recommendations, and the Governor's response through this bill, arose out of widespread public concern regarding the dangers posed by violent sex offenders upon their release from incarceration. This bill makes significant enhancements to the detention and supervision of sex offenders in Connecticut.

In Sections 1 and 2, this bill establishes a center for the clinical evaluation of sexually violent persons. The purpose of the center is to adopt statewide standards for assessment of sex offenders, establish credentialing of professionals, and provide for quality assessment and treatment directly or through contract with private providers. Currently, there are a number of providers in Connecticut who contract with state agencies to perform assessment and treatment of sex offenders; however, there is no mechanism in place to assure the quality of the services or qualifications and expertise of the providers.

The first two sections of the bill accomplish two significant policy changes. First, these sections will provide the courts and state agencies charged with custody of sex offenders with consistent, state-of-the-art assessments to use in making informed sentencing, treatment and release decisions. Second, these sections mandate pre-release clinical assessment of incarcerated violent sex offenders to identify those who are mentally ill and in need of civil commitment. The sexual offender assessment center must be

established by the Department of Mental Health and Addiction Services in consultation with practitioners, academics and other state agencies in order to maximize existing professional input into the design and use of the center. The Governor's proposed budget recommends \$2 million in FY00 and \$3 million in FY01 for the center.

In Section 3, the bill creates a new status of "special juvenile probation" for certain juvenile sex offenders by providing the courts with the authority to impose a mandatory probation supervision period of at least five years which will be transferred to adult probation at age 18. This change will ensure that juvenile sex offenders will receive supervision and treatment for an appropriate period of time.

In Section 4, the bill permits the courts to deal much more harshly with repeat sex offenders, to the point of potentially imposing life in prison for a second or subsequent violent sexual offense by creating two new criminal categories: persistent dangerous sexual offender and persistent serious sexual offender. These two new categories separate sexual offenses from non-sexual offenses and provide significantly enhanced penalties.

- ✓ The persistent dangerous sexual offender category will include a second or subsequent sexual offense involving violence, such as forcible rape. Because of a history of violence and causing physical harm, these offenders would face sentences of up to life imprisonment, and would face a mandatory minimum sentence of ten years in prison. In contrast to the existing persistent dangerous offender statute (C.G.S. §53a-40(a)), the persistent dangerous sexual offender category: (a) subjects an offender to a possible life sentence upon a second conviction rather than a third, and (b) sets a ten year mandatory minimum where a one year term currently exists.
- ✓ The persistent serious sexual offender classification will include a second or subsequent sexual offense where either the prior offenses or the present conviction do not involve violence, such as statutory rape. These offenders could be sentenced as if convicted of the next highest degree of felony, and would serve not less than five years in prison. With respect to the current persistent serious felony offender classification (C.G.S. §53a-40(b)), the new persistent serious sexual offender

designation imposes a five year mandatory minimum term of incarceration which is not currently required. It is our intention that a prior incarceration would not be required as a precondition for qualifying as a persistent serious sexual offender.

Sections 5-8 require that offenders convicted of the most serious sex offenses be sentenced to a combination of incarceration and parole which together constitute a significant period of time. For sex offenders eventually released to the community, these sections will greatly extend and intensify the period of supervision to which they are subjected and, by using parole rather than probation, will permit immediate reincarceration for those who do not comply with conditions of release. Specifically:

- ✓ Section 5 increases the penalty for sexual assault in the first degree by mandating a total sentence (term of imprisonment and period of special parole) of at least ten years and by expanding the mandatory minimum from one year to two years.
- ✓ Section 6 creates a mandatory penalty for aggravated sexual assault in the first degree by requiring a period of incarceration and special parole which together constitute a sentence of twenty years.
- ✓ Section 7 increases the sentence for sexual assault in the third degree in two ways: by increasing the mandatory minimum from one to two years and by mandating a period of incarceration and special parole which together constitute a sentence of ten years.
- ✓ Section 8 amends special parole to conform with the revised sentences for sex offenses.

In closing, this bill reflects the Governor's belief that, in Connecticut, the criminal justice system, rather than the mental health system, remains the appropriate venue to promote public safety through the detention and supervision of criminal offenders, including sex offenders. Together with the proposed strengthening of Megan's Law sex offender registration requirements in H.B. 6785, the Governor intends to send a clear message that criminals who commit vile and devastating crimes will be removed from society for as long as possible.

