

Legislative History for Connecticut Act

**Public Act:** 00-80  
**Bill Number:** 5903  
**Senate Pages:** 1215, 1244-1246  
**House Pages:** 1687-1706  
**Committee:** Judiciary: 3351

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
and House of Representatives Proceedings

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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2000

VOL. 43  
PART 4  
1008-1358

001215

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pat

Senate

April 18, 2000

433, HB5880 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

434 is PR.

435, HB5903 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

436, HB5822 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

437, HB5132 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

438, HB5424 I move to the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

SEN. JEPSEN:

Page 24, Calendar 442, HB5178 I move to the  
Committee on Appropriations.

THE CHAIR:

Without objection, so ordered.

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Senate

April 18, 2000

Calendar Page 6, Calendar 312, Substitute for  
SB593.

Calendar Page 7, Calendar 319, Substitute for  
SB563.

Calendar Page 8, Calendar 339, HB5676.

Calendar Page 10, Calendar 351, SB611.

Calendar Page 19, Calendar 404, HB5157.

Calendar 406, Substitute for HB5864.

Calendar Page 20, Calendar 407, Substitute for  
HB5051.

Calendar 411, Substitute for HB5589.

Calendar Page 21, Calendar 412, Substitute for  
HB5615.

Calendar 413, Substitute for HB5683.

Calendar 422, Substitute for HB5292.

Calendar 423, Substitute for HB5672.

Calendar 424, HB5678.

Calendar Page 22, Calendar 426, Substitute for  
HB5890.

Calendar 427, Substitute for HB5781.

Calendar Page 23, Calendar 432, Substitute for  
HB5782.

Calendar 433, HB5880.

Calendar 435, Substitute for HB5903.

Calendar 436, Substitute for HB5822.

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Calendar 437, Substitute for HB5132.

Calendar 438, Substitute for HB5424.

Calendar Page 24, Calendar 444, Substitute for  
HB5637.

Calendar 445, Substitute for HB5299.

Calendar 446, HB5121.

Calendar Page 25, Calendar 449, correction. On  
Page 24 it's Calendar 446, HB5120.

Calendar Page 25, Calendar 449, Substitute for  
HB5017.

Calendar 450, HB5536.

Calendar Page 26, Calendar 78, SB86.

Calendar 84, Substitute for SB76.

Calendar Page 31, Calendar 245, Substitute for  
SB449.

Calendar Page 34, Calendar 416, HJ104.

417, HJ106.

418, HJ113.

419, Substitute for HJ122.

Calendar Page 35, Calendar 421, HJ134.

Calendar 439, HJ77.

Calendar 440, HJ86.

Madam President, I believe that completes the First  
Consent Calendar.

THE CHAIR:

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Senate

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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. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? Senator Sullivan. 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. Senator Jepsen.

SEN. JEPSEN:

Thank you, Madam President. One change marking. Page 27, Calendar 124 previously marked go I would at this time move this item which is SB9 to the Consent Calendar.

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
2000

VOL. 43  
PART 6  
1650-1961

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House of Representatives

Wednesday, April 12, 2000

Would the Clerk please call Calendar 357?

CLERK:

On page 12, Calendar 357, Substitute for House Bill Number 5903, AN ACT CONCERNING THE STATUTE OF LIMITATIONS FOR PROSECUTION OF SEXUAL ASSAULT.  
Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER HYSLOP:

Representative Doyle.

REP. DOYLE: (28TH)

Thank you, Mr. Speaker. I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will you remark?

REP. DOYLE: (28TH)

Thank you, Mr. Speaker. What this bill does is it extends the statute of limitations for six offenses, primarily sexual offenses, serious sexual offenses. It extends the statute of limitations to enable the prosecution to pursue these cases up to an additional fifteen years.

Presently, the general rule is there is a five year statute of limitation. This will extend most of these situations to fifteen years. The reason for this statute

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is that with the recent explosion and development of DNA analysis and technology, this has enabled investigators to determine, at a later date, the particular circumstances of a case and, in some cases, identify who the perpetrators of the crimes were.

