

# CCDLA

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Founded in 1988

**Connecticut Criminal Defense Lawyers  
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**TESTIMONY OF JON L. SCHOENHORN, PRESIDENT  
OF THE CONNECTICUT CRIMINAL DEFENSE LAWYERS ASSOCIATION  
RE: RAISED BILL NO. SB 1457  
AN ACT CONCERNING CONSENSUAL SEXUAL ACTIVITY  
BETWEEN ADOLESCENTS CLOSE IN AGE TO EACH OTHER  
Judiciary Committee - Public Hearing April 4, 2007**

Chairman McDonald, Chairman Lawlor, Distinguished Members of the Committee:

Along with a broad and diverse coalition of organizations, the Connecticut Criminal Defense Lawyers Association (CCDLA) **strongly supports** passage of **Raised Bill No. SB 1457, An Act Concerning Consensual Sexual Activity Between Adolescents Close In Age To Each Other**. I have testified on this issue on behalf of the CCDLA in the past (2005 Raised Bill No. 892), which received favorable consideration in 2005 from this committee. This bill would amend the so-called "statutory rape" laws by decriminalizing a relatively small number of cases (approx. 15%) involving consensual sexual activity between minors between the ages of 14 and 16 years of age and their slightly older partners, by changing the age difference from two years to three "birth years." It also would clarify that the difference in age is not based upon an artificial calculation of days or months between birth dates, but "birth years" which, I think, is similar to "calendar years," and avoids the hard and fast (and somewhat confusing) rule of having teens compare birthdays to decide whether their relationship is legitimate. Under the present law as interpreted by the Connecticut Supreme Court in *State v. Jason B.*, 248 Conn. 543 (1999), if one teen is exactly 730 days older than a consenting adolescent partner, it is not a crime. Add just one day, it can become a Class B felony (if the younger partner is 13) for which that teen can receive 20 years in prison.

The present law has caused tremendous heartache and ruined scores of young lives, based upon the prosecution of teenagers, with a conviction resulting in a felony, with mandatory *minimum* prison terms of nine months and up to 10 years for a 16-year-old. If that penalty was not harsh enough, it also labels these teens as "sex offenders," with mandatory registration for 10 years. This added stigma, in turn, has caused parents to move from school districts because of fear that they live near a registered sex offender, when the entire underlying offense was a consensual act with a girlfriend or boyfriend.

Often this charge has been used as a weapon by a parent upset by a teen's relationship with a schoolmate, and constitutes a heavy-handed approach to solving what really is a social problem; not a criminal one. A study of Connecticut high school students in 1999 found, for example, that 48% – that is, almost half – reported being sexually active. Even if a minor is emancipated or marries his partner, these are not defenses to the harsh penalties under the present "statutory rape" law. Data

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presented by the Office of Legislative Research in 2002 to the General Assembly further suggested that African Americans and Hispanics proportionally are prosecuted for statutory rape in much greater percentages than Caucasians, utilizing Connecticut census figures, turning these (mostly minority) teenagers into convicted felons and labeling them "sex offenders." Also a review of other state statutory rape laws, primarily here in the northeast, shows that an age gap of 24 months between teenage partners is one of the narrowest in the country. Many states permit an age difference of 4 years before consensual sexual activity may be prosecuted as statutory rape, including Maine, Vermont, Colorado, Iowa, New York, Pennsylvania and Wyoming.

Of course, this proposal is not intended to encourage more sexual activity among teens, any more than we believe that sex education in schools and distribution of condoms contributes to this activity. Moreover, CCDLA recognizes that minors under the age of 13, even if sexually active with persons of similar age, are too young to be able to legally consent to this activity under any circumstances, and therefore a close age difference for someone that young would never constitute a defense under the proposed bill. Furthermore, this amendment would not prevent the prosecution of persons more than three birth years older than the minor partner, even if the activity was consensual, and thereby would not restrict the targeting of sexual predators – a goal supported by the membership of this organization. The proposal also amends the "Risk of Injury" statute to exclude the same consensual activity from criminal prosecution.

This bill has the support of the Center for Children's Advocacy, Connecticut Sexual Assault Crisis Services, the American Civil Liberties Union and the Office of the Chief Public Defender. It has received broad bi-partisan support in the past. In recent conversations with several State's Attorneys and with members of the judiciary, it is my understanding there is no opposition to the proposal on their end, although I do not claim to speak for them. The only change we propose is to make the law effective upon passage, rather than waiting until October 1<sup>st</sup>, and to articulate that it applies to all pending prosecutions; not just to those commenced after passage.

Accordingly, CCDLA supports Raised Bill No. SB 1457 and urges this Committee to give it a joint favorable vote.

Jon L. Schoenhorn, President  
CCDLA