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STATE OF CONNECTICUT
OFFICE OF POLICY AND MANAGEMENT

FACT SHEET
1999 LEGISLATIVE SESSION

HOUSE BILL NO. 6785 – AN ACT CONCERNING THE REGISTRATION OF SEXUAL OFFENDERS

SUMMARY OF THE PROPOSAL:

This legislation is required to correct deficiencies in Connecticut's Megan's Law (PA 98-111) and bring the statute into compliance with federal laws to avoid the loss of \$650,000 in grant funds annually. The bill will make a series of technical changes to clarify the registration required for sex offenders. The changes to the current law include those recommended by the committee established under section 11 of Public Act 98-111 and others proposed by Governor Rowland.

The key changes made by this bill are:

- Sexually violent offenders, recidivists and aggravated sexual offenders now face lifetime registration without chance of release.
- Courts may exempt statutory rapists from registration if under 19 at the time of offense and they pose no threat to public safety.
- Spousal rape and incest offenders may have dissemination of their registration information restricted to law enforcement use only if publication of this information would identify the victims in their communities, and there is no threat to public safety.
- States and municipalities are immune to civil action by anyone (not just registrants) for carrying out Megan's Law, so long as their actions are not wanton, reckless or malicious.
- Anyone who commits a crime against a registrant because of their status as a convicted sex offender shall be guilty of a class A misdemeanor in addition to the specific offenses committed.
- Registration follows conviction, and is not stayed by appeals.
- Connecticut residents who commit registerable offenses in other states must register in Connecticut as well upon their return to this state.
- Connecticut registrants who regularly travel or temporarily reside in other states must register there, as well.
- Registrants from other states who regularly travel into or temporarily reside in Connecticut must register here as well.
- All registrants must provide a DNA sample for inclusion in the State Police DNA data bank.
- Photographs must be re-taken every five years.

REASON FOR PROPOSAL:

To implement the Governor's budget recommendations.

SIGNIFICANT IMPACTS:

The modifications to assure compliance with federal legislation will avoid the loss of \$650,000 annually in criminal justice grant funds.

Contact Person: Jean Henry or Michael Chowaniec
OPM Capitol Office • Hartford, Connecticut 06106
Telephone: 524-7387 or 524-7386

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Connecticut Sexual Assault Crisis Services, Inc.

110 Connecticut Boulevard
East Hartford, CT 06108
(860) 282-9881 Phone/TTY
(860) 291-9335 Fax
www.connsacs.org

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To: Senator Williams, Representative Lawlor and Members of the Judiciary Committee

From: Gail Burns-Smith, Executive Director

Re: Bill 6785, AAC The Registration of Sexual Offenders

Position: Support with Changes

My name is Gail Burns-Smith. I am the executive director of Connecticut Sexual Assault Crisis Services, Inc., which is the association of all 12 community-based rape crisis centers in the state. Through our members, we provide a broad array of free, confidential services to sexual assault victims and their families. I am here today to comment on RB 6785, AAC The Registration of Sexual Offenders.

Since Connecticut's Megan's Law passed, we have monitored its impact on sexual assault victims and their families, as well as the law's impact on community safety. We have always had reservations about such a statute since we know that most victims never report their victimization to law enforcement. Additionally, we also have been concerned that this law is potentially misleading to communities since it focuses community attention on only those whose crimes meet the statutory definition and fall within a certain time frame. Finally, this law's most serious defect, is that it only gives the community information about the statute that the sex offender was convicted of, and does not provide the community with any information about the dangerousness or risk of reoffense behavior of any of the individuals on the list. What none of us saw, however, were some of the unintended consequences of the passage of this law on sexual assault victims.

Last year, we began receiving calls from victims and their families who have been negatively impacted by this law. We heard from mothers whose children had been victimized by a family member and that offender had been adjudicated, served time and now had returned to the community. These children were now being revictimized when the offender information appeared in the community. One mother told the heartbreaking story of her children who had to watch the school principal put up a picture of their father who had abused them, in the hallway. They had had to endure snickers and whispers just as they had when the crime had originally been reported.

