

Legislative History for Connecticut Act

Act Number:	PA 04-130	
Bill Number:	5603	
Senate Pages:	1918-1931, 2011-2012	16
House Pages:	1751-1769	19
Committee:	Judiciary: 2075-2078, 2091-2092, 2263-2266	10

Page Total:

45

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

Connecticut State Library

Compiled 2013

H-914

CONNECTICUT

GEN. ASSEMBLY

HOUSE

PROCEEDINGS

2004^{SP}

VOL. 47

PART 6

1621-1891

SPEAKER CURREY:

The bill passes in concurrence.

I know that we're moving in to a close time before the team arrives. And the level is rising. I would ask that you please try to keep it quiet, keep the conversations down, so that we can conduct business and continue on.

Will the Clerk please call Calendar 337?

THE CLERK:

On Page 8, Calendar 337, Substitute for House Bill No. 5603, An Act concerning sexual assault of youths by persons standing in a position of trust, authority or supervision. Favorable report of the Committee on Judiciary.

SPEAKER CURREY:

Representative O'Connor of the 35th.

REP. O'CONNOR:

(35th)

Thank you, Madam Speaker. I move acceptance of the joint committee's favorable report and passage of the bill.

SPEAKER CURREY:

The question before us is on acceptance and passage. Please proceed, sir.

REP. O'CONNOR:

(35th)

This bill addresses situations that have arisen

between students participating in training programs and by those who stand in a position of power, authority or supervision. Patterned after the statutes that prohibit sexual relationships between teachers, coaches and instructors with those who are under the age of 18, it is my intention to incorporate others who have the power, authoritarian or supervisory roles over these same young people.

There were a couple of instances along the shoreline where inappropriate sexual relationships were advanced by virtue of the professional, legal, occupational or volunteer status of the actors over our young people. One was a firefighter and the other was a police officer. In each case, the authority figure manipulated the young person because of their positions and the subordinate role of the girls involved.

We have already taken steps in this body to protect our children. And this simply expands these protections. Rather than coming to the legislature each year to identify different constituent groups that need to be integrated into the existing statute, this bill will protect our children and will deter predatory behavior.

Madam Speaker, the Clerk is in possession of an amendment, LCO 3292. And I ask the Clerk to call it and

prh

116

001753

House of Representatives

Wednesday, April 21, 2004

I ask leave to summarize.

SPEAKER CURREY:

Would the Clerk please call LCO 3292, designated House "A"?

THE CLERK:

LCO No. 3292, House "A", offered by Representatives O'Connor and Farr.

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR:

(35th)

Thank you, Madam Speaker. This amendment addresses the concerns raised in the Judiciary Committee to clarify and better define the instances by which this bill will apply. One, it increases the age of the actor from 18 years to 20 years old. It is thought that 18 and 19-year-olds were in the same peer group and that the relationship may have been initiated while both were minors. Two, it substitutes "power" in place of the word "trust" to better define the situations in question. And, three, the prohibited relationships must be tied to specific programs or activities.

I would just like to thank Representatives Farr, Hamm, Nardello and Olson for their help in making this a better bill.

And I move adoption of the amendment.

SPEAKER CURREY:

The question before us is on adoption of the amendment. Would you care to comment further on the amendment before us? Would you care to comment further on the amendment before us? If not, I'll try your minds.

All those in favor please signify by saying Aye.

VOICES:

Aye.

SPEAKER CURREY:

All those opposed, Nay?

The amendment is adopted.

Would you care to comment further on the bill as amended?

Representative O'Connor.

REP. O'CONNOR:

(35th)

Yes, Madam Speaker. I just wanted to say that it's important that we tighten the existing statute and send a message to those in the positions of power, authority or supervision that they cannot have sexual relationships with those who are under the age of 18. We must protect our young people and the integrity of our institutions.

I move passage of the bill. Thank you very much.

SPEAKER CURREY:

Thank you, sir.

Representative Sharkey of the 88th.

REP. SHARKEY:

(88th)

Thank you, Madam Speaker. Madam Speaker, I rise this afternoon in support of this bill as well. If you remember, two years ago we passed what has now become known as the coaches bill, which was a similar bill to this in that it criminalized the behavior of coaches who would use their position of power and control over students and athletes under their supervision for their own sexual purposes.

Just the other night, I had a conversation with Officer Mike Shanley from the Southington Police Department who was the officer who actually brought this investigation of the Southington High School coaches with -- brought all that forward a couple of years ago, which was a major impetus of the bill two years ago. And to my surprise, he indicated to me that, despite this legislation that we did two years ago, there are still folks who don't seem to understand that their position of power and control over young people is one of a special trust that they are continually ignoring for their own sexual gratification.

We really need to get this message out to our adults who are in supervisory positions with young

people that this is unacceptable behavior. And we need to criminalize this kind of behavior for the future and make sure that we have very, very clear statutes to prevent this kind of activity in the future.

Thank you, Madam Speaker.

SPEAKER CURREY:

Thank you, sir.

Representative Kirkley-Bey of the 5th.

REP. KIRKLEY-BEY:

(5th)

Thank you, Madam Speaker. I would like to associate my comments with those of Representative Sharkey. I have been truly I guess appalled and somewhat annoyed, frightened I guess is a better word, by the number of people who are in positions of authority over our children who are taking advantage of that authority and who are leading them down to a path that leads to many years of mental and physical suffering.

But, through you, Madam Speaker, to the proponent of the bill, my question is just for my own edification. What is the criminal penalty on this? This is a class what felony? And what is the number of years associated with that?

REP. O'CONNOR:

(35th)

It is sexual degree -- sexual assault. And a Class

"C" felony. It is, I believe -- it's punishable by up to ten years in prison.

