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**TESTIMONY OF THE
DEPARTMENT OF DEVELOPMENTAL SERVICES
TO THE
JUDICIARY COMMITTEE
March 19, 2010**

Senator McDonald, Representative Lawlor 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 **HB 5380, 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." Thus, we assume that this constitutes "in custody of law" for the sexual assault statute. However, the argument could be made that Sec 53a-71 and Sec. 53a-73a, as currently written, would not apply to a person who only receives day services and has a relationship with a day services worker. HB 5380 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, 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 last year in HB 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. It is our hope that the statute will never have to be applied, but believe that it is important to have this prohibition in place.

Thank you for the opportunity to testify in support of HB 5380. Please contact Rod O'Connor, DDS Legislative Liaison at (860) 418-6130 if you have any questions.