



Connecticut Sexual Assault Crisis Services, Inc.

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Testimony of Connecticut Sexual Assault Crisis Services
In Support of SB 247, *An Act Concerning the Sexual Assault of Persons Whose Ability to Communicate Lack of Consent is Substantially Impaired*
In Opposition to SB 279, *An Act Concerning Sentence Modification*
Anna Doroghazi, Director of Public Policy and Communication
Judiciary Committee, March 12, 2012

Senator Coleman, Representative Fox, and members of the Judiciary Committee, my name is Anna Doroghazi, and I am the Director of Public Policy and Communication for Connecticut Sexual Assault Crisis Services (CONNSACS). CONNSACS is the statewide association of Connecticut's nine community-based rape crisis programs. During the last year, advocates throughout the state provided services to over 5,700 victims of sexual violence and their loved ones. Based on our experience working with victims and survivors of sexual violence, we would like to offer our thoughts on SB 247 and SB 279.

CONNSACS strongly supports SB 247, *An Act Concerning the Sexual Assault of Persons Whose Ability to Communicate Lack of Consent is Substantially Impaired*. Under current Connecticut law, a person is guilty of sexual assault if they engage in intercourse or sexual contact with an individual who is "mentally defective"¹ or "physically helpless."² In addition to using language that is offensive to people with disabilities, these terms have proven problematic because of their absolute nature. According to statute, in order to be considered "mentally defective," an individual must have a mental condition that renders them *incapable* of appraising the nature of their conduct. Likewise, Connecticut statute defines "physically helpless" as being either *unconscious* or *physically unable* to communicate lack of consent.

By addressing only the most extreme physical and mental disabilities, Connecticut's sexual assault statutes do not offer sufficient protection to people with disabilities. This lack of protection was illustrated in *State v. Fourtin*,³ a 2009 Connecticut Appellate Court decision that overturned a guilty verdict which found that a man had sexually assaulted a woman with severe disabilities. Although the victim was nonverbal and required assistance for all of her daily activities, the court was "not persuaded that the complainant was either unconscious or so uncommunicative that she was physically incapable of manifesting to the defendant her lack of consent."

Specifically, the Connecticut Appellate Court found that because the victim "could communicate using various nonverbal methods, including screeching, biting, kicking and scratching," and because there was no evidence that she bit, kicked, or scratched her assailant, "no reasonable jury could have concluded that she was physically helpless." This interpretation of "physical helplessness" is problematic for two reasons: First, it requires individuals with disabilities to communicate their lack of consent to sexual

¹ Conn. Gen. Stat. § 53a-71(a)(2)

² Conn. Gen. Stat. § 53a-71(a)(3)

³ 118 Conn. App. 43 982 A 2d 261 (2009).

activity using any possible means available to them, even if they are only able to communicate with great difficulty and even if communicating their lack of consent requires them to fight against an assailant who may be stronger or more physically able. Second, it places the burden of consent on possible victims of sexual violence and perpetuates the myth that consent is simply the absence of "no." Victims of sexual violence may fear for their lives during an assault, and some silently comply with their perpetrators in order to survive the attack or avoid serious physical injury. Although it is certainly the case that when it comes to consent, "no means no," it is simply not true that the absence of "no" means "yes."

Because people with disabilities face the highest rates of sexual victimization of any population in our country, our laws must offer reasonable protections to this population. Research estimates that up to 83% of women and 32% of men with developmental disabilities will experience some kind of sexual abuse during their lifetime.⁴ In many cases, people with disabilities are abused by loved ones or care providers: 32% of those who abuse people with intellectual disabilities are family members or acquaintances, and in 44% of cases, the abuser has a relationship with the victim specifically related to the person's disability (residential care staff, transportation providers, personal care assistants, etc.).⁵

It can be extremely difficult for victims of sexual violence to report abuse that is perpetrated by people they know and trust. For victims with disabilities whose daily care may be dependant on an abuser, it takes an unbelievable amount of courage to report an assault. When victims come forward and seek justice, they deserve the protection of laws that do not treat their disability as a liability. SB 247 would address the problems identified in *State v. Fournin* and strengthen the legal protections that are available to victims of sexual violence. CONNSACS hopes that the committee will join us in supporting this important piece of legislation.

CONNSACS would also like to express our **opposition to SB 279**, An Act Concerning Sentence Modification. This proposal would eliminate the very reasonable and appropriate limitations that apply to motions for sentence modification. If this bill were to pass, all convicted and sentenced offenders would be able to seek review and modification of their sentences, even if the sentence was the result of a plea agreement. In addition to placing a burden on the Judicial Branch, the bill would ultimately render all sentences meaningless and subject to modification. When an offender is convicted and sentenced, victims deserve to know that the sentence is meaningful and will not be automatically subject to modification.

Thank you for your consideration.

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⁴ Johnson and Sigler, "Forced Sexual Intercourse Among Intimates." *Journal of Interpersonal Violence*. 15.1 (2000).

⁵ Baladerian, N. "Sexual Abuse of People with Developmental Disabilities." *Sexuality and Disability*. 9.4 (1991): 232-335.