Therefore, with our technology we can go back approximately fifteen years or so. That's the level of the expertise and the technology. So therefore, it's a sound bill and it will enable us to try to obtain, identify and prosecute some of the defendants in these serious sexual offense cases.

I move its adoption, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further? Representative Tulisano.

REP. TULISANO: (29TH)

Mr. Speaker, the Clerk has an amendment, LCO 3317.

DEPUTY SPEAKER HYSLOP:

. Clerk, please call LCO 3317, to be designated House "A" and the Representative has asked leave to summarize.

CLERK:

LCO Number 3317, House "A" offered by  
Representative Tulisano.

DEPUTY SPEAKER HYSLOP:

Representative Tulisano.

REP. TULISANO: (29TH)

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Yes, Mr. Speaker. Mr. Speaker, this amendment modifies Section 52-582 of the General Statutes which limits a person's petition for a new trial in any civil or criminal proceeding except within three years after rendition of judgment.

The new language would allow one to re-open at any time if DNA evidence is discovered or discovered available after the trial which maybe after three years, but it would not have been available during that period of time and I would move its adoption.

DEPUTY SPEAKER HYSLOP:

The question is on adoption of House "A". Will you remark further on House "A"?

REP. TULISANO: (29TH)

Mr. Speaker, I think that this is really a corollary to the purposes of the file copy. There's an extension of the statute of limitations because the State gets new evidence that someone might be guilty. The fact of the matter is that someone might be innocent also and this gives the same benefits to people who can show their innocence as a result of DNA to petition a new trial based on that evidence.

And it is worded the way it is because the technology changes so quickly and that's why we use the words "available" or "discoverable" because of changes

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in the technology which might make evidence more available at one point in time than it was in another even though a form, as an example, of DNA testing was available within the last two years, a newer form maybe more specific and be able to obtain evidence because of new technology.

I move its adoption.

DEPUTY SPEAKER HYSLOP:

The question is on adoption of House "A".

Representative Doyle.

REP. DOYLE: (28TH)

Thank you, Mr. Speaker. It's my pleasure to concur with the comments of Representative Tulisano on this amendment. We don't always agree, but I think this is a good amendment. It's a fair amendment that would allow individuals that evidence declares them to be innocent should be able to - justice should be served and I think it's a two way street and it's a correct bill and I'm proud to support Representative Tulisano on this amendment.

DEPUTY SPEAKER HYSLOP:

Representative Farr.

REP. FARR: (19TH)

Thank you, Mr. Speaker. I also would concur in the support of the amendment. It is important to understand

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that the underlying bill is a very important bill as is the amendment.

Because of the use of DNA now, in other states and there had been a number of cases where my understanding now is that there has been at least 20 cases in other state where people have been freed who were previously convicted because DNA analysis that was not available, now indicates that those individuals did not commit the crime.

DNA analysis is a very accurate way to determine whether or not somebody was, in fact, the perpetrator of the crime and I think this is a reasonable amendment and I would strongly support it.

DEPUTY SPEAKER HYSLOP:

Would you remark further on House "A"? Would you remark further on House "A"?

Representative Cafero.

REP. CAFERO: (142ND)

Thank you, Mr. Speaker. A question, through you, to the proponent of the amendment.

DEPUTY SPEAKER HYSLOP:

Representative Tulisano, prepare yourself for the question.

Representative Cafero.

REP. CAFERO: (142ND)

Representative Tulisano, through the Speaker, just a question. I concur with the rationale behind this amendment. I think it's very fair. I just have a practical question. Let us assume there's a piece of evidence that was around at the time of the original trial, but was not discovered at the time of the original trial, subsequently discovered. Would that evidence pertain to this amendment?

Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Tulisano.

REP. TULISANO: (29TH)

Through you, Mr. Speaker. It if was discoverable, not discoverable or available at the time, we use the word "available" and it deals with DNA, remember it's limited to the DNA structure, not any other kind of evidence, not evidence generally, but in DNA. So if it had DNA evidence available, which would tend -- the person was only going to use it if it was going to tend to exonerate them, and it was not available to them because for whatever reason, then it would be able to be used.

DEPUTY SPEAKER HYSLOP:

Representative Cafero.