SPEAKER CURREY:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5th)

And I would assume, Madam Speaker, through you, to the proponent of the amendment, this fits also within the 85 percent of the time due to be served if convicted?

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR: (35th)

That is correct. And, also, I just want to point out that nine months of the prison term cannot be reduced or suspended.

SPEAKER CURREY:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5th)

Madam Speaker, through you, to the Representative. And I'm assuming that this individual's name will then be on the predator list?

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR: (35th)

Yes, it would.

SPEAKER CURREY:

Representative Kirkley-Bey.

REP. KIRKLEY-BEY: (5th)

Thank you, Madam Speaker.

And thank you, Representative O'Connor, for those remarks.

SPEAKER CURREY:

Representative Green of the 1st.

REP. GREEN: (1st)

Thank you, Madam Speaker. Madam Speaker, a few questions on the bill as amended? Through you, Madam Speaker.

SPEAKER CURREY:

Prepare your question, sir.

REP. GREEN: (1st)

I see the age for the actor changed from 18 to 20 years old. Can you tell me why the change in age?

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR: (35th)

Yes. That was basically to alleviate some of the concerns with the Judiciary Committee. It was thought that they were in the same group. And, also, the fact that some of these relationships may have already been initiated while they were minors.

prh

122

House of Representatives

Wednesday, April 21, 2004

SPEAKER CURREY:

Representative Green.

REP. GREEN:

(1st)

Thank you. I just want to be clear then. If there's an action that's consensual, if the person is under 17 and the actor is over 20 and it was consensual agreement, would that person be subject to being prosecuted?

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR:

(35th)

Through you, Madam Speaker. Can you please restate the question? I didn't hear the beginning.

SPEAKER CURREY:

Representative Green.

REP. GREEN:

(1st)

Thank you. Through you, Madam Speaker. Let's imagine that the actor was 21 years old and the other person was under 18, but it was a consensual agreement for this activity. Would that person be subject to being prosecuted?

REP. O'CONNOR:

(35th)

They would not, unless they are in an authoritarian or supervisory role.

SPEAKER CURREY:

prh

123

001760

House of Representatives

Wednesday, April 21, 2004

Representative Green.

REP. GREEN:

(1st)

Thank you. Let me see if I can clarify that question. If a person is 17 years of age and is in a mentoring program and agrees to a consensual sexual relationship with one of the mentors who is 21, would that mentor be subject to prosecution?

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR:

(35th)

Through you, Madam Speaker. Yes, it would. It would apply.

SPEAKER CURREY:

Representative Green.

REP. GREEN:

(1st)

Thank you. Even though I support the concept here and I realize the avenues that we have to take to try to make sure that our children are safe, I think that we're getting a little -- we're stretching quite a bit in the sense of the kind of behaviors, one that's consensual, and for me, the kind of things that's going to put people under some severe consequences if they are found guilty of this.

From what I understand, this bill will apply to those individuals -- well, let me ask a question,

through you, Madam Speaker.

SPEAKER CURREY:

Please frame your question, sir.

REP. GREEN: (1ST)

Thank you. Does this bill apply to those involved with or charged with Sexual Assault in the Fourth Degree?

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR: (35th)

I'm sorry. Through you, Madam Speaker. Can you please restate the question?

SPEAKER CURREY:

Representative Green.

REP. GREEN: (1st)

Thank you, Madam Speaker. Would this language apply to those individuals charged with a Sexual Assault in the Fourth?

REP. O'CONNOR: (35th)

Through you, Madam Speaker. I believe it would.

SPEAKER CURREY:

Representative Green.

REP. GREEN: (1st)

Thank you, Madam Speaker. Madam Speaker, I just want to let the Chamber know that Sexual Assault in the

Fourth does not reach the level of sexual intercourse and/or sexual intercourse. Sexual Assault in the Fourth reaches a level of sexual contact which could be touching, hugging. It really is less of a standard that what I think we're trying to protect here, which is really the Sexual Assault One, Two and Three which involve sexual intercourse. Sexual Assault in the Fourth could be sexual contact. So that, for example, you have a 21-year-old volunteer or a 21-year-old mentor who hugs a 16-year-old based on a victory or based on a congratulatory way. If that 16-year-old felt uncomfortable and said that person should be charged with sexual contact, that's the level of what we're saying here.

So I think some of the things that we're trying to do to protect the young people, we need to be very careful because, again, Sexual Assault in the Fourth is somewhat different than the other sexual assault classifications because it really just involves sexual contact. And that's one of the things that we sometimes forget.

So, again, I'm not sure where I'm going to vote on this. But I think that on one hand that we're trying to protect our young people and we realize how egregious this kind of behavior is and they should be prosecuted

House of Representatives

Wednesday, April 21, 2004

to the full extent of the law. There's going to be a lot of misunderstandings. And I think that we're going to put a number of individuals who have good intentions, particularly volunteers and mentors, afraid to be involved with young people at this point.

Thank you, Madam Speaker.

SPEAKER CURREY:

Would you care to comment further on the bill before us?

Representative Ward of the 86th.

REP. WARD: (86th)

Thank you, Madam Speaker. Madam Speaker, I have just a couple of questions for purposes of legislative intent, if I may, through you, to Representative O'Connor.

SPEAKER CURREY:

Please frame your question, sir.

REP. WARD: (86th)

Representative O'Connor, the portion that I would ask a question to is when it ascribes the, quote, "other person's participation in a program or activity." And to just give you a couple of hypotheticals. If the actor is an RA in a dorm and the other party is a student in that dorm, perhaps a student, a freshman aged 17 and 10 months, and an RA aged 20 and a week, is

living in a dorm participation in a program or activity for purposes of this statute?

