

Massachusetts District Attorneys Association
MDAAA
Supporting Commonwealth Prosecutors

David F. Capeless
District Attorney
Berkshire
Vice President, MDAA

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C. Samuel Sutter
District Attorney
Bristol

Dear Members of the House of Representatives:

Michael O'Keefe
District Attorney
Cape & Islands
President, MDAA

I write to express the unanimous support of the Massachusetts District Attorneys for *An Act to further protect children*, and to explain why this legislation - - the product of an extensive collaboration between the Judiciary Committee, the Attorney General, all eleven District Attorneys and, most importantly, the senior prosecutors who oversee our Child Protection Units - - is in the best interests of children and public safety, in contrast to other proposals recently before you that would actually impede the work we do.

Jonathan W. Blodgett
District Attorney
Eastern

Joseph D. Early, Jr.
District Attorney
Worcester

Gerard T. Leone, Jr.
District Attorney
Middlesex

Our current law delineates three core child sexual assault charges: rape of child by force (c. 265, s. 22A), rape of child (no force) (c. 265, s. 23), and indecent assault and battery on a child under 14 (c. 265, s. 13B). The new legislation builds upon these three statutes by (1) leaving the core crime intact with its current, non-minimum mandatory penalty (the maximum penalty for both rape of child by force and rape of child without force is life in prison; the maximum penalty for indecent assault on a child is ten years in prison); (2) adding a new section to each core crime that articulates aggravating factors and provides a minimum mandatory term (fifteen years for rape of child by force, ten years for rape of child without force, ten years for indecent assault); and (3) adding a new section to each core crime that provides a minimum mandatory term for those who commit second/subsequent sexual crimes against children (twenty years for rape of child by force, fifteen years for rape of child without force, fifteen years for indecent assault and battery.)

William R. Keating
District Attorney
Norfolk

Elizabeth D. Scheibel
District Attorney
Northwestern

Timothy J. Cruz
District Attorney
Plymouth

Daniel F. Conley
District Attorney
Suffolk

The new legislation also establishes minimum mandatory penalties for sexual assaults committed by those in a position of trust and authority over children, and provides much-needed updates to the administrative subpoena law to allow law enforcement to quickly obtain internet subscriber information (this bill allows access *only* to subscriber information, just as police can now obtain telephone subscriber information, and does not permit access to the *content* of communications.)

William M. Bennett
District Attorney
Western

Geline W. Williams
Executive Director

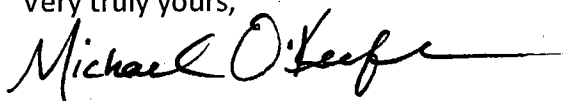
The significance of this bill is that it provides to prosecutors the flexibility we need in investigating, charging and trying these wrenching cases. These crimes are committed in private, so the child is the only witness. Because delayed disclosure is the norm, there is rarely corroborating physical evidence. Many small children are incompetent, or barely competent, to testify. Older children may be competent but terrified to face the perpetrator, or unwilling to testify against a family member. We must operate with a scalpel, not a sledgehammer.

In recent years, the Legislature has considered bills which would have imposed a minimum mandatory sentence for rape of a child by force. Had such a provision been adopted, this charge would have been the District Attorney's *sole charging option*. While such legislation may sound "tough on crime", it forces the case into an all-or-nothing-at-all posture and escalates the already intolerable pressure on the child. Prosecutors who do these cases every day know that this 'one size fits all' approach is not in the best interests of children.

It is important to understand where this legislation fits into the overall criminal justice schema involving sexual crimes against children. All eleven District Attorneys have special units dedicated to the investigation and prosecution of child abuse. The process starts with the mandated reporting statutes under c. 119, which are vital to the early detection and reporting of child abuse. When DSS receives a report of abuse, a highly-developed and collaborative process kicks into place, with the prosecutor, DSS and police quickly conducting a forensically skilled interview of the child to determine both the facts and the child's competency. Where appropriate, children are examined by pediatric SANE (Sexual Assault Nurse Examiner) nurses and referred for services to Child Advocacy Centers. The prosecutor decides the charges and leads the prosecution. Upon conviction, the defendant can face probation with GPS monitoring, incarceration, lifetime community parole, civil commitment as a Sexually Dangerous Person, and registration and classification by the Sex Offender Registry Board.

This proposed legislation gives us expanded tools – the charging options – to increase the likelihood of obtaining a conviction and forcing the offender into the system. The Attorney General, with her own passionate commitment to this issue, took the lead in crafting this bill, and every District Attorney's office submitted extensive comments and suggestions. The District Attorneys applaud Speaker DiMasi and Chairman O'Flaherty for reaching out to the prosecutors who do this work every day to produce this measured, thoughtful and worthy bill.

Very truly yours,



Michael O'Keefe

Cape & Islands District Attorney

President, Massachusetts District Attorneys Association

CC: The Massachusetts District Attorneys