



**Connecticut
Sentencing
Commission**

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TESTIMONY IN SUPPORT OF SB 100

By Judge Joseph Shortall

Connecticut Sentencing Commission, Chair

3/5/2012

Good afternoon Chairman Coleman, Chairman Fox, and members of the Judiciary Committee:

I am Judge Joseph Shortall, Chair of the Connecticut Sentencing Commission. I am here to testify on behalf of the Sentencing Commission in support of Senate Bill # 100, An Act Concerning The Recommendations of the Sentencing Commission with Respect to Sexual Assault in the Fourth Degree and Kidnapping in the First Degree with a Firearm.

Senate Bill 100 was initiated in the Sentencing Commission's Legislative Committee and received the unanimous support of the full Sentencing Commission. During the Commission's initial examination of the Penal Code two anomalies in the Code were identified, each one of them susceptible to an easy "fix."

First, there is an internal redundancy, in the current version of General Statutes § 53a-73(a). The statute has eight subdivisions. Subdivision (1) provides that a person is guilty of the offense when he or she "*intentionally*" subjects another person to sexual contact in various circumstances. (Emphasis added.) Subdivisions (2) through (8) each provides that a person is guilty of the offense if he or she "subjects another person to sexual contact" in different circumstances, without using the word "intentionally."

"Sexual contact" is defined by the Penal Code as "contact with the intimate parts of a person . . . for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person...." General Statutes § 53a-65 (3). Thus, the word "intentionally" in subdivision (1) is superfluous, because the notion of intentionality is inherent in the definition of "sexual contact." The SB 100, therefore, simply eliminates the word "intentionally" in subdivision (1) to make it consistent with subdivisions (2) through (8). This will make the legal instructions to juries in such cases much easier to understand.

Second, there is an inconsistency, between the penalties for Kidnapping In The First Degree and Kidnapping In The First Degree With A Firearm. The former is a Class A felony, which carries a mandatory minimum penalty of ten years imprisonment pursuant to General Statutes § 53a-35a. The latter, however, which is a more serious crime than the former because it involves the aggravating factor of a firearm, under the current

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version of the statute carries a lower mandatory minimum sentence of one year imprisonment. SB100 eliminates this inconsistency by eliminating the specific one year mandatory minimum language from the statute, leaving it subject to the ten year mandatory minimum pursuant to § 53a-35a.

On behalf of the Sentencing Commission I want to thank Judge Devlin for submitting these anomalies to the Legislative Committee for review.