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR: (35th)

Through you, Madam Speaker. Yes, it would.

SPEAKER CURREY:

Representative Ward.

REP. WARD: (86th)

If the two actors are lifeguards and one is the head lifeguard, the 20-year-old, and the nearly-18-year-old is just a regular lifeguard, would that qualify as supervisory for the purposes of this new statute?

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR: (35th)

Through you, Madam Speaker. I do believe that that would pertain to that individual.

SPEAKER CURREY:

Representative Ward.

REP. WARD: (86th)

Through you, Madam Speaker. If both actors belong to the same club -- maybe it's a college band -- and one was band captain and that was the 20-year-old and the younger freshman who is just under 18 was just a member

of the band, would that be viewed as supervisory, thereby making the activity that this refers to a criminal act?

REP. O'CONNOR: (35th)

Through you, Madam Speaker. No, that one would not. I believe what we want to get at, just to go back to your other hypotheticals, is that these are supervisory roles where one person has a status over the other. One is subordinate to the other and can be manipulated because of those positions. I do not think the example that you just described as far as the band or club would apply.

SPEAKER CURREY:

Representative Ward.

REP. WARD: (86th)

Madam Speaker, I certainly appreciate what this is aimed at. I'm aware of the circumstances in the general region that Representative O'Connor and I represent. And there was, in fact, a fairly large age difference between the actor and I'll say victim, for what I view is an appropriate way to view this.

I'm just trying to make sure, because we are criminalizing activity and I want people that might be engaging to know that we are criminalizing that activity. Yet, again, because it represents -- it says

"program or activity", if there's an employer/employee relationship, meaning both folks work for the same -- maybe a restaurant and one is considered the shift supervisor and one is just a regular employee, maybe in a fast food place, is working in a restaurant participation in a program or activity as defined by this statute or is that not participating in a program or activity?

Through you, Madam Speaker.

SPEAKER CURREY:

Representative O'Connor.

REP. O'CONNOR: (35th)

Through you, Madam Speaker. I believe if they have direct supervisory control over that individual, it would apply.

SPEAKER CURREY:

Representative Ward.

REP. WARD: (86th)

I thank the gentleman for his answer. And I do want to be supportive of the bill. I actually thought the answer would be a little different. I thought when we were referencing a program or activity, we were really focused on the very kinds of activities that a parent of the younger child may have thought somebody was in a responsible adult relationship to that person

House of Representatives

Wednesday, April 21, 2004

and you're almost entrusting them in the care of that person, such as I know in the one incident it was belonging, I believe, to an Explorer type post. I didn't actually think that it was meant to apply where someone is over the age of consent and maybe your co-workers but then one of them gets the promotion to shift supervisor and, if they were dating before and they continue to date, that that becomes now a crime. I thought program or activity was meant to limit to those circumstances where they thought somebody was really entrusted to someone else's care.

And I certainly agree where we've entrusted someone to someone else's care, that that trust should not be abused by taking advantage of the younger person. I thought in some of my hypotheticals it really wasn't an entrusting to care. It was -- I agree there's some supervisory -- and I think it's already illegal if you took the supervisory authority and tried to force somebody into an activity.

And I will just leave it at that and let people make their individual judgment. But it was my sense in reading it that the specific language that says "and such other person's participation in a program or activity" implied something kind of organized in some way so that there was an entrusting and not supervisory

House of Representatives

Wednesday, April 21, 2004

in an employer/employee type relationship. And I'll leave that to individual members' judgments.

Thank you, Madam Speaker.

SPEAKER CURREY:

Thank you, sir.

Would you care to comment further on the bill before us? Would you care to comment further on the bill before us? If not, staff and guests to the well of the House. The machine will be opened.

THE 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.

SPEAKER CURREY:

Have all members voted? Have all members voted? Please check the board and be sure your vote is properly cast. If all members have voted, the machine will be locked. The Clerk will take a tally.

The Clerk will announce the tally.

THE CLERK:

House Bill 5603, as amended by House "A",

Total number voting, 147;

Necessary for passage, 74;

Those voting Yea, 138;

Those voting Nay, 9;

Absent, not voting, 4.

SPEAKER CURREY:

The bill as amended passes.

Representative Donovan of the 84th.

REP. DONOVAN: (84th)

Thank you, Madam Speaker. For the purposes of an introduction?

SPEAKER CURREY:

Please proceed, sir.

REP. DONOVAN: (84th)

Thank you, Madam Speaker. Madam Speaker, joining us here at the General Assembly to watch the House in action and to pay tribute to the UConn Huskies is my wonderful daughter, Sarah Donovan, and her friend, Kay Marie Shepard. And I ask everyone to give them a warm welcome. Thank you, Madam Speaker.

(APPLAUSE)

SPEAKER CURREY:

Representative Winkler of the 41st.

REP. WINKLER: (41st)

Thank you, Madam Speaker. A point of personal privilege?

SPEAKER CURREY:

Please proceed, Madam.

REP. WINKLER: (41st)

S-497

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2004

VOL. 47
PART 7
1872-2165

Thank you. I would like to take a moment to introduce a very familiar face to the circle, a former colleague of mine from the House, former Deputy Mayor of the Borough of Naugatuck and former Representative also from the Borough of Naugatuck, Kevin Knowles. And he is making his rounds. And I'd like the circle to just join me in once again welcoming him back here to the Capitol. Thank you.

(APPLAUSE)

THE PRESIDENT:

Thank you, Senator.

And, Kevin, welcome to the circle. It's nice to see you again.

Are there other announcements or points of personal privilege?

If not, Mr. Clerk?

