



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

S.B. No. 3 (COMM) AN ACT COMBATTING SEXUAL ASSAULT AND SEXUAL HARASSMENT.

S.B. NO. 913 (RAISED) AN ACT CONCERNING THE EXTENSION OF THE STATUTE OF LIMITATIONS FOR THE PROSECUTION OF SEXUAL ASSAULT.

JOINT COMMITTEE ON JUDICIARY
April 1, 2019

The Division of Criminal Justice stands ready to work with the Committee, the defense bar and other interested parties to address the issue of what constitutes the appropriate statute of limitations for the prosecution of sexual assault. The Division fully recognizes the concerns over the existing statute of limitations, but considers it necessary to note the implications of proposals to eliminate altogether the limitations on prosecution in sexual assault cases. In doing so, we would respectfully note the Division of Criminal Justice is the agency that would be most directly impacted by a change in the statute of limitations as we have the constitutional responsibility for the investigation and prosecution of all criminal matters in this state.

It should be made very clear that any change in the statute of limitations will not open the door for investigation and possible prosecution for criminal acts for which the existing statute of limitations has already expired. Neither of the bills before the Committee, nor any legislation to be drafted, can negate the long-established *ex post facto* caselaw. It is, however, fully within the General Assembly's purview to extend the statute of limitations for criminal acts for which the statute has not already tolled (*Stogner v. CA*, 539 U.S. 607 (2003)).

The one notable exception to the current statute of limitations is the provision codified in Section 54-193b that provides for an extended statute of limitations for the prosecution of certain sexual assault crimes that are classified as felonies if the identity of the offender has been established through DNA evidence recovered from the time the offense was committed. This generally involves the issuance of "John Doe" warrants where the arrest warrant is issued with the DNA identification of the defendant so that an arrest can be made at a future date when the identity of the person who produced the DNA has been determined.

The decision on whether to extend, or eliminate altogether, the statute of limitations is a policy question that rests with the General Assembly and the Governor. As such, the Division does not take a specific position on the bills before the Committee today. We do, however, stand

ready to work with the Committee, the defense bar and other concerned parties to discuss the implications of this policy decision.

The Division of Criminal Justice stands ready to fully implement any policy decision made by the General Assembly. We must note, however, that the elimination or significant extension of the statute of limitations should not be seen as a panacea for victims of assault. As with any criminal investigation and prosecution, the older a case gets the more difficult it becomes to solve, and even more difficult to prove beyond a reasonable doubt. While DNA analysis, cell phone records and other modern technology are now providing evidence never before available, this is not always the case in every case. Many sexual assault cases are based exclusively on the testimony and memories of witnesses who may or may not be able to be found by investigators, a problem that worsens as case gets older. Very old incidents would likely never reach the point of arrest since the prosecutor, as a sworn official of the court, cannot ethically and legally bring a case that he or she does not believe can be proven beyond a reasonable doubt.

In conclusion, we thank the Committee for affording this opportunity to provide input on this matter and would be happy to provide any additional information the Committee might require or to answer any questions that you might have.