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February 20, 2013

Hon. Joan Hartley, Co-Chair  
Hon. Stephen Dargan, Co-Chair  
Joint Committee on Public Safety and Security  
Room 3600, Legislative Office Building  
Hartford, CT 06106

Re: Raised Bill 856

Dear Chairmen Coleman and Fox:

CCDLA opposes Raised Bill No. 856 which adds another subsection to the First Degree Assault statute (CGS §53a-59), thereby permitting a prosecution when a person "with intent to cause serious physical injury to a family or household member, as defined in section 46b-38a, he or she causes such an injury to such a family or household member."

CCDLA does NOT oppose the grammatical corrections and additions that are contained with the raised bill.

To be clear, CCDLA supports a thorough statutory scheme that strikes the delicate balance of affording victims of every possible protection but that also protects an individual's rights.

Raised Bill No. 856 is troubling to the CCDLA for a variety of reasons.

First, the language referenced above and to which CCDLA objects is duplicative and repetitive. If a person causes a serious physical injury to another person, they already are liable under Section 53a-59(a)(1), though that element does require the use of a "deadly weapon or dangerous instrument." In other words, the only difference between the existing statute as written and that of the proposed language is one of relationship. By a plain reading, there is no "deadly weapon or dangerous instrument" required if the victim is a family or household member. Regardless, subsections (a)(1) and (a)(6) punish the same conduct.

The similarities between these two subsections are further demonstrated by the fact that the statute, if amended, punishes a violator of either (a)(1) or (a)(6) in the same way – with a five-year mandatory minimum.

CCDLA notes that the statement of purpose is to “increase the penalty for the assault of a family or household member that results in serious physical injury.” This is only part of the purpose of the bill, however, inasmuch as it also creates a new crime under (a)(6).

Second, the raised bill criminalizes any assault that results in a serious physical injury to family and household members and it incorporates by reference Conn. Gen. Stat. §46b-38a to describe those terms. The fact that this definition includes “persons who have a child in common regardless of whether they are or have been married or have lived together at any time; persons in, or who have recently been in, a dating relationship.”

Again, CCDLA believes it is important that Connecticut have a thorough statutory scheme that provides thorough protections for victims of domestic violence and the rights of those arrested for them. However, the line as to what is “domestic violence” from an ordinary assault gets blurred when “household members” are included in this statute.

CCDLA’s objection is best understood through a hypothetical. Assume that a man and woman lived together, unmarried, until three years ago. They have not seen one another since parting company. Then, by coincidence, they wind up at the same tavern where an argument ensues. Words lead to violence and a serious physical injury. No one is sure if a dangerous weapon was used in the assault.

In this fact pattern, the assailant is liable under the revised statute merely because, at some point in the past, the two combatants had a prior “dating relationship.” In other words, the fact that they had a past amorous relationship is all that imposes a five-year mandatory minimum on the assailant.

It is important to understand what CCDLA’s position here is in terms of its subtlety. We are *not* saying that no crime was committed in the above set of facts. Indeed, many were. Instead, we are making the point through this hypothetical that someone is now exposed to substantial jail time merely because they “had been” in a dating relationship in the past with someone whom they later assaulted.

CCDLA submits that the bill’s author did not intend for this to occur. However, our realistic factual portrayal demonstrates that this bill, as drafted, exposes people for crimes that were never intended to be treated in this manner.

Please feel free to contact me if you wish to discuss this further. Thank you for your time and consideration.

Sincerely,

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