THE CLERK:

Turning to Calendar Page 13, Calendar No. 478, Files No. 491 and 651, Substitute for HB 5603, AN ACT CONCERNING SEXUAL ASSAULT OF YOUTHS BY PERSONS STANDING IN A POSITION OF POWER, AUTHORITY OR SUPERVISION. (As amended by House Amendment Schedule "A".) Favorable report of the Committee on Judiciary.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Thank you, Madam President. Madam President, I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the House.

THE PRESIDENT:

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

SEN. McDONALD:

Madam President, this bill creates two crimes. The first would be Second Degree Sexual Assault for an adult to have sexual intercourse with a person under the age of 18 who participates in a program or activity if the actor's professional, legal, occupational or volunteer status gives him power, authority or supervision over that minor. And the bill covers actors aged 20 or older.

Secondly, Madam President, there would be a Fourth Degree Sexual Assault provision for any adult who commits -- has unlawful sexual contact with the same type of individual under the age of 18 if the actor is in the power -- in a position of power over somebody under the age of 18 and the actor is over the age of 20.

THE PRESIDENT:

Thank you, sir.

prh
Senate

49

001920

April 28, 2004

Will you remark further?

Senator Roraback.

SEN. RORABACK:

Thank you, Madam President. Through you. Just a couple of questions to Senator McDonald, if I may?

THE PRESIDENT:

Please proceed.

SEN. RORABACK:

Thank you, Madam President. I'm trying to figure out the -- there was a House Amendment "A". And maybe House Amendment "A" is incorporated into the new file. There's a new file, 651. Through you, Madam President, to Senator McDonald. Am I procedurally on solid ground in understanding if the amendment is incorporated into the new file?

Through you, Madam President, to Senator McDonald.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Thank you, Madam President. Through you, Madam President.

Senator Roraback, as always, you are on terra firma.

SEN. RORABACK:

Thank you, Madam President. And through you --

prh
Senate

50

001921

April 28, 2004

THE PRESIDENT:

Senator Roraback.

SEN. RORABACK:

Through you, Madam President, to Senator McDonald. I'm just curious what transpired, what the -- if I were to look at the first file that was printed, the bill that came out of the Judiciary Committee, what's the change that occurred between -- by virtue of the passage of House Amendment "A"?

Through you, Madam President.

SEN. McDONALD:

Thank you, Madam President.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Thank you, Madam President. Madam President, I believe that in the House there was an issue raised where -- because of the age of -- the prior age of 18, there could be circumstances where someone might have a social or pre-existing relationship with somebody who could ultimately be perceived as a victim of this crime if the actor was also 18 and the victim was, say, 17-1/2 years old. The idea was to create a larger number of years between the actor and the victim.

THE PRESIDENT:

prh

51

Senate

April 28, 2004

Senator Roraback.

SEN. RORABACK:

And through you, Madam President. If I'm understanding correctly, Senator McDonald is saying that in the original file copy there was no requirement for an age differential and in the new file there's a two-year difference required before a person could be guilty of that.

Through you, Madam President, to Senator McDonald.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Madam President, it would -- it raised it from a minimum age of 18 to 20 years.

THE PRESIDENT:

Senator Roraback.

SEN. RORABACK:

Thank you, Madam President. I think I understand. The -- I know this bill is well intentioned. And the questions I have arise by virtue of the difficulty of defining the universe of individuals that might be covered by this bill.

And, through you, to Senator McDonald. If there was an individual -- if there were two individuals that were serving in a volunteer fire company, for instance,

prh

52

001923

Senate

April 28, 2004

and one of them was -- just had their 20th birthday and another of them was a day short of their 18th birthday and the person that was -- just had their 20th birthday was a Lieutenant and the person that was just about to have their 18th birthday was of a lesser rank, through you, Madam President, would it be criminal for those two individuals to have a relationship one with the other?

Through you, Madam President, to Senator McDonald.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Madam President, through you. The provisions of the bill would deal with situations where there is a program or activity and the offense arose because of the position of power and authority over the victim, if that arose in a professional, legal, occupational or volunteer basis.

There were instances, Madam President, brought to our attention where individuals might have a relationship that is based on a volunteer basis, I should say, where in volunteer fire company you have somebody who might be in a position of power or authority over somebody else and a sexual relationship ensued.

THE PRESIDENT:

prh

53

001924

Senate

April 28, 2004

Senator Roraback.

SEN. RORABACK:

And so just so I understand, this -- one would be guilty of a crime then if there were coerced sexual activity taking place in the context of a program or activity?

Through you, Madam President, to Senator McDonald.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Madam President, the concept of coercion is implicit in the concept of exercising power, authority or supervision over another under the direction of that actor.

THE PRESIDENT:

Senator Roraback.

SEN. RORABACK:

And so, through you, Madam President, the fact that someone might have a rank in a volunteer fire company higher than another does not in and of itself -- is not in and of itself sufficient to prove one guilty of a crime. There would have to be some element of coercion.

Through you, Madam President. Just for purposes of legislative intent, so I understand what we're doing.

Through you.

prh

54

Senate

April 28, 2004

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Thank you, Madam President. If Senator Roraback directs his attention to Line 32 of the file copy, it applies to situations where the offense arises by virtue of the actor's status. So it would actually have to be as a result of the status of the actor in relation to the victim.

THE PRESIDENT:

Senator Roraback.

SEN. RORABACK:

Thank you, Madam President. This bill caused a little bit of confusion in the Judiciary Committee. And I'm grateful for Senator McDonald's answers to my questions. They help me as I try to work through the bill.

Thank you, Madam President.

THE PRESIDENT:

Senator McKinney.

SEN. MCKINNEY:

Thank you, Madam President. Madam President, if I could, through you, ask a couple of follow-up questions? Because I think I'm more confused based on the last question and answer. I guess my first question, Madam

President, through you, is that under our current statutes is there anything that would prohibit a consensual relationship between two individuals, one aged 19 and one aged 17?

