



STATE OF CONNECTICUT  
**SENTENCING COMMISSION**

**Testimony of Alex Tsarkov , Executive Director of the Connecticut Sentencing Commission  
before the Judiciary Committee on HB 6714, *An Act Concerning Cruelty to Animals***

Senator Winfield, Representative Stafstrom, Senator Flexer, Representative Quinn, Senator Kissel, Representative Fishbein , and members of the Judiciary Committee. Thank you for allowing me to testify before you today. For the record, I am Alex Tsarkov, Executive Director of the Connecticut Sentencing Commission. I am here to testify in support of Section 1 to 3 of HB 6714, *An Act Concerning Cruelty to Animals*.

**1. The Connecticut Sentencing Commission**

We would first like to give some background about the Sentencing Commission. We are a permanent commission consisting of stakeholders in Connecticut’s criminal justice system. Our membership includes two judges; the Chief State’s Attorney; the Chief Public Defender; the Victim Advocate; the commissioners of Correction, and Emergency Services and Public Protection; community activists interested in the criminal justice system; the chair of the Board of Pardons and Paroles; the undersecretary of the Office of Policy and Management’s Criminal Justice Policy and Planning Division; as well as others vitally engaged in the criminal justice system. Our work is informed by all the major system stakeholders of the criminal justice system and aims to adhere to the best legal and evidence-based research and practices.

During the past fall, a subcommittee of the Sentencing Commission has been studying various issues related to animal cruelty. That study included issues related to sexual assault of an animal. I am here today to testify specifically on Sections 1 to 3 of HB 6714 as they relate to sexual assault of an animal.

**2. History of fourth degree sexual assault statute 53a-73a(a)(3) – sexual contact with an animal or dead body**

The crime of sexual assault with an animal was enacted in Public Act 75-619. The crime, codified as Section 53a-73a(a)(3) stated, in relevant part, that “(a) A person is guilty of sexual assault in the fourth degree when: . . . (3) such person engages in sexual contact with an animal or dead body . . .”

When the statute was enacted, the operative definitions of "sexual contact" and "person" had been in place since 1969, when the Connecticut Penal Code was adopted. The definition of sexual contact requires contact with a "person", and the definition of "person" includes a human being – but does not include an animal or dead body. In 2020, a superior court dismissed a charge of sexual contact with an animal based, in part, on these definitions.

### **3. Prosecutions under 53a-73a(a)(3)**

In 2020, Judge Danaher in the Superior Court, Judicial District of Litchfield, dismissed the charges in *State of Connecticut v. Robert Hoetzl*. In that case, the state had charged the defendant with sexual assault in the fourth degree in violation of Section 53a-73a(a)(3).

The defendant filed a motion to dismiss the charges because the definition of “sexual contact” in Section 53a-65(3) require sexual contact with a person, thus making the sexual contact with an animal offense in Section 53a-73a(3) unenforceable. The court agreed with the defendant and held that the term “person” could not include an animal, and therefore the term “sexual contact” as defined in Section 53a-65(3) could only apply to contact between persons, not contact between a person and an animal.

Because of the result in *State v. Hoetzl*, the Sentencing Commission proposed *An Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Sexual Assault in the Fourth Degree* to address the current disparities between Section 53a-65(3) and Section 53a-73a(a)(3). The proposed text is attached. Similar to the Sentencing Commission’s proposed act, House Bill 6714 seems intended to address the holding in *Hoetzl*. We would like to propose some considerations and substitute language for the committee’s consideration.

### **4. Issues in 53a-73a(a)(3) regarding sexual contact with a dead body – proposed substitute**

As noted above, Public Act 75-619 did not reconcile the terms “animal” or “dead body” in Section 53a-73a(a)(3) with the term “person”, as defined in Section 53a-3 and used in the definition of “sexual contact” in Section 53a-65. As a result, the same argument used in *Hoetzl* regarding sexual contact with an animal could apply to sexual contact with a dead body, since the statutory term is “person”, not “body”. The Sentencing Commission proposed language to address this concern. However, a simpler correction in HB 6714 might be to bracket "body" in line 114 and insert "person" after the closing bracket.

### **5. Statutory references to section 2 and section 53a-73a – proposed substitute**

Section 2 of HB 6714 creates a new crime of sexual assault of an animal. Section 3 of HB 6714 amends existing Section 53a-73a(a)(3) to delete the reference to sexual contact with an animal. However, there are no corresponding changes to the sections of the general statutes that reference Section 53a-73a to insert a reference to the new crime in section 2. We recommend that corresponding changes be considered.

A recent search of the general statutes found forty-two sections that reference Section 53a-73a. Some of those sections include victim confidentiality and services (See e.g. 1-210(b); 1-215; 54-209; 54-240), limitations on certain education certifications for convicted individuals (See e.g. 10-145b; 10-145i); and additional fines (See 54-143c). The committee may wish to consider substitute language to insert "or section 2 of this act" after statutory references to Section 53a-73a, where appropriate.

#### **6. Section 1 – amendments to Section 53a-65 – proposed substitute**

Section 1 of HB 6714 amends the existing sexual assault definitions in Section 53a-65. For clarity, in line 3, we recommend that "and section 2 of this act" be inserted after "part". Also, in the new definition of "sexual contact with an animal" the committee may wish to replace the new terms "sex organ" and "anus" with the existing term "intimate parts", since the term "sex organ" is not used in statute and not defined in the bill. The existing definition of "intimate parts" appears in lines 34-36 of HB 6714.