REP. CAFERO: (142ND)

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Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on House "A"? Will you remark further on House "A"? If not, we will try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed. The ayes have it. House "A" is adopted.

Will you remark further on the bill, as amended?

Representative Farr.

REP. FARR: (19TH)

Thank you, Mr. Speaker. This is a very important piece of legislation. What has happened in Connecticut is similar to what's happened in other states. It used to be after a woman was raped that they took - they had a rape kit and they took samples of evidence and they preserved those. Unfortunately, before DNA was available, the amount of information they could get from that evidence was limited.

What's happened, however, is that many of those rape kits and the evidence is still around. So what you have is you have women who were raped six, seven, eight,

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ten years ago and we are now able to do a DNA analysis and get a DNA signature on the individual who did the rape.

Because we're now taking samples of DNA from convicted sexual felons in Connecticut, they're able to do matches and they able to identify somebody who more recently committed a crime as the one who actually committed the rape six or seven years ago.

I'm told by the State Police that there are actually two cases out there, one in Waterbury and one in New Haven that are slightly more than five years old in which they've identified who actually - who committed the rape through a DNA analysis, but they're not able to do anything with it because of the fact that the statute of limitations has run.

The normal reason we put a statute of limitations on criminal cases is because attempting to weigh the balances in our criminal justice system, we recognize that it is very difficult to accuse somebody of committing a crime more than five years ago, it's very difficult for that - the accused to raise an adequate defense because if somebody comes to you and says where were you Friday night six or seven years ago, how would you know where you were?

So generally speaking the burden is upon the State

to make that accusation in a timely fashion so that the defendant can raise a defense and have a fair trial.

This bill is limited to those cases where the evidence is, that scientific evidence, the DNA signature and so what will happen is for those cases where a rape occurred, the victim made the timely complaint, but we had no way of knowing who perpetrated the rape, but now we can identify who it was through a DNA analysis and we'll be able to charge that person - charge the perpetrator of the rape with the crime of rape.

I believe that once this bill is passed, the State Police and their labs will start going back looking at the thousands of cases which were unsolved and which would have rape kits and try to do a DNA analysis.

I don't know how many successful analyses they will come up with, but my guess is that they will be coming up with at least tens, if not hundreds of cases which we'll now be able to solve and now able to charge people who perpetrated some horrible crimes and who got away with it for more than five years and be able to successfully prosecute them. With the amendment from Representative Tulisano, on the other side of it, we will also have the opportunity to re-examine some cases where there maybe the possibility that somebody is unjustly - been unjustly been convicted of a rape or

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another crime where now there is scientific evidence that they didn't do it.

So I think this is a very important piece of legislation. I urge the Assembly to vote for it.

Thank you.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill, as amended?

Will you remark further on the bill, as amended?

Representative Tulisano.

REP. TULISANO: (29TH)

Mr. Speaker, I didn't intend - I hadn't thought about this until Representative Farr just indicated that by passage of this bill, as amended, that we may very well authorize the -- the State Police would go back and look at old cases and re-open them.

The defense side, a person whose innocent or an individual has less restrictions on it than the State does, if you will. And normally, when we pass criminal laws that are narrowly construed against the State and when you pass legislation that would benefit individuals, it is generally construed in the broadest terms possible because vis a vie the power of the State against an individual.

And so I don't know if it's been thought about or even talked about, we often talk about it at this point

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in time, however, and through you, Mr. Speaker, a question to Representative Doyle, the proponent of the bill.

If the statute of limitations has, in fact, run against an accused over five years ago, an incident occurred over five years ago and as a result of, say, a rape case and you have an unsolved rape case and you have a pair of underwear which has remnants of specimens, so you can have a DNA test and because we now have a DNA bank that somebody can compare it with in sexual cases and all of a sudden they do this connection because of new technology, can this - can they now re-open the case against an individual whose accused even though the statute has already run?

I believe if the statute hasn't run yet, then possibly this would extend that statute. I understand that. I'm right now concerned about cases which have - the statute has already run against them - has the State the power to do that?

Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Doyle.

REP. DOYLE: (28TH)

Through you, Mr. Speaker. As I understand the question, I think the answer to it is, in fact, yes it

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would apply to those prior cases and I would reference line number 13 where it says this act shall take effect from its passage and shall be applicable to any offense committed prior to on or after said date. So my reading of that is yes, it would be retroactive in that sense.