Through you, Madam President.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Madam President, the situation being addressed in this bill only deals with situations where there is a position of power or authority over one and more than two years age difference between those two individuals. So, to answer Senator McKinney's question, I don't know of anything that would prevent such a relationship based on the hypothetical he has posed.

THE PRESIDENT:

Senator McKinney.

SEN. MCKINNEY:

Thank you, Madam President. Then to follow up -- and I'm trying to lead somewhere. I think -- I spoke at my high school, Fairfield High School, today in my town. And, clearly, there are many people in high school who are ages 19 and 17. And, clearly, there's nothing illegal about two individuals aged 19 and 17 having a consensual relationship.

My question then, through you, Madam President. If the 19-year-old were to turn 20 and if both individuals were to volunteer at a summer camp where the 19, now 20-year-old, was the Director of the summer camp and the 17-year-old was an Assistant Counselor at the camp, would that consensual relationship now be illegal under the language of this bill?

Through you, Madam President.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Thank you, Madam President. Through you. I believe that under Senator McKinney's hypothetical, the question would turn on whether the relationship was the result of that position of power and authority. The question that would be at issue is whether the relationship existed by virtue of their differing statuses and not -- and not under the scenario that Senator McKinney has outlined.

THE PRESIDENT:

Senator McKinney.

SEN. MCKINNEY:

Thank you, Madam President. And I'm almost at the end. But I think what I then heard Senator McDonald say -- and I just want to make sure it's clear in the

prh
Senate

57

001928

April 28, 2004

record. And if he doesn't disagree, we'll assume it's correct. Then if there is a pre-existing relationship and these two individuals through birth years then meet the two-year requirement and end up working together or volunteering together, the very fact that there was a pre-existing relationship would seem to negate any implication that the pieces of this legislation would kick in; because, clearly, a pre-existing relationship would mean that the power relative to the two individuals was not the reason for the relationship.

I guess my last question, Madam President -- and it's one that Senator Roraback asked. And I'm still not comfortable with the answer -- is that are we saying that two individuals, one, hypothetical, one aged 20, one aged 17, by the very fact that they may have -- that one may have a position of authority over the other triggers this? Or is it -- does it take more than one person having a position of authority over the other; it takes the fact that it was that authority which is the reason for the relationship?

Through you, Madam President.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Thank you, Madam President. Through you. To the

extent I am clear on the question; I believe that the answer is that only in circumstances where the relationship developed because of the position of power and authority would bring it within the scope of this bill.

THE PRESIDENT:

Senator McKinney.

SEN. MCKINNEY:

Thank you, Madam President. I'm going to try it a different way then. Is it true then that two individuals, one aged 17, one aged 20, both, to use my hypothetical, who volunteer at a summer camp where one is a camp counselor and one is an assistant camp counselor, those two individuals can have a relationship and it's not necessarily that that relationship derives from their relative positions of power but could derive from it just being a normal relationship between two people?

Through you, Madam President.

THE PRESIDENT:

Senator McDonald.

SEN. McDONALD:

Thank you, Madam President. This is the problem, I suspect, with all hypotheticals. All such instances would have to be examined on the facts of the particular

April 28, 2004

case. But under Senator McKinney's example, limited by the facts set forth, if there was not a relationship that derived from or as a result of the relative positions of power between the actor and the victim, then it would most likely not fall within the scope of this legislation.

THE PRESIDENT:

Senator McKinney.

SEN. MCKINNEY:

Thank you, Madam President.

Thank you, Senator McDonald.

Madam President, I just wanted to make sure -- perhaps my questions were not as skillful as they should have been. But when we have worked on similar legislation, most recently with coaches and their students and people who train under coaches, we had very finite definitions of the roles of the people. And, clearly, it's possible under this language that you could have two high school students who are, for example, boyfriend and girlfriend and the boyfriend turns 20. If they are volunteering together in a summer program or working together at, you know, wherever high school kids work, perhaps at a restaurant, that this bill seems to get into that relationship. And that's not what's intended. And I appreciate Senator

prh
Senate

60

001931

April 28, 2004

McDonald's answers to that extent.

Thank you.

THE PRESIDENT:

Thank you, Senator.

Will you remark further on the bill as amended?

Will you remark further?

Senator McDonald.

SEN. McDONALD:

Madam President, if there's no objection, might this item be placed on the Consent Calendar?

THE PRESIDENT:

The motion is to refer this item to the Consent Calendar.

Without objection, so ordered.

THE CLERK:

Calendar No. 480, File No. 382, Substitute for HB 5636, AN ACT CONCERNING ORAL HEALTH CARE. Favorable report of the Committees on Public Health and Legislative Management.

THE PRESIDENT:

Senator Murphy.

SEN. MURPHY:

Thank you, Madam President. I move adoption of the joint committees' favorable report and passage of the bill in concurrence with the House.

prh
Senate

140

April 28, 2004

Calendar Page 13, Calendar 477, HB 5597;

Calendar 478, Substitute for HB 5603;

And Calendar 480, Substitute for HB 5636;

Calendar Page 14, Calendar 481, Substitute for HB
5407;

Calendar Page 18, Calendar 93, SB 323;

Calendar Page 19, Calendar 108, Substitute for SB
476;

Calendar Page 21, Calendar No. 202, Substitute for
SB 259;

Calendar Page 23, Calendar No. 260, Substitute for
SB 37;

Calendar 280, Substitute for SB 595;

Calendar Page 25, Calendar 299, Substitute for SB
567;

Calendar Page 26, Calendar 356, Substitute for SB
602;

Calendar Page 27, Calendar 421, SB 609;

Calendar 434, Substitute for HB 5008;

Calendar 435, HB 5018;

Calendar Page 28, Calendar 438, HB 5602;

Calendar 445, Substitute for HB 5594.

