



STATE OF CONNECTICUT

## SENTENCING COMMISSION

### ***Testimony of Alex Tsarkov and Honorable Judge Robert Devlin, Jr. before the Legislative Black & Puerto Rican Caucus***

Members Connecticut Legislative Black & Puerto Rican Caucus. 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 in favor of the Sentencing Commission's proposals to the Judiciary Committee.

We 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.

Enclosed please the summary of statutory proposals that we have forwarded to the Judiciary Committee. We look forward to working with you and would be glad to answer any questions about these or any other proposals.

## ***An Act Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to the Sex Offender Registry***

*Follows best practices in risk management, protects public safety, strengthens and focuses the registry on high-risk offenders*

- *Special Act 15-2* required the Connecticut Sentencing Commission to study sex offender sentencing, registration and the management system and provide recommendations to the Governor and Connecticut General Assembly. This proposal is the result of two years of rigorous study and discussions with multiple stakeholders – academics, practitioners, victim advocates, as well as state and national experts on this subject.
- The key aspect of this proposal is a move from an offense-based registry to a risk-based registry focused on the risk, needs and responsivity model supported by research and evidence-based practices.
- The categories of sex offenders who must register with the Department of Emergency Services and Public Protection based on the crime for which they were convicted would remain the same. However, the length of time on the registry, the compliance requirements and whether it is a public or a law enforcement-only registry would be determined by evaluating the registrant's risk of reoffending.
- Connecticut is one of the very few jurisdictions that currently does not permit individuals to be removed from the registry. The proposal establishes a process to petition the Superior Court for removal from the registry. The removal process would be prospective only except for some individuals who were retroactively placed on the registry at the time the registry became effective (i.e., offenders who were convicted prior to January 1, 1998, unaware that they would be subject to registration requirements) would be eligible to petition the court for removal.
- The proposal would allow for more focused monitoring and management of individuals who have engaged in sexual violence and at the same time provide mechanisms for those who have rehabilitated themselves to more fully reintegrate into their communities.

## ***An Act Concerning Recommendations of the Sentencing Commission with Respect to Penalties for Sex Offenders***

- Under current law, the penalties for possession of child pornography are as follows:
  - 1st-degree possession (class B felony): for possessing 50+ images; carries a mandatory minimum prison sentence of 5 years
  - 2d-degree possession (class C felony): for possessing 20-49 images; carries a mandatory minimum prison sentence of 2 years
  - 3d-degree possession (class D felony): for possessing 1-19 images; carries a mandatory minimum prison sentence of 1 year
  
- This proposal allows for an enhanced penalty for those offenders convicted of possession of child pornography who have a previous history of a sexual assault conviction.
  
- The proposal allows judges to depart from a minimum mandatory sentence for good cause shown and requires that judges state in open court the reasons for imposing a sentence that departs from the prescribed mandatory minimum sentence. The current inflexibility of the mandatory minimums eliminates a prosecutor's discretion in certain cases that might warrant leniency, such as cases involving individuals who are not dangerous.
  
- The proposal allows for a deviation when the offender is younger than 21 years of age from the current minimum mandatory sentence for 2<sup>nd</sup> degree sexual assault for sexual intercourse with a person who is 13 to 15 years old and the offender is more than three years older.

## ***An Act Concerning Various Recommendations of the Sentencing Commission***

- This proposal would reduce the maximum sentence for class A misdemeanors by a single day, from 365 days to 364 days. This one-day change would address the disconnect between the state's penalty for misdemeanor offenses and the stark and asymmetrical immigration consequences that can result from such conviction, based on federal law.
- This proposal would give people on parole the opportunity to vote.
- This proposal would enable an identity theft victim to obtain a copy of their complaint and a police report for the purpose of providing it to an entity that corrects erroneous information concerning a victim's identity. This applies where the defendant has made an application into the accelerated rehabilitation program under which the court would otherwise seal such records.
- This proposal supported by the Trafficking in Persons Council would amend the Unlawful Dissemination of an Intimate Image statute to make the language gender-neutral and make other technical changes to the statute.
- This proposal would eliminate any possible Sentence Review of any sentence that is the result a "cap with the right to argue for less," an agreement between the parties that sets a maximum term of incarceration, but gives the defendant the right to argue to the court for a prison sentence that is less than the agreed upon maximum term. Sentences based on "plea agreements" are already ineligible for Sentence Review consideration.
- This proposal would expand the options for consideration of a sentence modification. Current law requires both defendant and prosecutors to agree in order for the court to hold a modification hearing if the entire sentence (the executed period of incarceration together with any period of suspended incarceration) exceeds three years. The proposal would allow the court, without an agreement between the defendant and the state, to modify any sentence which includes three years or less of *actual incarceration* after a hearing and a showing of good cause.
- This proposal would require the automatic erasure of adult misdemeanor records of people convicted as a 16- or 17-year-old prior to enactment of Raise the Age legislation. This erasure provision as applied to juvenile offenders would extend the benefits of the Raise the Age law to the population whose offenses today would not result in a charge as an adult.
- This proposal is intended to protect children from the permanent severance of their relationship with an incarcerated parent due to unintended consequences of the federal Adoption and Safe Families Act. Under the proposal, a petition for termination of parental rights, as well as the case plan for a child under DCF supervision must include considerations of incarcerated parent's efforts to stay engaged with their child.