State of Connecticut

DIVISION OF CRIMINAL JUSTICE

OFFICE OF THE STATE'S ATTORNEY

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TESTIMONY OF KEVIN D. LAWLOR, ANSONIA-MILFORD STATE'S ATTORNEY ON HB 7086 AAC REGISTRATION OF SEX OFFENDERS

Thank you Mr. Chairman and members of the Judiciary Committee for allowing me to testify on HB 7086 AAC Registration of Sex Offenders.

I am the State's Attorney for the Judicial District of Ansonia-Milford. Prior to my appointment in June of 2006, I was the Chief Assistant State's Attorney for the Ansonia-Milford Judicial District and I have been a prosecutor since 1995. Over the course of my career I have conservatively prosecuted over 100 sex offenders accused of crimes against children. I am a member of the Ansonia-Milford Multi-Disciplinary Team for the Investigation of Child Abuse, a member of the U.S. Attorney's Office Crimes Against Children Task Force and a member of the Advisory Board of the Child Advocacy Center at Yale-New Haven Hospital. I am also a trained forensic interviewer of child sexual abuse victims through the National District Attorneys Association Finding Words Program.

I come here today to testify against HB 7086. While a well intentioned piece of legislation, I do not believe that practically it will have the desired impact of incarcerating predatory sex offenders for longer periods of time and protecting our children from these sex offenders.

The bill will require a 25 year minimum mandatory sentence for all persons convicted of Sexual Assault 1, 2 & 3; Risk of Injury to a Minor, Promoting Prostitution 1 & 2; Enticing a Minor; Employing a Minor in a Obscene Performance if the victim is under the age of 13. While I firmly believe that persons convicted of this type of crime deserve the harshest possible punishment, mandatory minimums of 25 years for all these sex crimes will not allow us in many cases to achieve this goal.

A 25 year mandatory minimum sentence for a sex offense against a child regardless of severity or the strength of the case will severely impact the prosecutor's ability to negotiate a settlement in these cases. It assumes that all those charged with these offenses will be found guilty in court and receive this mandatory sentence.

There are only two ways a defendant is found guilty in criminal court: 1) He or she is found guilty beyond a reasonable doubt after trial by a Judge or Jury; or 2) the defendant voluntarily pleads guilty and admits his conduct in open court in exchange for an agreed upon sentence. Over 95% of defendants voluntarily plead guilty because they wish to receive a sentence lower than the maximum rather than face a trial with an uncertain outcome. The other 5 % result either in a trial or the charges being dropped due to legal or factual difficulties in the case.

A 25 year minimum sentence will cause most defendants to take their chances at a trial rather than agree to such a long period of incarceration. A trial in this type of case is one of the most difficult for any prosecutor to successfully try. I believe our success rate is no more than 50% in the child sex cases brought to trial. Many times these are the cases in which we have the strongest evidence.

These cases present many unique problems: evidentiary, societal and legal. First and foremost the main witness in these cases is a child, sometimes as young as 5 or 6. These children have developmental issues simply because their brains are not mature. They have been put through the physical trauma of a sexual assault and now the emotional trauma of preparing for trial, actually testifying, and being subject to cross-examination. Also, the accused in most of these cases is not a stranger but rather someone with access to the child. Therefore, they are usually testifying against their father, mother, brother, cousin, clergy, baby-sitter or step-father / mom's boyfriend. This only makes the testimony more difficult and traumatic for the child. It also makes the possibility that the child will not be able to testify a very real concern to the prosecutor. Most parents vehemently oppose us in our wish to have the child testify if a trial is necessary. We take that into account in fashioning a negotiated settlement.

In most cases, we lack physical evidence of the assault. Frequently in these cases we rely only on the word of the child and whatever corroboration we can obtain. Jurors in these cases frequently want to believe that this type of conduct does not occur and want forensic evidence in order to convict. Defense attorney's often use the lack of physical evidence as their proof of reasonable doubt. We are also limited legally by court cases in what out of court statements and constancy of accusation witnesses we can present to bolster the child's testimony. Connecticut case law also limits our ability to depose children outside of the presence of the defendant and the jury in a child-friendly setting and introduce the taped statement to the jury. We take all these and other factors into consideration in fashioning a settlement that we feel is the most appropriate sentence given the facts, law and our sense of justice.

Finally, I believe this will also have an impact on reporting these crimes to the police. Victim's families will hesitate to come forward and report this behavior if they know the child will have to testify. We have made tremendous strides over the last decade at encouraging children to be brave and come forward with this information. I would not want to see reports start to decrease due to that fear of testimony.

Again, I have no doubt that this is a well intentioned piece of legislation. However, I do not believe it will have the desired result. There are many things this legislature can do to help protect our children: More money for CAC's and MDT's, a tender years exception to allow for out of court depositions of these victims and a more detailed Meghan's Law registry are just a few suggestions.

I thank you for this opportunity and I would be happy to answer any of your questions.