Madam President, I believe that completes the items placed on the first Consent Calendar.

The Senate is now voting by Roll Call on the

prh
Senate

141

002012

April 28, 2004

Consent Calendar. Will all Senators please return to the Chamber? The Senate is now voting by Roll on the Consent Calendar.

SEN. LOONEY:

Madam President, there's a correction on Calendar Page 21, Calendar No. 202 was not placed on Consent. It was referred to Finance after adoption, Senate Amendment Schedule "A".

THE PRESIDENT:

Thank you, sir.

If all members have voted -- if all members have voted, the machine will be locked.

Clerk, please announce the tally.

THE CLERK:

The motion is on adoption of Consent Calendar No. 1,

Total number voting, 36;

Necessary for adoption, 19;

Those voting Yea, 36;

Those voting Nay, 0;

Absent, not voting, 0.

THE PRESIDENT:

The Consent Calendar is adopted.

THE CLERK:

Returning to the call of the calendar, Calendar

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 6
1704-2078

2004

couple of years ago, before the federal act, you were able to get all this stuff.

POLICE CHIEF SALVATORE: Correct.

REP. FARR: And suddenly people are saying, "Well, this is not what the founding fathers meant." Well --

POLICE CHIEF SALVATORE: They didn't have telephones back that far.

REP. FARR: No.

POLICE CHIEF SALVATORE: If you'll bring back Mabel, we'll withdraw our proposal.

SEN. McDONALD: Does Mabel live in West Hartford, too?

POLICE CHIEF SALVATORE: Yes.

SEN. McDONALD: Are there any other questions?

Thank you very much.

POLICE CHIEF SALVATORE: Thank you very much.

SEN. McDONALD: Representative O'Connor, followed by Don Noel.

REP. O'CONNOR: Good afternoon.

SEN. McDONALD: Good afternoon.

REP. O'CONNOR: Thank you, Senator McDonald, ranking members and the rest of the Judiciary Committee for raising HB 5603, AN ACT CONCERNING SEXUAL ASSAULT BY POLICE OFFICERS, FIREFIGHTERS AND MENTORS, and also for the opportunity to testify on its merits. For the record, I am Brian O'Connor, 35th District State Representative.

The purpose of this bill is to address situations that have arisen between students participating in training programs supported by fire or police departments and mentoring programs of local school systems. Patterned after the statutes that prohibit sexual relationships between teachers,

coaches, instructors with those who are under the age of 18, it is my intention to incorporate others who have authoritarian or direct supervisory roles over these same young people.

Some may argue that police, fire or mentors are already subject to this statute. But examples in my area suggest otherwise. Two highly publicized cases in Clinton and Madison reflect that there are loopholes in existing law. A firefighter who had a leadership position within the department began a sexual relationship with a 16-year-old girl who had just completed her training as a junior firefighter. After her instruction period, he was appointed to lead that same junior firefighter program. When her formal training was done, she was a member of the junior fire department and had significant contact with him because of his capacity as a supervisor.

The control and authority gave him undue influence and power over the individual. While charges have not been filed, it has compromised the integrity of the program and his ability to lead subjectively. He has since been dismissed because of lying about the events, not because of his actions. And on a sadder note, the victim has resigned from her role as a junior firefighter and was subject to much embarrassment.

The fallout in the department and town has been immeasurable. The families and friends involved have been torn apart. Residents are asking themselves why. How could this happen? On separate occasions, parents have approached me to introduce this language to address the problem and clarify existing statutes so that this situation does not arise again.

The incident in Madison is quite similar. A police officer had sexual relations with young people involved in the Police Explorer Program. His authority within the department allowed him to manipulate these young girls who trusted him and were unduly influenced by his power. Even worse, many of the contacts occurred while he was on duty.

Again, their enrollment in the Explorer Program and willingness to foster relationships with him were influenced by his status within the department. The results, as in Clinton, are the same. No charges, resignation by the officer and the embarrassment and ridicule the victims must endure for a lifetime.

We must protect these young people from being put in these positions and to state clearly that it is improper for those in authority to have sexual relationships with those going through department programs. As firefighters, police officers and mentors, they are trusted by those going through these programs. Impressionable, they are often taken advantage of and manipulated by those who should know better.

The great majority of firefighters, officers and mentors are highly respected within their communities. In fact, I was talking to one of the Police Chiefs who was sorry that the bill even had to be raised. It has disgraced many who are held in high esteem and honor.

No one is suggesting that our fire and police departments are out of control. But clarifying measures must be put into place so that those who seek to abuse their authority are held responsible and accountable for their actions. The message must be clear. Those in a position of power and control cannot have sexual relations with those who are under the age of 18. The integrity of our institutions and the protection of our young people depend upon it.

And I would just like to state on the record that, also, that the Connecticut Police Chiefs Association and some other fire organizations are in support of this measure.

And I thank you very much in advance for your consideration.

SEN. McDONALD: Thank you.

Are there any questions?

Representative Olson.

REP. OLSON: Hi. Thank you for coming in to testify today. I'm glad you've raised this issue because we actually had a kind of similar problem in Norwich with an unfortunate situation with a police officer and some young women who were doing some work for the police department. HB 5603

I do want to ask you one really quick question, though, about the mentor section just because it applies to me, actually. I'm a mentor with the Big Brothers/Big Sisters Program. And I noticed in your testimony that you indicated that this was supposed to be mentoring programs sponsored by local school systems. And the statute indicates that it's a -- mentoring means a person authorized by a parent or guardian of a child or youth to provide certain services. I'm just wondering is that intended to also include mentoring programs that are not just sponsored by local school systems but also by, say, the Big Brothers/Big Sisters Program which is under the United Way?

