

Juvenile rape legislation -- 'Audrie's Law' -- stirs Capitol debate

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SACRAMENTO -- When San Jose lawmaker Jim Beall set out earlier this year to strengthen penalties for youths who sexually assault unconscious victims, he expected to win broad support easily.

Instead, he ignited a familiar Capitol debate among lawyers, victims and juvenile advocates about whether the justice system's goal should be punishing or rehabilitating offenders.

That debate will be renewed on Tuesday when an Assembly committee will again consider Beall's bill.

Beall and supporters of his measure say a discrepancy in current law allowed the teenagers who sexually assaulted Saratoga High School student Audrie Pott in 2012 to skate by with light sentences of 30 to 45 days served on weekends.



Sheila Pott attends a news conference to talk about the tragic death of her daughter, Audrie Pott in San Jose, Calif. on Monday, April 15, 2013.

While juvenile justice advocates agree the system failed to get justice for Audrie, who killed herself a week after the attack, they say mandatory sentences of at least two years deprive young offenders of a chance to change for the better.

"I totally get that the family is bewildered and frustrated that the law didn't work in this case, but all the research shows that incarceration for the sake of itself is harmful for young people," said Sue Burrell, an attorney with the Youth Law Center in San Francisco. "Mandatory minimums have no place in our juvenile justice system." The center advocates

for the rights of juveniles.

Under California law, young assailants who rape with force are almost always tried in adult court — where they can get sentences of three to eight years — while minors who sexually assault victims who have passed out or are developmentally disabled are most often tried in juvenile court, where judges have broad discretion in sentencing.

The two approaches came about when voters in 2000 approved Proposition 21, heralded as a "get-tough-on-juvenile-crime" law. It classified some teen offenses as so serious that they would always be heard in adult court. Rape with force ended up on that list. Rape of a unconscious or disabled person was left off.

That is a shortcoming that must be corrected, said Santa Clara County Deputy District Attorney Jiron Shipp. He's especially concerned because sexual assaults of unconscious, intoxicated victims are becoming more prevalent at colleges and among teens.

"We treat these crimes differently when the consequences for the victim are the same," Shipp said. "The victim's physical and emotional injuries are just as painful, and the attack is just as traumatic."

Beall's proposal, Senate Bill 838, would also enhance the penalty for taking and sharing pictures of sexual assault victims, and it would require juveniles to obtain sex offender treatment. Audrie's assailants shared with friends pictures of her half-naked.

"If they get proper treatment at an early enough age, it can be a deterrent for this kind of behavior," said Audrie's mother, Sheila Pott, who wants the mandatory sentence enacted.

Recidivism among juvenile sex offenders is as low as 10 percent, and rapes decreased nationwide for two decades, said William C. Caldwell, a University of Wisconsin psychology professor who studies juvenile sex abusers.

So few juveniles re-offend partly because juvenile sex offender treatment is usually successful, he said. Often, young people commit sex offenses because they're prone to poor, impulsive decisions, not because they're callous, vicious predators.

"The idea that they're destined to re-offend is completely wrong," Caldwell said. "Juvenile sex offender therapy is as effective as statin drugs are at reducing heart disease."

Research shows that treatment is most effective when youths are allowed to remain in their homes and communities, but Caldwell said he can see why that might seem like an imperfect solution to lawmakers seeking justice for victims.

"A lot of sex offender statutes have been reactions to particularly heinous individual situations," Caldwell said. "Most of the time, the unintended consequences of those laws eclipse the intended consequences. It's the worst way to formulate policy on these issues."

It's impossible to know why Audrie's attackers got such light sentences because juvenile court records are sealed.

Beall's measure also would open juvenile court proceedings to the public in cases involving sex crimes against victims who were unconscious or disabled.

He and Assemblyman Tom Ammiano, who chairs the committee where the bill stalled last week, are expected on Monday to discuss a last-minute deal that might satisfy the Pott family and juvenile justice advocates.

Whether or not the bill moves forward, communities have an opportunity to prevent sexual violence by educating teens about healthy sexual relationships and what it means to consent to sex, said Burrell of the Youth Law Center.

"I wish the family could see justice for Audrie in a broader way. The big thing that's needed is prevention," she said.

"Everyone is grasping for solutions, but real solutions require more than gravitating toward what

we've always done in the past," Burrell said.

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AUDRIE'S LAW

State Senate Bill 838 sponsored by Sen. Jim Beall, D-San Jose, is named in honor of Saratoga High School student Audrie Pott, who killed herself after a 2012 sexual assault. It would require:

- Minors convicted of sexual assault of an unconscious or developmentally disabled person to serve a minimum two-year sentence at a juvenile detention facility.
- Sex offender treatment for such juveniles.
- Public juvenile court proceedings in such cases.