



Connecticut General Assembly
SENATE DEMOCRATS

Legislative Office Building, Room 3300
Hartford, Connecticut 06106-1591

In SUPPORT of S.B. 3
An Act Combatting Sexual Assault and Sexual Harassment (the “Time’s Up Act”)

Women should be believed. Victims should not be penalized for waiting to report crimes. Enablers of sexual violence should be held accountable. For these reasons, we offer this testimony in strong support of the Time’s Up Act – the largest legislative overhaul of sexual harassment and sexual assault law in modern Connecticut history.

Criminal Law – Extending Statutes of Limitations

Historically, rape and sexual assault have been the most under-reported crimes, with most victims never talking to the police. Common reasons victims give for not reporting is fear from retaliation, believing the police will do nothing, or believing it is a personal matter.¹ The good majority of victims are not attacked in a dark alley by a stranger, but assaulted by someone they know. Victims often need time to admit they are victims. One of the first questions asked on the national sexual assault hotline is, “Was I raped?”² When the offender is a family member or respected person in the community, going public with a story of rape can be hell. Doctor Christine Blasey Ford’s experience played out before all of our eyes. She wanted to remain anonymous, and feared she would be “personally annihilated” if she went public, and that her story would not impact the decision of the Senate. We hate to say she was right. Considering the humiliation and insults she endured, no one should question a victim who hesitates to come forward. The statute of limitations for rape of an adult in Connecticut is 5 years, which is the default for other felony crimes.

The case of Harvey Weinstein exemplifies why Connecticut needs to extend the five year limit. In 2018, Harvey Weinstein was charged for rape in 2004, sexual assault in 2006, and sexual assault in 2013. All charges were in New York, where there is no statute of limitations. Had Weinstein committed these three crimes in Connecticut, the five year statute of limitations would have expired by the time he was arrested in 2018.

¹ U.S. Dept. of Justice, Bureau of Justice Statistics, Female Victims of Sexual Violence, 1994-2010 (2013).

² Shaila Dewan, *Why Women Can Take Years to Come Forward with Sexual Assault Allegations*, N.Y. Times (Sept. 18, 2018).

As a matter of comparison, the statute of limitations for rape in Connecticut is one of the shortest in the country.³ *Twenty-five states have no statute of limitations for rape.* Twenty-one states have a limit that exceeds Connecticut's five-year limit, and only two states have shorter limits. If Connecticut increases the statute of limitations for rape to 10 years, as proposed by other legislation before this committee, then 36 states will still have longer limits than Connecticut.

For offenses against adults, S.B. 3 would set the statute of limitations for each sexual assault crime based on its specific felony class. The statute of limitations for misdemeanors would be extended from 1 to 5 years, from 5 years to 25 years for class D felonies, and it would be eliminated for class B and C felonies. Whereas the current statute of limitations for a sexual assault crime committed against a minor is either the victim's 48th birthday or nonexistent, this bill would eliminate it for all such crimes.

Civil Claims – Extending Statutes of Limitations

Victims do not confront their attackers with lawsuits for the same reasons they do not report sexual assault to police. Acknowledging the difficulty victims face means we should not only extend the statute of limitations for crimes, but civil claims as well. According to Child USA, about a third of minors report being abused, a third will disclose it later in life, and a third will die having never disclosed it. Reports vary, but the average age a victimized minor discloses their abuse is age 52 or older. A sexually abused minor can bring a claim until his or her 48th birthday, and anyone can bring a claim if the offender is criminally convicted of sexual assault in the 1st degree (e.g. forced intercourse). But for all other acts of sexual assault, the three year statute of limitation applies. This bill would eliminate the statute of limitation for both claims brought by minors and adults.

The bill also establishes a 27 month look-back-window during which victimized minors can bring claims previously timed barred. Connecticut, Massachusetts, and Utah have previously retroactively revised claims based on the victim's age. Delaware, California, Minnesota, and Georgia have adopted look-back-windows. New York is the most recent state to do so, which passed the Child Victim Act unanimously in January.

Sexual Harassment and other Discrimination in the Workplace

If we believe that jobs are important, and that they are integral to the fiscal health of this state, then we ought to strive to ensure everyone has an equal opportunity to make a contribution. Society holds women up against unfair stereotypes, and this bill not only acknowledges the impediments employees face due to discrimination but takes action to bring change.

