

Judiciary Committee JOINT FAVORABLE REPORT

Bill No.: HB-5298

AN ACT CLARIFYING THE MEANINGS OF SEXUAL INTERCOURSE AND

Title: SEXUAL CONTACT.

Vote Date: 3/28/2024

Vote Action: Joint Favorable Substitute

PH Date: 3/11/2024

File No.:

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SPONSORS OF BILL:

Judiciary Committee

CO-SPONSORS OF BILL:

Judiciary Committee

REASONS FOR BILL:

Following the Supreme Court ruling in State v. Douglas C and State v. Joseph V. which ruled that continuous acts of sexual misconduct couldn't be prosecuted; advocates have tried to clarify the meanings of sexual intercourse and sexual contact. This bill aims to do exactly that, with the hopes that prosecutors can convict an individual who commits certain sexual assault violations for a single act or two or more acts as a continuous course of conduct.

SUBSTITUTE LANGUAGE:

The substitute language uses language from the Department of Criminal Justice to further clarify continuous course of conduct.

RESPONSE FROM ADMINISTRATION/AGENCY:

Benedict Daigle, Assistant Public Defender, Office of Chief Public Defender: He testified in opposition to the bill, stating that it goes beyond the cited rulings and could change the burden of proof in certain instances. He recommends that this be referred to the Sentencing Commission or an issue-specific workgroup to ensure all relevant stakeholders are heard. He also stated that the bill does not define "continued course of action", leaving the term overly vague, while other states have set timeframe and frequency parameters of alleged conduct.

Stephen Sedensky, Special Assistant States Attorney, Division of Criminal Justice: He testified in support of the bill, which is meant to address the impact of Connecticut Supreme Court's decisions in State v. Douglas C., and State v. Joseph V., which fails to criminalize a

continuing course of conduct. He stated that this requires juries to find specific individual acts of sexual assault to be proven beyond a reasonable doubt before convicting a defendant of sexual assault. He furthered that the Supreme Court implicitly recognized this and invited the legislature to amend the statutes to include continued cases.

NATURE AND SOURCES OF SUPPORT:

Kate Farrar & Eleni Kavros DeGraw, State Representatives, CT General Assembly:

Support this bill stating that sexual violence impacts more than half of women and nearly 1 in 3 men. This bill will help hold those who commit sexual acts of violence accountable, especially in child sexual abuse cases because children cannot always orient to date, time, or location of every assault because of the trauma.

Natasha Pierre, State Victim Advocate, Office of the Victim Advocate: Supports this bill and states that this bill makes it clear that the State can charge a criminal defendant with a single act of sexual assault that occurs over a period of time.

Beth Hamilton, Executive Director, Alliance to End Sexual Violence: Supports this bill because it will help hold those who cause harm accountable for their actions. Considering the State v. Douglas C and State v. Joseph V cases, showed that our state's sexual assault statutes criminalize only individual acts of sexual assault, not continuous courses of conduct, a change needs to be made to acknowledge continuous acts, which is especially important in cases of ongoing abuse of children. Currently the burden is places on children to differentiate between individual instances of forced sexual contact. In the US, approximately 1 in 4 girls, and 1 in 13 boys experience sexual violence before the age of 18. Prosecutors need the tools to address the sexual abuse of children.

Krystal Rich, Executive Director, Connecticut Children's Alliance: Supports this bill and states that due to the severe trauma of abuse and depending on the developmental stage of children, they may have trouble distinguishing between individual instances of abuse so language that acknowledges the cumulative nature of abuse will help hold perpetrators accountable for their actions even when victims can't provide specific details of dates, times, and locations.

NATURE AND SOURCES OF OPPOSITION:

Molly Arabolos, President, CT Criminal Defense Lawyers: She testified in opposition to the bill because she has concerns it could shift the burden of proof. Her organization supports the concerns of the Office of the Chief Public Defender and their recommendation to refer this matter to the Sentencing committee or an issue-specific workgroup.

Dale Herbert: He testified in opposition to the bill because it is not the state legislature's place to determine what qualifies as "sexual assault". He believes the bill will open the floodgates for lawsuits and follow New York State's overreach.

Jeffrey Lyons: He testified in opposition to the bill because of the amount of money the state spends.

Reported by: Hillary Desideraggio

Date: 3-21-24