

An Act clarifying consent laws for adolescents (HD2266/SD1017)

Lead Sponsors – Rep. Lewis and Sen. Rausch

Massachusetts is one of only four states that criminalizes consensual sexual activity between two adolescents. Most states have “Romeo and Juliet” laws to ensure that these relationships are handled by parents, not judges. This bill would revise Massachusetts’ antiquated and harmful statutory rape law to protect teens from criminal prosecution for consensual sexual activity with peers. The bill would provide a sensible and limited exception to criminal prosecution for youth who engage in consensual conduct with other young people who are similarly aged. **The bill does not change the laws that criminalize non-consensual or forcible sexual assaults by youth or consensual activity with a significantly older individual.**

Why the current statutory rape law needs to be amended:

- **The current law criminalizes common teen behavior.** 37% of Massachusetts’ high school students report having had sexual intercourse.¹
- **It encroaches on the role of parents and faith communities.** The current law is not designed to protect anyone but to set a moral standard. That is not the state’s function.
- **It undermines good public health policy.** The current law discourages youth from asking for guidance about sexual behavior because many trusted adults – doctors, nurses and guidance counselors – are obligated to report such behavior as abuse to the Department of Children and Families. As a result, youth are less likely to obtain information about such important subjects as contraception, STDs and pregnancy.
- **Statutory rape convictions ruin lives.** The current statute provides for a sentence of “any term of years” in prison, including life. Furthermore, a conviction may require registration as a sex offender, limiting the ability to obtain a job and housing. It also creates a host of troubling consequences for youth who study or work in other states.
- **The current law is used in a selective and arbitrary fashion.** Prosecutions are often driven by parental pressure or other outside forces rather than public safety concerns. Although the law applies equally to both genders, it is used almost exclusively to prosecute boys (even when both youth are under the age of consent).

The bill would provide a sensible and very limited exception to criminal prosecution for youth who engage in consensual conduct with other youth who are similarly aged:

- 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.
- 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 2 years older.

*For more information, please contact Sana Fadel at Citizens for Juvenile Justice
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¹ “Health and Risk Behaviors of Massachusetts Youth, 2019”, MA Department of Elementary and Secondary Education. Available at <https://www.doe.mass.edu/sfs/yrebs/2019data-tables.pdf>