



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN SUPPORT OF:

H.B. 6594 (RAISED) AN ACT CONCERNING THE CRIMINAL JUSTICE PROCESS.

JOINT COMMITTEE ON JUDICIARY

March 10, 2021

The Division of Criminal Justice supports H.B. 6594, An Act Concerning the Criminal Justice Process, and respectfully recommends the Committee's JOINT FAVORABLE Report for this bill.

This bill is the result of lengthy discussions with multiple stakeholders in an effort to create a joint omnibus bill. The Division would like to thank the Office of Chief Public Defender, the Judicial Branch, the Office of Attorney General, the Department of Corrections, and the Connecticut Sentencing Commission for all of their input and hard work to reach language that was agreeable by all.

The first twelve sections of the bill contain proposals offered by the Division. Section 1 would permit the State to depose a victim or witness of a crime who is 75-years or older. Currently, the statute only permits the defendant to depose an individual. This limited addition would allow prosecutors to record the testimony of elderly individuals – particularly those who are victims of elder abuse.

Sections 2 and 3 seek to amend the title and contents of § 53a-83 to replace the phrase "patronizing a prostitute" with "soliciting sexual acts." General Statutes § 53a-83 is a fairly broad, encompassing statute that includes soliciting sexual conduct with any person for a fee. The naming of the statute allows for a misnomer that essentially labels any third party being offered for sexual acts as a "prostitute." This could negatively impact a victim's position on the matter or willingness to have charges pursued due to them being potentially labeled as a "prostitute." A broader sounding title would maintain the same effect, but would remove stigma. Additionally, this updated phrasing would seem more fitting in the case of undercover officers posing as sex workers.

Sections 4 through 8 seek to remove several civil duties from the purview of the Division and place them within the Office of Attorney General. Specifically, those duties are investigating a town clerk or treasurer for removal of office, as well as bond forfeiture duties. As noted, these are purely civil functions, rather than criminal, and would be better suited for the duties of the Attorney General's office.

Section 9 would require state prosecutors to notify the Office of Attorney General when the defendant in a state court action is a public official or state or municipal employee charged with a crime related to their office for purposes of pension revocation. As currently drafted, the onus is on the Attorney General to notify the State's Attorney. This structure makes little sense in reality, as it is the State's Attorney who is in the best position to know when public officials/employees have been charged with such crimes.

Section 10 would bring the definition of "vendor fraud" in line with its federal criminal counterpart. Medicaid providers who are convicted of program-related crimes face either mandatory or permissive exclusion from the program as a consequence of the conviction under 42 U.S.C. 1128. Such exclusion essentially acts as an administrative death penalty for a provider, inasmuch as they are neither authorized to seek nor permitted to receive federal funds in payment of claims for the duration of their exclusion.

Some excluded providers nevertheless ignore the exclusion, usually by taking employment with properly credentialed providers who then bill Medicaid on their behalf. On the existing state of the law, it is a federal criminal offense for an excluded provider to seek or receive federal funds in payment of claims under 42 U.S.C. 1128B. However, in Connecticut there is currently no state crime which mirrors the federal offense, thus leaving us with only the option to pursue it federally, which often does not happen. The Division has had to decline 3 cases recently that fell into this rubric. This proposal is a simple fix for this problem.

Section 11 would increase the penalty for severe cyber stalking or harassment. This proposal would mirror the federal statute, 18 U.S.C 2261A. The Division has received cases where victims have been absolutely tormented by individuals stalking them online, to the point that they become fearful of even leaving their home. The offenders construct sophisticated webs of accounts and servers so as to avoid detection. As an example, the Division had one recent case in which the defendant, after only a couple of dates with a woman, utilized the internet to stalk the victim, and appear at random where the victim was, such as the gym or a restaurant. The defendant not only stalked and harassed the victim, but also expanded to the victim's family. When the defendant was apprehended, the Division could only charge that defendant with a misdemeanor because he had not threatened to kill or physically harm the victim. However, the level of psychological torment was immense. This proposal would raise such an offense to a felony.

Finally, Section 12 addresses the crime of Unlawful Dissemination of Intimate Images, as set forth in § 53a-189c. Addressing the significance of sextortion and non-consensual pornography, a 2016 study found that 4% of all internet users in the United States had either "sensitive images" of themselves posted online without their consent, or had someone threaten to post "sensitive images" of them without their consent. A U.S. Department of Justice report called sextortion "by far the most significantly growing threat to children." The National Conference of State Legislators and Brookings Institute (among many other agencies and organizations) have advocated for harsher punishments for sextortion related crimes, recognizing such crimes as "surprisingly common" and the harm done to victims "brutal." This crime has grown at an increasingly steady rate, particularly over the past year due to increased internet usage during the COVID-19 pandemic. Recent revisions to the federal Trafficking Victims' Protection

Reauthorization Act reflects the increasing use of sextortion in the proliferation of human trafficking and child sexual exploitation.

Currently, 30 states (including Maine, New Hampshire, New Jersey, New York and Rhode Island) classify dissemination of non-consensual pornography and sextortion related activities as a felony offense. Other states classifying the offense as a misdemeanor include provisions increasing the offense to a felony in certain circumstances, including if the victim was under 21 years old, if the offender is a repeat offender, or if the offender sought financial gain. As numerous studies show, the effects of non-consensual pornography and sextortion on victims are devastating, with more than 90% of victims stating they have suffered personal harm as a result of the criminal act, and more than half of all victims stating they have had suicidal thoughts because of the crime committed against them. Like child pornography, once these images are out on the internet, they can never be completely removed. It is time to treat this offense on par with such similar offenses.

In conclusion, the Division of Criminal Justice supports H.B. 6594 and respectfully recommends the Committee's JOINT FAVORABLE REPORT. 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.