



STATE OF CONNECTICUT  
**SENTENCING COMMISSION**

**Testimony of Alex Tsarkov , before the Judiciary Committee on HB 6 917 , An Act Concerning Various Revisions to the Criminal Law and Criminal Justice Statutes**

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 Sections 5, 6, 9 and 10 of HB 6917, *An Act Concerning Various Revisions to the Criminal Law and Criminal Justice Statutes*, and to suggest substitute language for your consideration in sections 9 and 10.

**1. Connecticut Sentencing Commission - background**

I would first like to give some background about the Connecticut 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, Emergency Services and Public Protection , and Mental Health and Addiction Services; 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 major stakeholders in the criminal justice system and aims to adhere to the best legal and evidence-based research and practices.

**2. Testimony on House Bill 6917**

**A. Sections 5 and 6 – Motor Vehicle Mandatory Minimums**

This past summer and fall, a subcommittee of the Sentencing Commission examined the mandatory minimum sentences in the general statutes. As a result of this study, the Sentencing Commission voted to recommend amendments similar to those in sections 5 and 6 of this bill.

Section 5 amends the mandatory minimums in CGS 14-36 concerning driving without a license or permit or driving in violation of a license restriction. Section 6 amends CGS 14-215(b) concerning driving with a refused, suspended or revoked license. The mandatory minimums in 14-36 and 14-215(b) apply to a third or subsequent violation of (1) driving without a license or permit , (2) driving in violation of a license restriction, or (3) driving with a refused, suspended or revoked license.

Under this proposal, a mandatory sentence would not be automatic for a third or subsequent offense - but would apply in the absence of mitigating circumstances. This mirrors mitigating circumstance consideration that already exists in CGS 14-215(c).

### **B. Sections 9 and 10 - Sexual Assault in the Fourth Degree**

This past summer and fall, a subcommittee of the Sentencing Commission studied various issues related to animal cruelty. The study included a review of the 2020 Superior Court case of *State v. Hoetzi*. In that case, the state charged the defendant with sexual assault with an animal in violation of CGS 53a-73a(a)(3). The court found that the definition of sexual contact in 53a-65(3) was limited to contact with a person, and barred prosecution under the bestiality provision in Sexual Assault in the Fourth Degree, 53a-73a(a)(3).

The subcommittee concluded that the analysis in *Hoetzi* would also apply to sexual assault with a dead body under CGS 53a-73a(a)(3). We submitted a brief legislative history and further analysis in our testimony on HB 6714 – *An Act Concerning Cruelty to Animals*.

The Sentencing Commission's proposed amendments to Sections 53a-65 and 53a-73a are attached. These differ from the current bill in that they address both crimes under CGS 53a-73a(a)(3) – sexual contact with an animal and sexual contact with a dead body.

### **3. Conclusion**

In summary, we support passage of Sections 5, 6, 9 and 10 of HB 6917, with substitute language described above. We are available to assist you with this bill or any other legislation that concerns the criminal justice system.

Thank you for your consideration.

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO SEXUAL ASSAULT IN THE FOURTH DEGREE.**

Section 1. Section 53a-73a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) physically helpless, or (D) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (E) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal; or (4) such person engages in sexual contact with a dead human body; or [(4)] (5) such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or [(5)] (6) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or [(6)] (7) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or [(7)] (8) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or [(8)] (9) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age; or [(9)] (10) such person subjects another person to sexual contact who is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has

supervisory or disciplinary authority over such other person.

(b) Sexual assault in the fourth degree is a class A misdemeanor or, if the victim of the offense is a person under sixteen years of age, a class D felony.

Sec. 2. Subdivision (3) of section 53a-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(3) "Sexual contact" means (A) any contact with the intimate parts of a person for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person; or (B) for the purposes of subdivision (3) of subsection (a) of section 53a-73a, as amended by this act, any contact with the intimate parts of an animal or any contact of the intimate parts of the actor with an animal, for the purpose of sexual gratification of the actor; or (C) for the purposes of subdivision (4) of subsection (a) of section 53a-73a, as amended by this act, any contact with the intimate parts of a dead human body, or any contact of the intimate parts of the actor with a dead human body, for the purpose of sexual gratification of the actor .

***Statement of Purpose:***

To clarify the requirements of sexual assault in the fourth degree with an animal or a dead body.