



State of Connecticut  
DIVISION OF CRIMINAL JUSTICE

**TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE**

IN SUPPORT OF:

**H.B. No. 6923 (RAISED) AN ACT CONCERNING SEXUAL ASSAULT**

JOINT COMMITTEE ON JUDICIARY

March 4, 2015

The Division of Criminal Justice respectfully recommends the Committee's **Joint Favorable SUBSTITUTE Report** for H.B. No. 6923, An Act Concerning Sexual Assault. Section 1 of this legislation further refines our rape shield laws to better protect the privacy of the innocent victims of sexual assault; section 2 provides specific deadlines governing physical evidence collected in the course of sexual assault investigations.

With regard to Section 1 of the bill, 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. Even when the rape shield protects the victim by precluding evidence of past sexual conduct in front of the jury, unless the hearing is held in camera, the rape shield 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 Section 51-164x.

This legislation is offered in response to a case where evidence of prior sexual conduct involving the victim of a sexual assault was kept from the jury but became known to the news media and public. This included evidence of sexual assaults against the victim when she was a minor. There was nothing to prevent the defense from repeatedly discussing the victim's sexual conduct in open court, with references to prior sexual assaults of which she was a victim, the circumstances under which her children were fathered, and voluntary sexual activities. This information was then reported in numerous media outlets.

While the victim's sexual history was hopefully kept from the jury, there was nothing in place to protect her privacy. This is particularly troubling when a victim cooperates with a criminal investigation and provides a great deal of private information that then must be disclosed to the defense and can subsequently be trumpeted in open court for the public and media to hear. In the afore-referenced case, the victim, who has an IQ in the 60s, disclosed her name to the press prior to the trial. Therefore, personal information about her prior consensual

sexual contact and nonconsensual sexual contact was printed in various articles that identified her by name.

Many states have rape shield statutes that require that hearings be held in camera once the defendant has made a sufficient offer of proof to secure a hearing, including Alabama, Alaska, Arkansas, Colorado, Georgia, Maryland, Michigan, Missouri, New Jersey, Pennsylvania, Texas, and Washington, D.C. In addition, Colorado, Missouri, and Texas require the records from the in camera hearing be sealed.

While a defendant in a criminal case has a long-established right to obtain this information in the course of established discovery, the exercise of that right cannot be allowed to subject an innocent victim to public embarrassment and ridicule. Section 1 of H.B. No. 6923 in no way infringes on the rights of the defendant in a sexual assault case but does provide reasonable and necessary protections to the victims of such assault.

Section 2 of this bill addresses concerns that have arisen throughout the United States regarding delays in the testing of the kits utilized by health care professionals for the collection of forensic evidence in the investigation of incidents of sexual assault. The evidence is collected in a hospital or other appropriate health care facility by a trained health care professional, preferably a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE). The kit containing the evidence is then turned over to the police department responsible for the investigation of the underlying incident for submission to the Department of Emergency Services and Public Protection (DESPP) Forensic Science Laboratory for analysis.

The establishment of time standards is not only reasonable and appropriate, but it is also our understanding that many police departments want such a time frame. The Division respectfully requests the Committee's JOINT FAVORABLE SUBSTITUTE Report to amend Section 2 to specify that a failure by the police department or forensic laboratory to comply with the time standards set forth in the bill may not be used as the basis in a subsequent court proceeding to preclude the introduction of the evidence from the kit if that evidence is otherwise admissible. This is consistent with the position we expressed to the Public Safety and Security Committee in support of Proposed H.B. No. 6498, An Act Concerning the Timely Transfer and Processing of Sexual Assault Evidence Collection Kits.

In conclusion, the Division of Criminal Justice recommends the Committee's JOINT FAVORABLE SUBSTITUTE REPORT for H.B. No. 6923. We would like to thank the Committee for affording the opportunity to provide input on this matter, and we would be happy to provide any additional information the Committee might require or to answer any questions you might have.