Again, when the Sex Offender Registry Committee held public hearings, we again heard from victims, their families and spokespersons who provide the committee with further evidence that this law was having negative consequences on some victims. We believe that the report the Section 11 Committee sent to this legislature outline some of those concerns and offered recommendations to address them. This proposal before you today, contains some of those recommendations, and we support much of what it calls for. We believe, however, that it does not go far enough in several areas:

1. This proposal does not call for risk assessments of offenders to be done prior to release into the community. We believe that this is a serious flaw in this proposal. As we have already mentioned, simply stating the statute that a sex offender was convicted of provides the community with no useful information to determine whether or not such an offender poses a risk to the community. Although there are no absolute tests, which will predict with 100% accuracy, the risk an individual poses, there are valid assessment tools, which can at least give the community, better information than currently exists with our present registration system. We would encourage this committee to ensure that the courts have the best information possible before allowing any offender to waive registration.

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2. This proposal in Section 6, (b), allows for the court to restrict the dissemination of information in certain incest and child sexual abuse cases when the information is not required for public safety and the identity of the victim is likely to be revealed. We support this section, but unfortunately, the proposal goes on to remove this measure when the victim attains the age of 19. We believe that it is important to protect children, but victims do not so easily outgrow their own shame and concerns about being recognized as a sexual assault victim. We would ask that the committee remove this last portion of that section, and give victims the piece of mind that they so rightly deserve.
3. Finally, we do not see any discretion for the courts in cases of statutory rape. We would urge this committee to ensure that the courts also have such discretion since quite often the convicted offender in such cases is not a real sex offender, but can be convicted simply because of the age difference between the parties. We do not believe that these offenders pose a risk to the community, as do other types of offenders. Again, we would support a risk assessment be done by a qualified treatment provider, and allow the courts to make the decision regarding registration.

We want to offer our assistance to the committee in any way that we can be helpful as these important changes to Megan's law are made.
Thank you.

JOHN G. ROWLAND
GOVERNOR
Michael L. Mullen
Chairman

State of Connecticut



BOARD OF PAROLE

21 Grand Street * Hartford, CT 06106

001525

TELEPHONE
(860) 692-7400
FAX
(860) 566-2048

Proposed Testimony to the Judiciary Committee from the Connecticut Board of Parole

March 15, 1999

Chairman Lawlor, Chairman Williams, distinguished members of the Judiciary Committee; I appear before you today in support of H. B. 6785, "An Act Concerning the Registration of Sexual Offenders". This legislative proposal makes several significant changes to the existing laws concerning sex offender registration. While each provision of this proposal is extremely important, I would like to call your attention to a few:

The most dangerous sexual offenders would, under this proposal, be subjected to a lifetime registration requirement. This provision recognizes that an offender's propensity for criminal behavior does not necessarily diminish with the passage of time.

Ours is a highly mobile society. This bill contains provisions that would require sex offenders from other states to register if they regularly travel or temporarily reside in Connecticut. Our citizens deserve to be informed of any sex offender regularly coming into the state. In addition, Connecticut residents who commit registerable offenses in other states would be required to register in this state upon their return. Certainly, the fact that a crime was committed elsewhere should not allow sex offenders to circumvent our registration requirement.

Sexual offenders irrevocably alter the lives of their victims. Crime victims, and their representatives, have expressed concern that the existing statute could lead to the identification of crime victims living in the community. Victims of spousal rape and incest may be especially vulnerable. H. B. 6785 would allow for limited dissemination of registration information in these cases provided public safety is not compromised.

Consensual sexual encounters between young people can sometimes lead to criminal conviction, even though the persons involved may be relatively close in age. Such penalties are essential in a society that seeks to protect children during their early teenage years. However, in some of these instances, the person convicted poses little or no risk to the community in general. A provision

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Page 2 of 2
Proposed Testimony
Megan's Law

of this bill would allow judges to waive registration requirements in statutory cases when the offender is under the age of nineteen.

The current law places the responsibility of community notification squarely upon the shoulders of criminal justice agencies. Collection, validation, and dissemination of information pertaining to sex offenders presents new challenges to the criminal justice community. Public officials make difficult decisions concerning scope and content of any community notification. This bill contains language, which would limit the legal liability of public officials who, acting in good faith, are doing their best to fulfill their obligations under the law and protect the citizens of our state.

We believe that HB 6785 is a well thought out and timely refinement of the existing statutes requiring Sex Offender registration. The Connecticut Board of Parole fully supports this important piece of legislation.

