

**Testimony of
Commissioner Bruce L. Castor, Jr.
House Judiciary Committee
February 22, 2010**

Good morning Mr. Chairman and members of the committee. My Name is Bruce Castor and I currently serve as a Commissioner in Montgomery County. I am a lawyer by profession and have been a member of the Bar of Pennsylvania for 24 years. From 1985 to 2008, I served in the Montgomery County District Attorney's Office and was District Attorney from 2000 to 2008. I am a past President of the Pennsylvania District Attorney's Association and served on the Supreme Court Juvenile Rules Committee which authored the Rules of Juvenile Court. I currently serve on the Senate Select Committee studying so-called wrongful convictions. In addition to my governmental role, I am a partner in the Blue Bell based law firm of Elliott, Greenleaf.

Today I speak to a particular aspect of HB 928. It is my view that the person elected by the people of the several counties to make criminal charging decisions, the district attorneys, needs to be given information pertaining to the crime of statutory rape when such evidence comes into the hands of healthcare professionals. Statistics I have seen compiled by various state agencies including the Office of Attorney General, for example, list abortions performed on young women who were age 13 or younger. This list is compiled by county, but a check with county officials to ascertain whether a corresponding prosecution for statutory rape was considered revealed no such connection. In other words, abortion providers reported performing abortions on young girls. There is a probability that these young girls were victims of statutory rape since girls under age 13 are deemed incapable of consenting to sexual intercourse. But law enforcement officials are routinely not notified of these incidents.

Similarly, healthcare professionals are sometimes called upon to treat young girls for sexually transmitted diseases. Where the girl is under 14 years of age, she potentially has been the victim of a sexual offense especially if the disease she has contracted could only have been as result of sexual conduct. The child is treated, but again, law enforcement is often not notified.

I am concerned that abortion providers and healthcare practitioners are not making a sufficient effort to learn the age of the patient in order to skirt existing reporting requirements. HB 928 would seek to remedy this situation by insisting that the providers of these services take active measures to learn the age of the patient. In turn,

learning the age of the patient would lead to a definitive determination on the question of whether reporting is required.

I am sensitive to victims and their family's privacy. I am aware that often victims of sexual abuse and especially those of tender age would rather put the abuse behind them than relive the experience through the criminal justice system. In Montgomery County, we have a well developed Child Advocacy Program to assist with these issues. In addition, the prosecutors there decide on a case by case basis whether to push for a prosecution paying close attention to the wishes of the victim and the victim's family. The point here is that the District Attorney, the person elected to make charging decisions, is the one making the call on a criminal action. Not the treating doctor, the victim, or the victim's family. The reason for this is obvious: the District Attorney has to balance the needs of the victim against the danger that a perpetrator might attack another child if the perpetrator is not punished. While the prosecutor is keenly aware of the feelings and sensibilities of the victim, he or she represents the Commonwealth as a whole and must be primarily concerned with protecting society at large.

I therefore support HB 928 especially those portions which provide for mandatory reporting of sexually transmitted diseases and abortions performed on girls 13 years old or younger. By definition, in most instances, these girls are victims of crime and thus evidence of their victimization needs to be brought to the attention of law enforcement for appropriate action. Prosecutors must act with discretion to balance the needs of the victim with the danger posed to society by having an offender go unpunished. I support requiring those who treat these underage girls for STDs or abortions having to take affirmative steps to learn the age of the child to trigger the reporting requirement or not.

Finally, I want to thank the committee for permitting me to testify, and for taking up this important public issue.