In FY 2018, 84% of the sexual harassment complaints filed with the U.S. Equal Employment Opportunity Commission (EEOC) were filed by women, which is fairly consistent

³ "Rape," for purposes of comparing state laws in this testimony, is considered forced sexual intercourse with an adult when the crime was not reported at the time of the offense, DNA was not collected at the time of the offense, there was no threat of death or serious bodily injury, the victim was not related to the offender, a weapon was not used or in possession at the time of the offense, and the offender acted alone. A variation of these factors can change the statute of limitations. "Forced sexual intercourse" of an adult in Connecticut is a Class B felony under CGS § 53a-70.

with data kept since 1998.⁴ 70% to 80% of people who experience workplace harassment do not report it.⁵ Sadly, sometimes this is the reasonable course of action because those who do report general mistreatment at work experience retaliation 75% of the time.⁶ Victims of harassment have rights, and the fact they suffer more when these rights are exercised is unacceptable. Harassment undercuts hardworking individuals who deserve the same opportunities as others, and it generates real mental and economic hardship. Further, it hurts a company's bottom line because it diminishes worker productivity and leads to staff turnover.

This bill takes a holistic review of our workplace discrimination laws and makes multiple changes. Section 1 requires employers with three or more employees to provide training on sexual harassment. To reduce costs for businesses and make compliance as easy as possible, the bill directs Commission on Human Rights and Opportunities ("CHRO") to develop online training materials that employees can access to satisfy the requirements. These provisions will ensure 90% of employees in the state will receive training that challenges common misconceptions about offensive and criminal behavior and what to do if it happens.

In response to what we know about retaliation by employers, the bill creates new protections for those who want to report discrimination. Section 4 will prohibit an employer from taking corrective action that modifies the accuser's employment conditions, without her or his written consent. Employers often attempt to resolve complaints by changing the complainant's responsibilities, or imposing other modifications to separate the complainant and the alleged offender. These actions disrupt the complainants' quality of work, relationships with peers, and career prospects.

Many of the protections in the bill address all workplace discrimination, which will strengthen laws that protect employees from discrimination on the basis of religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, mental disability, physical disability or status as a veteran. The CHRO is a mandatory administrative stop for enforcement of state remedies for sexual harassment and other employment discrimination. Victims cannot sue immediately in Superior Court – they must go through CHRO first. During fiscal year 2018, CHRO received 2,484 new complaints, and more than 80% were for employment discrimination.

As victims of housing discrimination can currently do, workplace victims will be able to seek lawyers' fees and court costs, as well punitive damages. The bill extends various deadlines to file complaints with the CHRO and state courts. Additionally, the bill will allow CHRO to issue fines up to \$10,000 and to petition a court for protective injunctive relief on behalf of many more employees than its current authority allows. Under current law, CHRO can only apply for injunctive

⁴ EEOC Release, Preliminary FY2018 Sexual Harassment Data (Oct. 4, 2018) *available at* <https://www.eeoc.gov/eeoc/newsroom/release/10-4-18.cfm>; EEOC, Charges Alleging Sex-Based Harassment (FY 2010-FY2018), *available at* https://www.eeoc.gov/eeoc/statistics/enforcement/sexual_harassment_new.cfm.

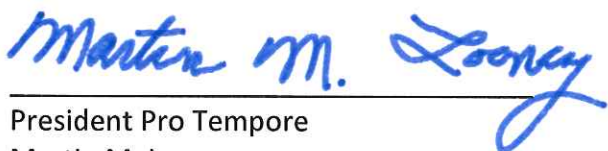
⁵ U.S. Equal Employment Opportunity Commission, Select Task Force on the Study of Harassment in the Workplace, p 16 (June 2016); *see also* Huffington Post, *Poll of 1,000 Adults in United States on Workplace Sexual Harassment* (Aug. 2013).

⁶ U.S. Equal Employment Opportunity Commission, Select Task Force on the Study of Harassment in the Workplace, p 16 (June 2016); Lilia M. Cortina & Vicki J. Magley, *Raising Voice, Risking Retaliation: Events Following Interpersonal Mistreatment in the Workplace*, 8:4 J. Occupational Health Psychol. 247, 255 (2003).

relief if the alleged offending employer has 50 or more employees. This on its face is grossly unfair – we can all agree that our constituents who work at smaller businesses aren't less worthy of our protection than those at larger ones. The bill proposes to remedy this, and lowers the CHRO injunctive relief threshold to 3 or more employees.

These are important issues and on behalf of victims, employees, and our constituents, we urge the Committee to favorably report S.B. 3.

Sincerely,




President Pro Tempore
Martin M. Looney
State Senator 11th District



Majority Leader
Bob Duff
State Senator 25th District



Mary Daugherty Abrams
State Senator 13th District



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