Thank you for the opportunity of appearing before you today.

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State of Connecticut
JUDICIAL BRANCH
OFFICE OF THE CHIEF COURT ADMINISTRATOR
231 Capitol Avenue
Hartford, Connecticut 06106

EXTERNAL AFFAIRS DIVISION
Fax: (860) 566-3308

Director of External Affairs, (860) 566-8210
Manager of Communications, (860) 566-8219
Staff Attorney, (860) 566-8210

Testimony of Deborah J. Fuller
Judiciary Committee Public Hearing
March 15, 1999

House Bill 6785, An Act Concerning the Registration of Sexual Offenders

Good afternoon. My name is Deborah Fuller and I appreciate the opportunity to provide you with written testimony in support of *House Bill 6784, An Act Concerning the Registration of Sexual Offenders*.

This bill incorporates many of the recommendations of the committee that was established by P.A. 98-111 and chaired by Judge Aaron Ment. It alters the current registration law by:

- giving the court flexibility to determine whether or not a teenager convicted of statutory rape as the result of a relationship with a girlfriend or boyfriend must register;
- providing a mechanism for accommodating victims by restricting the registration of certain offenders with law enforcement only; and
- not mandating public access to the information.

The Judicial Branch, however, is concerned about the effective date of the bill, the language of the appeal bond section and the retroactive nature of some sections of the bill. We are working with representatives of the Office of Policy and Management and the other sponsors of the bill to resolve these issues.

Thank you for the opportunity to provide written testimony on this bill.

001528

RICHARD BLUMENTHAL
ATTORNEY GENERAL



55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120
(860) 808-5318

Office of the Attorney General
State of Connecticut

TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE JUDICIARY COMMITTEE

MARCH 15, 1999

I appreciate the opportunity to speak in support of House Bill 6785, An Act Concerning the Registration of Sexual Offenders.

This measure addresses several significant issues that have been raised by our practical experience with Connecticut's Megan's Law. First, the legislation clarifies that a person who is convicted of a sex crime in another state while maintaining a permanent residence in Connecticut must register here. Last year, a Simsbury man was convicted of a sex offense in New Hampshire -- and who served a prison sentence and then returned to Connecticut -- argued that our Megan's Law did not apply to him because he always "resided in Connecticut". There should be no doubt about the requirement. Second, there should be no question about mandatory registration pending an appeal of a sex offense conviction. When asked for an opinion, I found that the intent of Megan's Law was to require registration while an appeal was pending.

As this measure recognizes, there should be some discretion to exempt Megan's Law registration in cases where the perpetrator is under the age of 19 years and the court determines that the offender is not a threat to public safety. Courts may also limit public notification of sex offenders who are guilty of incest or spousal assault if the offender poses no risk to the public. Under these circumstances, individual victims would be clearly identified, aggravating the pain that they suffer.

One area that has not been completely resolved relates to proactive notification by local law enforcement officials. Interim community notification guidelines recommended by the committee chaired by former Chief Administrative Judge Aaron Ment do not clarify the various duties and responsibilities of local police and the Office of Adult Probation. If OAP is to be the lead agency for proactive notification, the law should so state. The law should also provide for rules and regulations regarding such notice. At this point, local police are understandably confused as to what role they should have. I urge the committee to amend House Bill 6785 to address this issue.

I urge your committee's favorable consideration of this important legislation.

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STATE OF CONNECTICUT
OFFICE OF POLICY AND MANAGEMENT

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Testimony Presented

By

Michael J. Cicchetti, Undersecretary
Intergovernmental Policy Division
Office of Policy and Management

To The

Judiciary Committee

March 15, 1998

Regarding HB 6785, An Act Concerning the Registration of Sexual Offenders.

Good morning Senator Williams, Representative Lawlor and members of the Judiciary Committee. For the record my name is Michael Cicchetti and I am an Undersecretary at the Office of Policy and Management. I would like to thank you for affording me the opportunity to speak in front of you today.

I am here today to testify in favor of HB 6785, An Act Concerning the Registration of Sexual Offenders. Section 11 of Public Act 98-111 established a committee to report to the Governor and the General Assembly with recommendations concerning the issue of the registration of sexual offenders. This committee was chaired by the Honorable Judge Aaron Ment, then Chief Court Administrator; and representatives from the Chief State's Attorney's Office, the Office of Adult Probation, the Connecticut Police Chief's Association, the Department of Public Safety, the Department of Corrections, the Psychiatric Security Review Board, the Connecticut Sexual Assault Crisis Center and the Office of Policy and Management. The bill before you today includes the recommendations of this committee, plus other provisions intended to meet federal standards and improve public safety in Connecticut.