So in your hypothetical, if technology - if the DNA technology were to be applied to the clothing that you mentioned, that could be retroactive. So yes. I think the answer is yes, it is retroactive.

Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Tulisano.

REP. TULISANO: (29TH)

Well, through you, Mr. Speaker, then I know what the line says, but my question is an incident that occurred, but I would presume that means an incident for which the statute, I would presume, for which the statute has not run against them. And I think this is important. Through you, Mr. Speaker, I don't mean to belabor this issue, but if a person can no longer be convicted and we are now going to raise again an offense, isn't that more akin to an expose facto law saying that all of a sudden we have decided that - up until today you were not culpable of any offense against the State for acts that you had, in fact committed, but

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now we're going to sort of breathe you life into it so that we can get you? When does that stop then? If we can do that in this instance, is it then capable -- are we then possible of doing - in other instances?

So I would just ask that -- I'm really struggling for answers, through you, Mr. Speaker, that maybe perhaps somebody can respond to.

DEPUTY SPEAKER HYSLOP:

Representative Doyle.

REP. DOYLE: (28TH)

Through you, Mr. Speaker, in this situation is limited to the introduction of new DNA technology. I understand the comments and concerns of Representative Tulisano, but I think under the circumstances with DNA, the Legislature can make this decision to utilize this technology and look back.

It's my understanding in a similar situation in murder cases - we have already done this and it's to my understanding that the courts are going to deal with this issue if Fairfield County. It's a pending matter, but it's my understanding that in murder cases we have looked back in similar situations.

Through you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Tulisano.

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REP. TULISANO:

Through you, Mr. Speaker. I understand that the courts have not, in fact, decided this right now. Then, for the record, let me point - let me say, for the record, in my opinion that to revive a crime that is already expired by this Legislature would, in fact, be defected and be inappropriate on the part of this General Assembly and any vote, at least on my part, and I don't know for others, I can't speak for others, does not indicate an agreement with the fact that this deals with those cases which the statute of limitations has already run.

It seems to me it's like any other piece of legislation we pass that if cases are still pending and haven't gone to full litigation, that we might effect things by changes here.

But once - as an example, we have been prompted to change laws because of the Supreme Court decision, as an example in Connecticut, and we've done it very often. It's effected everybody but that particular case and that may seem unfair, but we do it and I would think that -- and from my point of position on the bill that is before us, is that, in fact, it is inappropriate and wrong and I think unconstitutional and akin to what an expose facto law would be and prohibited by our

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constitution and the Constitution of the United States to try to bring alive and create a new offense when one already does not exist.

That's effectively what this would do.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further? Representative Farr.

REP. FARR: (19TH)

Yes. Mr. Speaker, let me answer those concerns.

The case down in Fairfield County is the, I believe the Skakal case. The defense has raised the issue of the statute of limitations. Because the Legislature, in its wisdom, changed the statute of limitations for murder which used to be five years and lifted it in its entirety so there is no longer a statute of limitations for murder.

Now there is one case in Connecticut in which the court said that the - interpreted that raising the statute of limitations and the defendant successfully raised the issue of whether or not the raising of the statute of limitations applied to cases prior to the legislative action.

It is my understanding that the court in that case, the only issue to the court in that case is whether the intent of the Legislature was to raise it so that it

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would apply to cases which occurred prior to the date.

The court was only trying to look at the intent. The court, in its interpretation, never accepted an argument that the Legislature could not raise the statute of limitations so that cases which the statute had already run could not, in effect, be prosecuted.

And I would remind the body that this is the not the first time that the Legislature has extended statute of limitations in criminal cases. We did it in the area of sexual crimes against young individuals where they now have, I believe, five years after they turn the age of majority to bring a complaint. When we passed that legislation we also made it apply to cases that had - to instances which had occurred prior to the date of that act.

I don't believe there's any constitutional issue here. It is the clear intent of this statute, as drafted in the statute, to apply to cases that occurred more that five years ago.

