



Testimony submitted to the Joint Committee on the Judiciary
In Support of S.1014/H.1493 An Act relative to consensual adolescent sexual activity
By Colleen Kirby, LWVMA Specialist, Criminal Justice Reform
December 3, 2019

Massachusetts is one of only three states without protections for teens engaging in consensual sexual activity with peers from being criminally charged with statutory rape.¹ This bill provides a very limited exception to criminal prosecution for youth engaging in consensual conduct with others of similar age.² There is no effect on existing statutes protecting anyone from forcible or non-consensual sexual assault by youth or consensual activity with a significantly older individual.

Our current statutory rape laws are outdated. Over one-third of today's high school students report having had sexual intercourse.³ The way current law works, guidance counselors, doctors and nurses may believe they need to report underage sexual behavior as abuse. This provision may prevent teens from asking trusted adults for guidance, and thus makes it less likely for them to obtain important information about contraception, sexually-transmitted diseases and pregnancy.

Conviction for statutory rape, even if the act is consensual sex between adolescents, may result in "any term of years" in prison, including life. It may also require registration as a sex offender, which limits the ability to obtain a job or housing, or to study or work in other states. A teen having sex with a similarly-aged partner could end up on a sex offender registry for life.⁴ Sex registries were initially intended to protect children from sexual predators, but it can be the children themselves whose lives are being destroyed by being placed on registries.^{5,6,7} It is also important to make sure these laws are gender-neutral so as not to criminalize same-sex activity.⁸

The League of Women Voters "believes alternatives to imprisonment should be explored and utilized, taking into consideration the circumstances and nature of the crime." And "supports policies and programs at all levels of the community and government that promote the well-being, encourage the full development and ensure the safety of all children."⁹ In addition, the League of Women Voters of Massachusetts, which has 47 local Leagues across the state, is in favor of "the use of adequately funded and supervised alternative punishments for offenders where mitigating circumstances exist" and supports "measures to protect the civil and individual rights of the offender and to promote the offender's rehabilitation through individualized treatment."¹⁰

Massachusetts has significant case law on consent procedures, and this bill does not alter how consent is determined. The primary protection from this bill would be for the youth and their parents, since there is no consideration taking consent into account under current law. There are cases,¹¹ also in Massachusetts, where both parties plus their parents do not want to file charges, and yet charges are filed. This bill would give some limited protection for youth close in age (where one partner is no more than two years older if their partner is 13-15 years old). Many

high school seniors have freshman or sophomore girlfriends who may be underage; this bill would decriminalize sexual behavior between them as long as it is consensual.

Please report this bill out favorably.

Thank you for your consideration.

1. <https://willbrownsberger.com/survey-of-states-regarding-statutory-rape/> Analysis of statutes in existence in other states.
2. This bill proposes:
 - a. The age of consent for sexual activity is age 14. The bill would create an exception for 13-year-olds, if the other child is no older than 15 years.
 - b. The age of consent for sexual intercourse is age 16. The bill would create an exception for 13- to 15-year-olds, if the other child is no more than two years older.
3. “[Health and Risk Behaviors of Massachusetts Youth, 2017](#)”, MA Department of Elementary and Secondary Education, p. 54.
4. <https://www.thoughtco.com/romeo-and-juliet-laws-what-they-mean-3533768>
5. <https://www.newyorker.com/magazine/2016/03/14/when-kids-are-accused-of-sex-crimes>
6. <https://www.teenvogue.com/story/how-sex-offender-registries-impact-youth>
7. <https://jjie.org/2017/08/23/end-juvenile-sex-offender-registration-its-ineffective-and-based-on-rare-cases/>
8. <https://www.advocate.com/crime/2019/1/23/why-gay-underage-sex-criminalized-when-straight-sex-not>
9. Impact on Issues <https://lwwma.org/advocacy/league-positions/>
10. Where We Stand <https://lwwma.org/advocacy/league-positions/>
11. <https://rewire.news/article/2015/08/07/spending-decades-offender-registry-appropriate-punishment-consensual-sex-among-teens/>