The Section 11 Committee raised concerns about situations in which registration information regarding the sex offender may reveal the identity of the victim of the sexual assault, thus re-victimizing them. This is clearly not the intention of Megan's Law and

needs to be addressed. The last thing that anyone wants is to subject victims to additional hardships. The two areas of primary concern are incest and spousal sexual assault. The bill before you give judges the discretion in these instances to order the Department of Public Safety to restrict the registration information to law enforcement purposes only, and not to make such information available for public access, provided that the court finds that dissemination of the registration information is not required for public safety. Additionally, prior to making this decision the court will consider any information or statements by the victim. These restrictions on the dissemination of registration information are narrowly drawn and will last only so long as circumstances warrant.

The Committee also had concerns about requiring registration for certain cases of statutory rape. Therefore, the bill before you will allow a court to waive registration for statutory rape offenders who were under the age of 19 at the time of offense and the victim was over thirteen but less than two years younger than the offender. As in the instances previously described, the court also must find that public safety does not require registration of the offender. I would like to point out that this change would not apply to those convicted of crimes involving victims under the age of thirteen.

Connecticut's version of Megan's Law needs to be modified in order to comply with federal requirements. Failure to comply with these federally mandated changes could result in the potential loss of revenue of 10% of the Byrne Grant Funding or some \$650,000 per year to the State of Connecticut. Many of these changes are minor, but I would call your attention to the following:

- Violent sexual offenders are now subject to registration for life. They cannot seek release from the registration obligation after ten years, as they can under current law.
- Recidivist and aggravated offenders are now subject to a lifetime registration obligation.
- Registrants from this state who regularly travel to other states, and registrants from other states who regularly travel into Connecticut will have to cross-register in each state they travel.
- Connecticut will participate in the National Sex Offender Registry Program.

The bill would add to the offenses covered under Megan's Law. Those convicted of importing or possessing child pornography, as well as persons convicted of sexual assault in the fourth degree would be subject to the registration requirement. It is our feeling that the public should be aware of those convicted of these crimes.

The bill also includes a provision increasing the penalty for any offense committed against registrants because of their status as convicted sex offenders. The purpose of Megan's Law is to make it possible for the public to protect themselves from those who have demonstrated a capacity for committing sex offenses. It is not intended as additional punishment for these offenders. This enhanced penalty is intended to deter any efforts to drive these people from their homes, or worse, vigilantism.

The Internet and the information available at the local police departments or state police troops are the essence Connecticut's version of Megan's Law. However, this is no reason to prevent or even discourage local police departments or state police troops from proactively notifying their communities about sexual offenders if they so choose. The decision to proactively disseminate information should be a local law enforcement and community decision based upon a totality of the circumstances. Municipalities have indicated a reluctance to do any proactive notification without some sort of protection. The bill addresses this issue by granting limited immunity to the state police or the local police departments. If local police departments or state police troops do choose to proactively notify the community they should be civilly protected.

In a related issue, the need for a community education program dealing with the issue of sexual assault and sexual offenders became quite evident through both the public hearings and the numerous meetings of the section 11 committee. Thus, we strongly recommend that community education and public awareness be continued as outlined in Public Act 98-135. The public education should focus on the limitations of the registration systems, and what the community and parents can do to avoid becoming victims of sexual assault.

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In order to address issues dealing with the compliance of those required to register, the Governor's proposed budget includes additional funding of over \$775,000 for the Department of Public Safety's Sex Offender Unit. This includes funding for nine additional positions in the unit and money for operations and enforcement.

In addition to House Bill 6785, I would like to request your favorable consideration of House Bill 6784 "An Act Concerning Sexual Offenders" which is also before you today. This bill implements the recommendations of the Committee to Study Sexually Violent Persons and will make significant enhancements to the detention and supervision of sex offenders in Connecticut. The Chair of the Committee, Gail Sturges from the Department of Mental Health and Addiction Services, will be testifying before you in more detail regarding the specifics of the bill.

