



STATE OF CONNECTICUT

SENTENCING COMMISSION

Testimony of Alex Tsarkov and Honorable Judge Robert Devlin, Jr. before the Government Administration and Elections Committee on SB 843, An Act Concerning the Unlawful Dissemination of Intimate Images

Senator Winfield, Representative Stafstrom, Senator Kissel, Representative Rebimbas, and members of the Judiciary Committee.

For the record, my name is Alex Tsarkov and I am the Executive Director of the Connecticut Sentencing Commission. With me is Judge Robert Devlin, Jr., a superior court judge and chair of the Sentencing Commission. We are here to testify on *SB 843, An Act Concerning the Unlawful Dissemination of Intimate Images*.

I would first like to give you some brief background about the Sentencing Commission. We are a permanent commission created seven years ago, consisting of all the stakeholders in Connecticut's criminal justice system. Our membership includes four 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; municipal police chiefs; 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. We have adopted a policy of striving for consensus in our recommendations to the legislature and the governor. 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.

The Sentencing Commission takes no position on the increase in penalty under the proposal. However, the Commission did examine the unlawful dissemination of intimate images statute at the request of the Trafficking in Persons Council. The Commission believes that the statute could be significantly improved and recommends the following changes:

Sec. 53a-189c. Unlawful dissemination of an intimate image: Class A misdemeanor. (a) A person is guilty of unlawful dissemination of an intimate image when (1) such person intentionally disseminates by electronic or other means a photograph, film, videotape or other recorded image of [(A) the genitals, pubic area or buttocks of another person with less than a fully opaque covering of such body part, or the breast of such other person who is female with less than a fully opaque covering of any portion of such breast below the top of the nipple, or (B) another person engaged in sexual intercourse, as defined in section 53a-193,] another

person who is depicted in a sexual act or whose intimate parts, as defined in section 53a-65 (8), are exposed, in whole or in part and (2) such person disseminates such image without the consent of such other person, knowing that such other person understood that the image would not be so disseminated, and (3) such other person suffers harm as a result of such dissemination. For purposes of this subsection, “disseminate” means to sell, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, present, exhibit, advertise or otherwise offer.

(b) The provisions of subsection (a) of this subsection shall not apply to:

(1) Any image described in subsection (a) of this section of such other person if such image resulted from voluntary exposure or engagement in sexual intercourse by such other person, in a public place, as defined in section 53a-181, or in a commercial setting;

(2) Any image described in subsection (a) of this section of such other person, if such other person is not clearly identifiable; or

(3) Any image described in subsection (a) of this section of such other person, if the dissemination of such image serves the public interest.

(c) Unlawful dissemination of an intimate image is a class A misdemeanor.

(d) Nothing in this section shall be construed to impose liability on the provider of an interactive computer service, as defined in 47 USC 230, an information service, as defined in 47 USC 153, or a telecommunications service, as defined in section 16-247a, for content provided by another person.

We thank the Committee for the opportunity to provide testimony to improve the unlawful dissemination of intimate images statute.