

96 Pitkin Street • East Hartford, CT 06108 • Phone: 860-282-9881 • Fax: 860-291-9335 • www.connsacs.org

Testimony of Connecticut Sexual Assault Crisis Services, Inc.

Laura Cordes, Executive Director

HB 6186 AN ACT PROTECTING SCHOOL CHILDREN

H.B. 6939 AN ACT CONCERNING SEXUAL ASSAULT IN THE FIRST DEGREE

H.B. 6923 AN ACT CONCERNING SEXUAL ASSAULT

Judiciary Committee

March 4, 2015

Good afternoon, Senator Coleman, Representative Tong, and members of the Judiciary Committee. My name is Laura Cordes, and I am the Executive Director of Connecticut Sexual Assault Crisis Services (CONNSACS). CONNSACS is the coalition of Connecticut's nine community-based sexual assault crisis services programs which provide free and confidential sexual assault crisis counseling and advocacy services to thousands of women, men and children, of all ages, each year throughout our state.

Thank you for the opportunity to come before you today to offer testimony regarding *HB 6186 AN ACT PROTECTING SCHOOL CHILDREN*, *H.B. 6939 AN ACT CONCERNING SEXUAL ASSAULT IN THE FIRST DEGREE*, *H.B. 6923 AN ACT CONCERNING SEXUAL ASSAULT*

HB 6186 AN ACT PROTECTING SCHOOL CHILDREN

When a child experiences abuse or neglect, we want the adults that they interact with to accept their responsibility to report, understand how to make that report and to support the child at the time of the disclosure. We should have no tolerance for those individuals or institutions who cover up or interfere with reports of sexual assault especially those who are mandated to receive training and are aware of their obligation to report. We are encouraged by the bills language that would further engage local and regional boards of education to coordinate a response with DCF and regional MDTs (multi-disciplinary response teams) but encourage careful consideration of the creation of separate rapid response teams to avoid any duplicative roles and to further protect the privacy of victims.

We support measures to ensure that school employees receive in person mandated reporter training. Effective mandated reporter training includes information about how to identify abuse, how to file a report and what to expect once a report has been made. In person training can help employees acknowledge the conflicted feelings and emotional difficulty of filing a report, especially when the victim and/or the potential abusers are known to the reporter, and reinforces the fact that mandated reporters are not and do not need to be investigators. Lastly in person training can help reporters understand how to respond to a child in a manner that is supportive, that does not cause further trauma or harm a future criminal investigation.

H.B. 6939 AN ACT CONCERNING SEXUAL ASSAULT IN THE FIRST DEGREE

SeCONNSACS is supportive of the increase in sentences proposed in this bill, especially for those found guilty of aggravated sexual assault in the first degree whose victims are minors under the age of 16 and ten. The ability to provide longer sentences including probation and community supervision of offenders through our state's specialized sex offender supervision units can increase justice for victims, hold offenders accountable and reduce their recidivism rates. While we understand the reality of split sentencing in our current criminal justice system and appreciate the desire to lengthen sentences and probation periods, we are opposed to any language that would reduce current mandatory minimums or allow for sentences to be entirely suspended – in effect allowing offenders to serve no jail time for these crimes.

H.B. 6923 AN ACT CONCERNING SEXUAL ASSAULT

CONNSACS supports both components of HB 6923, which would strengthen our state's rape shield law and set specific timeframes for both the transfer of sexual assault evidence collection by the police from a hospital to the state crime lab and the testing of kits once they arrive at the lab.

Rape Shield

CONNSACS supports amending CGS § 54-86f to explicitly require that rape shield hearings be held in private, specifically, "in camera." The principal purpose of the rape shield is to protect the victim's privacy by precluding the introduction of evidence relating to past sexual activity. While our current rape shield law protects the victim by precluding evidence of past sexual conduct in front of the jury, unless the *hearing* is held in camera, our law does not protect the victim's privacy in relation to the general public and the media. Connecticut's rape shield statute does include language for an in camera hearing, but that provision is not automatic and requires notice pursuant to § 51-164x.