If there is some constitutional concern, I would point out that we are not alone in doing this. That New York is also doing this. That many other states are looking at this issue and also attempting to do this for exactly the reason I explained earlier. We have evidence that we can now analyze, that we can now, beyond a

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reasonable doubt, prove that somebody committed the horrible crime of rape and they did it more than five years ago.

If there is a constitutional bar to doing that, then well I guess the courts eventually will address that. I don't know of any cases in which the courts have said that we're barred from doing this and I would urge the body to pass it and it is the clear intent of the written language of this statute and it's the clear intent of myself in supporting and proposing this legislation to make it apply to those cases that existed more than five years ago as of the effective date of this act.

Thank you.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill, as amended?  
Representative Tulisano for the third time.

REP. TULISANO: (29TH)

For the third time, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Third time. Any objections? None. Go ahead.

REP. TULISANO: (29TH)

Mr. Speaker, again, I will be voting for the bill, but again for the record as Representative Farr just put on the record, it is not my intent in voting for this

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bill to support the contention that, in fact, it is retroactive in terms of those cases in which statutes have already run. There's got to be some limitation in terms of witnesses and there's got to be some limitations involved. So you can't go back fifteen, twenty, twenty-five or thirty years. There's got to be an end.

So, I understand and support extending the statute this time for cases that haven't expired already. And now we'll extend many of them. So, it won't expire.

I don't know what the court litigated when it said we can - they looked at our intent. I don't know if counsel raised the constitutional expose facto issue. I can't decide that and Representative Farr is correct. If someone looks at this record, we're assumed the constitutional arguments will be litigated at that level.

But let me just add with regard to the issue of extending the statute of limitations because of age. You may recall the debate and you research that, I think we structured that not in terms of substantive law which I think this law, substantive, in fact, but procedural. And if it were procedural I think not only did we state that, but we, in fact, wrote it in a way in which the court would look at it as procedural and, of course,

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uphold what we did.

I think this is a substantive change in the law and therefore would raise those issues.

Now, very clearly we can vote on this bill now and they'll read Representative Farr's arguments and mine sometime, and will be happy to read the decision in a couple of years from now.

Thank you, Mr. Speaker.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill, as amended?

Will you remark further on the bill, as amended?

If not, staff and guests to the well of the House.

The machine will be opened.

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.

DEPUTY SPEAKER HYSLOP:

Have all the 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.

The Clerk will announce the tally.

CLERK:

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House Bill Number 5903, as amended by House  
Amendment Schedule "A"

Total Number Voting	145
Necessary for Passage	73
Those voting Yea	145
Those voting Nay	0
Those absent and not voting	6

DEPUTY SPEAKER HYSLOP:

The bill, as amended passes.

Are there any announcements or points of personal  
privilege?

Representative Malone.

REP. MALONE: (47TH)

Thank you, Mr. Speaker. I rise for the purpose of  
an introduction.

DEPUTY SPEAKER HYSLOP:

Proceed.

REP. MALONE: (47TH)

Thank you, Mr. Speaker. Seated in the well of the  
House are some young men from Norwich who are charged  
with the responsibility of looking after our community,  
which they do very well. Todd Postler and Ben Lathrop  
are here with me. They're aldermen in the City of  
Norwich.

I want to welcome them. I also want to, if you

JOINT  
STANDING  
COMMITTEE  
HEARINGS

JUDICIARY  
PART 10  
3029-3353

2000

003351



Connecticut Sexual Assault Crisis Services, Inc.

110 Connecticut Boulevard  
East Hartford, CT 06108-3157  
Phone/TTY: 860-282-9881  
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To: Senator William, Representative Lawlor and Member of the Judiciary Committee  
From: Beverley Brakeman Colbath  
Connecticut Sexual Assault Crisis Services  
Re: R.B. 5903 An Act Concerning The Statute of Limitations for Prosecution of Sexual Assault

Position: Support

My name is Beverley Brakeman Colbath and I am the Associate Director for the Connecticut Sexual Assault Crisis Service, Inc. which is an association of 11 rape crisis centers located around the State. Through our community based member centers we provide confidential, free and 24 hour crisis intervention counseling, medical, legal advocacy, information, referrals and risk reduction education.

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