REP. O'CONNOR: I would say that it would. We struggled over the definition of mentoring. And, you know, while I was focusing on the school systems, you know, these other programs -- I think there is an authority role played. And I think it's an appropriate measure to be applied to them as well.

REP. OLSON: The reason that I ask you this is because I think there will be considerable support for this bill. And I just want to make sure that we're clear that -- what the mentoring program means, just because there are different sorts of mentoring programs that are sponsored by other entities, not just schools.

So, thanks for your testimony.

REP. O'CONNOR: Very good. I look forward to working with the committee on that as well.

SEN. McDONALD: Thank you.

JOINT
STANDING
COMMITTEE
HEARINGS

JUDICIARY
PART 7

2079-2420

2004

SEN. McDONALD: Thank you.

Are there any other questions?

Thank you very much.

STEVEN LOZANOV: Thank you.

SEN. McDONALD: Next is Lisa Winjam, followed by Tom Klee.

LISA WINJAM: Good afternoon, Senator McDonald, Representative Stone and members of the Judiciary Committee. My name is Lisa Winjam. And I'm the Director of Public Policy for Connecticut Sexual Assault Crisis Services. ConnSACS has submitted testimony on five bills today. And just so you know, we've submitted written testimony in support of HB 5563, the voyeurism bill, SB 512, notification for victims of crime, and SB 509, responsibility of the Victim Advocate. We've also submitted some testimony concerning SB 493. I'm really going to take my few minutes here and I am going to try and be as brief as possible to reiterate some of the thoughts expressed by Representative O'Connor concerning HB 5603, AN ACT CONCERNING SEXUAL ASSAULT BY POLICE OFFICERS, FIREFIGHTERS AND MENTORS.

I feel like I've been here -- and that was about two years ago when the bill to criminalize sexual coercion by coaches was passed. And all those same themes, all those same power disparities, all that dynamic about adults in positions of power who work with youth, whether they're 14 or 15 or 17, and those youth being influenced by them and coerced into sexual relationships.

We've had a longstanding policy in this state to criminalize that kind of behavior between students and teachers. We added to that by -- in 2002, with coaches and instructors. And it seems that our definition of instruction isn't quite broad enough to fit the full range of programs that put youth in positions where they're supervised by adults and there's that potential abuse of power.

And so I would just ask the committee for your support for this bill. And I'd be happy to answer any questions.

SEN. McDONALD: Are there any questions from members of the committee?

Thanks very much.

LISA WINJAM: Thank you.

SEN. McDONALD: Next is Tom Klee, followed by Jack Morrison.

TOM KLEE: Senator McDonald and members of the Judiciary Committee, thank you for the opportunity to testify before you today on SB 492, AN ACT CONCERNING CORPORATE FRAUD ACCOUNTABILITY. My name is Thomas Klee. I'm Vice Chairman and Legislative Liaison of the Business Law Section of the Connecticut Bar Association.

On behalf of the Business Law Section, we -- I respectfully request the Judiciary Committee favorably report on SB 492. The issues that this bill intends to address arise out of the new Corporate Fraud Accountability Act, PA 01-259. Senator McDonald will remember that last year we worked together on some of the provisions of this bill. And that was a useful process. And we have -- this year would like to suggest a few corrections and clarifications in that bill.

This Corporate Fraud Accountability bill addresses issues such as publicly held companies or accountants who audit them from -- prohibits them from destroying or concealing certain documents and records that are the subject of a state investigation. It also prohibits a publicly held corporation from retaliating against an employee for providing information to assist in such an investigation.

The new Act, however, created two ambiguities. First, the term "publicly held corporation" which is used in several sections is not defined. The SB 492 clarifies the corporations to which this new



Connecticut Sexual Assault Crisis Services, Inc.

96 Pitkin Street
 East Hartford, CT 06108
 Phone/TTY: 860-282-9881
 Fax: 860-291-9325
 www.connsacs.org

Testimony of Connecticut Sexual Assault Crisis Services, Inc.
 Lisa B. Winjum, J.D., Director of Public Policy and Communication
H.B. 5603 (Raised) AAC Sexual Assault by Police Officers, Firefighters and Mentors
 Judiciary Committee
 Public Hearing, March 8, 2004

Senator McDonald, Representative Lawlor, and members of the Judiciary Committee, my name is Lisa Winjum and I am Director of Public Policy and Communication for Connecticut Sexual Assault Crisis Services, Inc. CONNSACS is the statewide association of 10 community-based rape crisis centers in Connecticut. Our mission is to end sexual violence through victim assistance, community education, and public policy advocacy.

During fiscal year 2002-2003 CONNSACS' community-based member programs provided services to 4,706 sexual assault victims and their families. The staff and volunteers at these programs answered over 6,200 calls to our statewide, toll-free, 24-hour hotlines (English and Spanish). More than 5,000 victim/survivors attended the 279 support groups held at sexual assault crisis services throughout the state. Our member centers also provided risk reduction and prevention education to more than 54,000 children and youth and to more than 16,000 members of the general public and provided training for over 5,000 professionals, including law enforcement personnel.

CONNSACS supports this bill which would criminalize sexual coercion by mentors, including firefighters and police officers who supervise youth in programs run by the department or the local or regional board of education. Under this bill, sexual intercourse between mentors, including firefighters and police officers and the youth under 18 they supervise would be a violation of sexual assault in the second degree. Sexual contact between these parties would be a violation of sexual assault in the fourth degree.