In a recent high profile case, evidence of prior sexual conduct was kept from the jury; however, the public attending the *hearing* learned of the victim's sexual contact in the 72 hours prior to the assault and sexual assaults that occurred when the victim was a minor. There was nothing put in place to prevent defense counsel from repeatedly discussing the victim's sexual contact in open court, with repeated references to prior sexual assaults of which she had been a victim, the circumstances under which her children were fathered, and her voluntary sexual activities. This information was then printed in various media sources. While the victim's sexual history was kept from the jury, there was nothing in place to protect her privacy.

There are now 22 states that have similar rape shield statutes that address this problem by requiring that rape shield hearings be held in camera once the defendant has made a sufficient offer of proof to win a hearing to allow the court to determine the admissibility of the evidence. In addition, several states require that the records from the in camera hearing be sealed.

Sexual Assault Evidence Collection Kits

Behind every evidence collection kit is a victim who has braved coming forward in the aftermath of a significant trauma to have evidence from the crime collected from her body. Because the evidence on the body may deteriorate or become contaminated, it must be collected soon after the assault. In Connecticut, exams and evidence collection can be conducted up to 120 hours after the assault. The process is incredibly invasive, and because it follows so soon after an assault, many survivors experience a re-traumatization or re-victimization in the process.

Connecticut lawmakers as far back as 1988 have been sensitive to this dynamic. Connecticut was one of the first states to standardize the evidence collection process, to *prohibit* the billing of victims for the exam and evidence collection, and allow victims who are undecided about whether to report to the police, to undergo the exam and collection process but have the kit held as an "anonymous kit" to give them the time they need to report to the police.

For many victims, having this exam done is the last thing they want to do, but they do it. They do it because they expect that the kit will be sent to the lab to be tested, to bring about justice for themselves or to protect others from violence at the hands of their offender.

Current statute CGS 19a-112a stipulates that all but those kits in which a victim does not use a name (known as anonymous kits) should be sent to the lab; but the statute is silent on the timeline for transfer and testing. Standard protocol has been for the police in the town in which the rape occurred to pick up the kit from the hospital and transport it to the Forensic Evidence Laboratory in Meriden.

When a victim completes a kit and consents to law enforcement involvement, they rightfully believe that the evidence collected for the state's case will be sent to the crime lab. If a kit has a victim's name on it, the kit should be tested.

Initial findings from a survey of all Connecticut police departments, conducted by the *Commission on the Standardization of the Collection of Evidence in Sexual Assault Investigations* indicate that many towns have untested sexual assault forensic exam kits in their possession, some more than five years old. The reasons seem to vary - from unclear protocols, concern about the caseload at the lab, to choosing to not move forward with the case - and the results are untested kits, victims denied or left waiting for justice and healing, and we suspect, un-apprehended offenders who are free to commit sexual violence again and again.

Evidence found in the kit can establish if a sexual act occurred, can eliminate or identify a suspect, identify someone who may have prior convictions, and link cases based on evidence.

Unfortunately, guidelines have been unclear for police on when or whether or not to bring the kit to the lab and sexual assault victims have reported that their kits have been held at police stations. The ten-day timeframe allows enough time for both the smallest and furthest departments to ensure that the kit they secure is delivered to the lab.

It should be noted that the Department of Emergency Services and Public Protection, Division of Forensic Services and the staff of the Forensic Science Lab have done tremendous work to ensure timely turnaround of sexual assault collection kits and has eliminated their backlog. In order to maintain this high standard, Connecticut should adopt a specific timeline for the kits to be tested once they arrive at the lab. This bill sets forth a 60-day time frame.

Nothing in this bill should suggest that evidence transferred outside of the proposed 10-day transfer or 60 day testing and reporting windows be inadmissible in court. Therefore we encourage committee members to include bill language that would address any challenges brought by defense attorneys to make evidence outside of these time frames inadmissible.

In New York City, after enacting legislation to have every kit tested, prosecution has jumped from 40% to 70%. After Detroit began clearing their backlog they found 760 matches in CODIS (Combined DNA Index System) and 188 serial rapists and Illinois found 927 matches in the national DNA database.

We can and should do more to ensure that evidence collected by rape victims who make the difficult decision to report and go through an arduous exam, have access to justice by having their kits analyzed and tested in a timely matter. All kits should be sent to the lab for testing and Connecticut should join other states including, Illinois, Texas, Ohio and Colorado in adopting clear timelines for the transfer and testing of kits.

Thank you for your time and consideration. I would be happy to answer any questions you may have.

THE UNIVERSITY OF CHICAGO LIBRARY