



Greater Hartford Legal Aid

Judiciary Committee, March 19, 2010
Testimony of Atty. Shirley Pripstein in opposition to H.B. 5484

I am an attorney at Greater Hartford Legal Aid, a position I have held for 30 years. For all of those 30 years, my practice has been exclusively in the area of family law and domestic violence. I am a former chairperson of the Family Law Section of the Bar Association.

I ask you to oppose H.B. 5484, An Act Concerning the Failure of a Witness to Report a Serious Crime Committed against a Child. The bill would make failure to report a murder, sexual assault, or physical abuse of a child a class A misdemeanor, thereby overturning centuries of Anglo-American law under which an individual owes no legal duty to strangers.

Such a radical departure from our legal tradition is not necessary to achieve successful prosecution of wrongdoers. A person who is present when a crime is committed may be charged with commission of the crime under the accessory statute if acting with the mental state required for commission of the offense. C.G.S. §53a-8. See *State v. Hines*, 89 Conn.App. 440, 873 A.2d 1042 (2005); *State v. Bagley*, 35 Conn.App. 138, 644 A.2d 386 (1994).

If the victim is a minor child *and the bystander owes a duty to the minor child by virtue of relationship to the child*, the bystander may be successfully prosecuted under the risk of injury statute. See *State v. Na'im B.*, 288 Conn. 290, 952 A.2d 755 (2009); *State v. Dumlao*, 3 Conn.App. 607, 491 A.2d 404 (1985); *State v. Tyler-Barcomb*, 197 Conn. 666, 500 A.2d 1324 (1985).

Since the murder, physical or sexual assault of a child rarely occurs in public, the purpose of the bill must be to give the police authority to arrest those who cannot be charged under current law. However, as emphasized above, the police already have abundant tools at their disposal. I therefore suspect that this bill is aimed at the co-habitants of a child's parents; those who have no relationship to the child and therefore owe no legal duty to the child. The "any person" language is using a cannon where a 22-caliber bullet would do.

Good citizenship requires the reporting of crimes and bearing witness. It should not be a crime to fail to report a crime. The bill is a step in bad direction and should be rejected.

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