In conclusion, House Bill 6785 will significantly improve the process of making information available to the public about convicted sexual offenders so that they can better protect themselves and their families. It also protects the identity of victims of sexual assault. This bill fulfills the mandates of the federal guidelines on registration of sexual offenders, thus avoiding the loss of federal grant funds.

I thank you for the opportunity to address you and I respectfully urge the committee to issue a favorable report concerning this bill.

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State of Connecticut



DEPARTMENT OF PUBLIC SAFETY

Dr. Henry C. Lee
Commissioner

Senator Donald E. Williams
Representative Michael P. Lawlor
Co-Chairpersons
Judiciary Committee
Legislative Office Building
Hartford, CT 06106

March 15, 1999

**RE: - PROPOSED BILL HB # 6785 AN ACT CONCERNING THE
REGISTRATION OF SEXUAL OFFENDERS**

***THE DEPARTMENT OF PUBLIC SAFETY WOULD SUPPORT THIS
PROPOSED LEGISLATION***

The Department of Public Safety has been involved in the committee established under Section 11 of Public Act 98-111, to discuss problems and issues relating to the registration of sexual offenders and to recommend necessary modifications for this law. This bill reflects the newest technical changes that would address concerns and problems addressed by numerous agencies including our own, legislators and the citizens of this State.

This bill in part strengthens, identifies and focuses on sex offenders that are considered dangerous to public safety. These offenders are the violent "predators" and violators that are repeat offenders. This bill strengthens their requirement to a lifetime of registration without a chance of release from that obligation. In addition, this bill also identifies violators not a risk to public safety and allows some restrictions on registration requirements or an exemption from registration given their crime such as statutory rape, spousal rape and incest offenders.

This bill also balances a concern that crimes may occur against a registrant because of their status as a convicted sex offender. This bill make it clear that it would be a crime to intentionally target them and violators would be subject to a class A misdemeanor offence in addition to the specific offenses committed against them.

This bill clarifies the registration process. That registration obligation starts after conviction, Connecticut residents who commit registerable offenses in other states must register in Connecticut upon return to this State and Connecticut registrants or registrants from other states who regularly travel or temporarily reside in Connecticut must register here.

P. O. Box 2794, 1111 Country Club Road
Middletown, CT 06457-9294
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Page 2 of 2
House Bill # 6785
March 15, 1999

This bill clarifies that all registrants must provide a DNA sample for inclusion in the Connecticut State Police DNA data bank. DNA analysis has been proven to be very effective in identifying serial rapists, solving crimes and protecting people falsely accused.

This bill mandates that registrant's photographs must be re-taken every five years. It is necessary to accurately identify sex offenders in the photograph data bank when extended periods of time occur. However, additional resources will be needed to update and maintain these photographs.

The Department of Public Safety is the agency tasked with the administrative responsibility and enforcement of Megan's Law. We believe this bill will improve our efficiency and ability to administer and enforce this law. With improvements found in this bill, we believe that public safety in this area will be enhanced and maintained.

Sincerely yours,



Dr. Henry C. Lee
COMMISSIONER

**Judiciary Committee
Public Hearing
March 15, 1999
Testimony of John J. Armstrong
Commissioner, Department of Correction**

House Bill 6785

• **H.B. 6785 An Act Concerning the Registration of Sexual Offenders**

Good afternoon Chairman Williams, Lawlor and members of the Judiciary Committee. I am pleased to be here today to pledge my support for House Bill 6785, An Act Concerning the Registration of Sexual Offenders.

As you are aware, public safety is a key component of our mission within the Department of Correction. Bearing this mandate in mind, every effort is made to manage the public risk of offenders who have been remanded to our custody through the judicial process. This responsibility goes far beyond ensuring that these offenders simply remain incarcerated. In fact, this responsibility involves constant vigilance and interaction with other law enforcement agencies to maintain a network of information that will assist in deterring criminal activity. This is especially important within the return of sexual related offenses.

The modifications that are proposed in this bill will significantly impact Connecticut's version of Megan's Law and become more compliant with federal statute. In addition, we will also ensure funding for criminal justice grants that will further assist in combating criminal activity.