Current law (General Statutes Sections 53a-71 and 53a-73a) recognizes a number of sexual relationships where the power disparity between the parties is such that one party is deemed legally incapable of giving consent to sexual relations. The law recognizes that in these situations one party holds a position of power or trust so substantial in relation to the other that this relationship can be abused to coerce the other to engage in sexual relations. This includes relationships between two adults, as well as those between youth and adults. As applied to relationships between adults and youth under age 18, Connecticut law prohibits sexual relationships between students and teachers, between athletes and coaches, and between private instructors and those they instruct.

Under the current law, a police officer or a firefighter who supervises a student (for example, in police explorer programs) or a mentor is not held criminally responsible if they abuse their power to engage in sexual activity with a young person he or she is supervising or mentoring. Like coaches and instructors, these actors stand in a position of special trust and authority.



Connecticut Sexual Assault Crisis Services, Inc.

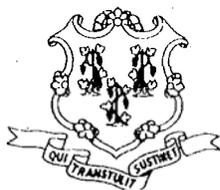
96 Pitkin Street
East Hartford, CT 06108
Phone/TTY: 860-282-9881
F-x: 860-291-9336
www.connsacs.org

However, the definition of "instructor" which was added to the law in 2002 is not sufficiently broad enough to include these actors. In addition to Connecticut, several states designate coaches and/or other people who stand in positions of special trust or authority in the statutory definition of persons of persons guilty of sexual assault or sexual abuse of a minor (DE, IL, IA, ME, MI, NJ, NM, SC, UT, WA).

Like coaches, mentors, including firefighters and police officers, have enormous power and influence over the youth they supervise, instruct, or mentor. A person in any of these positions who engages in sexual intercourse or sexual contact with a youth under their supervision is abusing their power and position of trust. Those who abuse their power and control by coercing young people into sexual activity may cause physical and emotional damage. It is not about sex; it is about power and control. The betrayal and abuse of trust can be emotionally devastating for the victim.

In 2002, the General Assembly sent a message that it is unacceptable for adults who work with our youth as coaches and instructors in a variety of settings to take advantage of their relationships with these youth. We must hold all other adults entrusted with the responsibility for supervising and guiding youth accountable when they abuse their power to engage in sexual relations in the same manner and to the same extent as teachers and coaches.

Thank you.



002265

State of Connecticut

HOUSE OF REPRESENTATIVES
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE BRIAN O'CONNOR
THIRTY FIFTH DISTRICT

45 FAIRY DELL ROAD
CLINTON, CONNECTICUT 06413
TELEPHONES
DISTRICT PHONE: (860) 669-9430
CAPITOL PHONE: 1-800-842-8267
FAX: (860) 669-9054
E-MAIL: Brian.OConnor@po.state.ct.us

MEMBER
APPROPRIATIONS COMMITTEE
HIGHER EDUCATION AND EMPLOYMENT
ADVANCEMENT COMMITTEE
PUBLIC SAFETY COMMITTEE

March 7, 2004

Thank you Rep. Lawlor, Sen. McDonald, and Judiciary Committee members for raising HB-5603 AAC Sexual Assault By Police Officers, Firefighters and Mentors and for the opportunity to testify on its merits.

The purpose of this bill is to address situations that have arisen between students participating in training programs supported by Fire and Police Departments and mentoring programs of local school systems. Patterned after the statutes that prohibit sexual relationships between teachers, coaches, instructors with those who are under the age of 18, it is my intention to incorporate others who have authoritarian or direct supervisory roles over these same young people.

Some may argue that Police, Fire and mentors are already subject to this statute, but examples in my area suggest otherwise. Two highly publicized cases in Clinton and Madison reflect that there are loopholes in existing law.

A firefighter, who had a leadership position within the Department, began a sexual relationship with a 16 year old girl who had just completed her training as a Junior Firefighter. After her instruction period, he was appointed to lead the Junior Firefighter training program. While her formal training was done, she was a member of the Junior Firefighter program and had significant contact with him because of his capacity as a supervisor. The control and authority gave him undue influence and power over the individual. While charges have not been filed, it has compromised the integrity of the program and his ability to lead subjectively.

He has since been dismissed because of lying about the events, not because of his actions. And on a sadder note, the victim has resigned from her role as a junior firefighter and was subject to much embarrassment. The fallout in the Department and town has been immeasurable. The families and friends involved have been torn apart. Residents are asking themselves why. How could this happen? On separate occasions, parents have approached me to introduce language to address this problem and clarify existing statutes so that this situation does not arise again.

The incident in Madison is quite similar. A police officer had sexual relations with young people involved in the Police Explorer Program. His authority within the department allowed him to

manipulate these young girls who trusted him and were unduly influenced by his power. Even worse, many of the contacts occurred while he was on duty. Again, their enrollment in the Explorer program and willingness to foster relationships with him were influenced by his status within the Department. The results as in Clinton are the same. No charges, resignation by the officer and the embarrassment and ridicule that the victims must endure for a lifetime.

We must protect these young people from being put in these positions and to state clearly that it is improper for those in authority to have sexual relationships with those going through Department programs. As Firefighters, Police Officers and mentors, they are trusted by those going through training programs. Impressionable, these young people are often taken advantage of and manipulated by those who should know better.

The great majority of firefighters, police officers and mentors are highly respected within their communities. In fact, I was talking to one of Police Chief who was sorry that this bill had to be raised. He stated that the officers in question have disgraced the honor and character of officers throughout the State.

No one is suggesting that our Fire and Police Departments are out of control, but clarifying measures must be put into place so that those who seek to abuse their authority are held responsible and accountable for their actions. The message must be clear: Those in a position of power and control cannot have sexual relations with people under the age of 18. The integrity of our institutions and protection of our young people depends upon it.

Thank you in advance for your consideration of this proposal.