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**TESTIMONY OF THE  
DEPARTMENT OF DEVELOPMENTAL SERVICES  
TO THE  
JUDICIARY COMMITTEE**

**February 23, 2011**

Senator Coleman, Representative Fox and members of the Judiciary Committee. I am Peter O'Meara, Commissioner of Developmental Services. Thank you for the opportunity to testify in support of our department's proposal **[H.B. No. 6314](#) - An Act Concerning the Sexual Assault of Persons Placed or Treated under the Direction of the Commissioner of Developmental Services.**

This bill clarifies that it is a crime (sexual assault in the second degree) for someone with supervisory or disciplinary authority to engage in sexual relations with a consumer (client) of the Department of Developmental Services (DDS). It also clarifies that it is a crime (sexual assault in the fourth degree) when someone with supervisory or disciplinary authority intentionally subjects a consumer of DDS to sexual contact. Currently, Section 17a-276 states that "all persons admitted to a state training school, regional facility or other facility provided for the care and training of the mentally retarded shall, until discharged therefrom either by the commissioner or by operation of law, be under the custody and control of the director of such facility." This legal status has been considered sufficient to establish "in custody of law" for the sexual assault statutes. However, the argument could be made that Sec 53a-71 and Sec. 53a-73a, as currently written, do not apply to persons who receive supports and services under the direction of the DDS Commissioner, when those persons are not in "placement in a facility", and have a relationship with staff providing such supports and services. H.B. No. 6314 seeks to clarify this ambiguity.

This issue was raised when a similar situation happened in the DCF system and the prosecutor was able to apply the statute and seek sexual assault charges against the staff person. It came to light that if this happened in the DDS system, the same protections might not exist depending upon interpretation of the current statute and the term "in the custody of law". As DDS consumers and their families continue to take charge of their individual budgets and hiring decisions, and with other new modes of providing supports and services under the direction of the DDS Commissioner, it becomes more important that penalties be increased for serious misconduct on the part of staff that would prey on vulnerable individuals in the community.

The language in this bill is the same as was proposed in 2009 in H.B. No. 6645, which passed unopposed in the Judiciary and Public Health Committees and in the House. The intent is to prohibit a person who has disciplinary or supervisory authority over a person placed or treated under the direction of the Commissioner of Developmental Services in any public or private facility or program from engaging in sexual activity with such person. This statutory amendment would also be consistent with our commitments to the federal government regarding the state's efforts to protect persons with intellectual disability. It is our hope that there will never be the necessity to use the provisions of these statutes, but we believe that it is important to have these prohibitions, as criminal sanctions, in place.

Thank you for the opportunity to testify in support of H.B. No. 6314. Please contact Christine Pollio Cooney, Director of Legislative Affairs at (860) 418-6066 if you have any questions.