In lieu of the anticipated testimony of my fellow law enforcement colleagues, I would like to briefly identify the issues that will directly affect the Department of Correction. This proposal will authorize the Commissioner of Correction the following authority as prescribed in section 11:

- Allows the Commissioner of Correction the authority to draw a DNA specimen of any individual convicted of a sexual offense at any time prior to release from custody.
- Mandates every person under the care and custody of the Commissioner of Correction who is convicted of a sexual offense as identified by statute to comply with registry requirements.
- Compliance applies beyond those convicted prior to October 1, 1994.

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In closing, I would like to further support this legislation by acknowledging our citizens who have been victimized by the actions of a sexual predator. Our collective commitment is clear. The public has an undeniable right to be informed. The agenda of this legislative session will empower the public through a knowledge and awareness that is essential to safety and quality of life within our communities. Thank you.

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TESTIMONY OF ROBERT S. KOLESNIK BEFORE SENATE JUDICIARY COMMITTEE

HB 6785

1. The retroactivity of the "Megan's Law" registration requirement is unconstitutional and creating extreme and severe hardship to many innocent and undeserving people.

2. The retroactive registration requirement has been stricken as unconstitutional in at least one state.

3. By way of example, I represented a person, who shall be referred to as John Doe, almost 8 years ago who, in the middle of a divorce case, was charged with sexual assault on a spouse. This allegedly occurred during an attempted reconciliation meeting. On complaint of his spouse, he was arrested. He pled not guilty, and I am personally convinced that he was, in fact, not guilty. He could not afford a jury trial, so he was forced to plead nolo contendere, and received a suspended sentence and probation. The divorce was then finished, he remarried, has two children, a wonderful family life, a lovely wife, a great job in a large company, and has just purchased a home in a nice neighborhood.

4. In my personal opinion, he was not guilty of anything, never sexually assaulted anybody, nor ever would, is a model citizen, and in no way could ever be any kind of a threat to any other human being.

5. This person received a call from a State Police Officer telling him that unless he registered as a sex offender under the new law, he was going to be arrested. If he registers, his name will immediately be on the Internet, circulated in the neighborhood, at work, and possibly all over the town where he lives. His children and wife will be mortified, embarrassed, and ostracized. His job will most likely be terminated. His life will be destroyed.

6. The statute requires that any judge accepting a plea make absolutely certain that the person who pleads understands clearly the repercussions of such a plea that he will have to register and his name will become public. This was never done eight years ago and could not have been done since the statute was not in existence then. John Doe and many others like him would have never entered pleas of nolo contendere if they knew their names would be publicized as sex offenders.

7. In my experience and opinion, there are many false complaints of sexual abuse brought by people in divorce and custody battles. They are dangerous and are difficult to defend, even when innocent. Many times a plea of nolo contendere (I am not guilty, but I do not wish to contest the charge) will be entered as a practical alternative rather than risk a trial. Your law requires such people, as well as many others who are not a threat to society, to bear the stigma of registration as a sex offender when they are not.

8. I do not think this is any different than the attempts to have AIDS patients register publicly. This has obviously been stricken by the courts as unconstitutional.

9. You should pass emergency legislation rescinding the statute immediately.

Respectfully submitted,



Robert S. Kolesnik

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 8
2466-2803

1999

Now, we're going to depart from our normal procedure just for one moment because one of the topics we're considering today is that dealing with crime victims.

A few weeks ago in the public hearing on Megan's Law, people testified indicating that there was an 11 year old girl who wanted to testify on that bill to convey her comments, but that she was concerned that the public exposure that would be involved in testifying here would create some problems for her. I met with that family privately and at the child's request, we have agreed to play a tape recording of her testimony. Just take a moment and in order to introduce that tape, I'd like to ask that Barbara Bunk and Beverly Brakeman come forward and they'll give a very brief explanation to the committee on the context. In other words, what this incident revolves around and then we'll play the tape and I believe members of the committee have the transcript of the testimony. In other words, what's going to be on that tape.

(HB 6785)

So, please proceed.

BEVERLY BRAKEMAN-COLBATH: Good afternoon, Representative Lawlor, Representative Doyle, Representative Farr, and members of the committee.

Thank you very much for letting us do this. I know it's a little out of the ordinary and we really appreciate it and we'll be very brief. So, thank you.

BARBARA BUNK: We will, as Representative Lawlor said. My name is Barbara S. Bunk. I'm a psychologist from Glastonbury. And I, amongst other things treat victims and perpetrators of childhood sexual abuse and their families.

You're going to hear a short audio tape of --

REP. LAWLOR: Pull the microphone over, please.

BARBARA BUNK: Certainly. You're going to hear a short audio tape of an 11 year old girl whose Dad was

convicted of sexually abusing her when she was four years old. The family has been in treatment with me and with other providers since that time.

As she's grown up, she's developed an interest in society and the ramifications of, in particular, abuse and consequently she's been acutely aware of the goings on of Megan's Law and the consequences for her. Particularly of the issues of names and addresses of sex offenders, registration, and being published on the internet.

She did want to speak publicly herself, but her family wished to maintain whatever privacy they could at this point and so she wrote this letter to let you know how she feels.

The tape is a little bit difficult to hear and understand. She's speaking very quickly and softly as an 11 year old girl might. So the committee does have a copy of it in front of them. I will certainly be happy to answer any questions afterwards.

REP. LAWLOR: Sure. And just so I understand correctly.

I know when they met with me, the mother and father were with the child. The father was convicted as a result of his criminal offense here and I think the mother was the one who went to the police to report it in the first place. Is that correct?

BARBARA BUNK: That is correct. The specifics of this situation began as you said. The mother -- the child disclosed at age four to the mom. The mom -- actually I believe I was the first person that she called and under guidance, she called DCF. She and the child went to the police station. They live in a town in the middle of the State which has a very excellent juvenile police division and the child was interviewed there shortly thereafter and the dad was arrested. Even prior to his arrest he moved out of the house, kind of followed the script of all that needed to happen. Willingly cooperated with all of the guidance from the police as well as any treatment provider.

Within the year, I believe, he was convicted and put on probation. A part of the probation was mandated sex offender treatment at a sex offender treatment program which he added to what the treatment that he had already been getting.

The child, as I had said, and her family came into treatment with me early in 1991. And they've been in treatment ever since.

REP. LAWLOR: Great. Okay. If the committee staff would play the tape and I would encourage people to read along on the copy that you have.

We can't hear that at all. We've got to stop. Hold on a second. Is there a microphone there, Ryan?

ANONYMOUS GIRL: Representative Lawlor, Senator Williams and members of the Judiciary Committee.

First things first. Just because I'm in the 6th grade does not mean you can try to ignore me or say I wouldn't understand, but I do understand, probably even more than you because I was sexually abused.

I think Megan's Law is a good idea, but it has flaws. First, I think people who have served their time, have had counseling, but are not repeat offenders shouldn't be put on the list. To decide who is on the list, the sex offenders, counselors, and the police should work on the list. The police should not be the only to make the list because the counselors know more about the offenders than the police.

The police would make a list of the offenders with all the information on the offenders' crimes. The list should be sent to the counselors to evaluate them to see if the offenders should be on the list of those who are at risk to the community. At time limit should also be part of deciding who is on the list.

When all the offenders are on the internet you are giving information about some people who aren't at

risk of committing crimes and you are hurting the offenders' families. Children of sex offenders are being hurt as the law is now because the list identifies them. Kids at school are afraid of contact with the offender's family, make fun of them, and ask difficult questions.

I already lost two friends and one girl wants to be friends, but her parents won't let her. I am afraid of losing my other friends who might find out and to lose my baby sitting clients because of the list.

I have forgiven my dad for his harm to me. I'm angry about having the feelings come up again and how the list is currently handled.

Please change the way the list is set up and exclude those at low risk or not repeated offenders.

Sincerely, an 11 year old girl.

REP. LAWLOR: And I just want to - I was in the meeting and both of you were in the meeting and I think without question, this is not a letter that someone else wrote for this child. She's mature beyond her years and I think for understandable reasons, but here basic plea was to provide some flexibility so that in a situation where the victim might be once again victimized that that could be avoided, if at all possible.

Did you have anything you wanted to add?

BARBARA BUNK: Not really. That's clearly said. Thank you.

REP. LAWLOR: Is there any member of the committee that would like to ask a question at this point? If not, thank you very much.

BARBARA BUNK: Thank you very much.

REP. LAWLOR: On the public list the first persons to sign up to testify are John Boyd, Mary Casey, Jim Lotstein and Richard Convicer.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 9
2804-3108

1999

(7101)

March 26, 1999

003079

Dear Representative Lawlor, Senator Williams, and Members of the Judiciary Committee,

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(HB 6785)

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