

California legislature votes to expand mandatory sentences for sexual assault

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On Monday, the California legislature passed Assembly Bill 2888 by a unanimous 66-0 vote. If signed into law by Governor Jerry Brown, the bill would increase prison sentences for individuals convicted of certain types of sexual assault by restricting the power of judges to grant probation or suspended sentences.

Assembly Bill 2888, introduced by Democratic assembly members Bill Dodd and Evan Low, is being presented as a response to the case of Stanford freshman Brock Allen Turner, who was sentenced in June to six months in jail for the sexual assault of a young woman following a fraternity party (he was released this week on probation after serving three months of the sentence). The Turner case has been the subject of a relentless political and media campaign, in which the sentence has been labeled “lenient” and an example of “white male privilege.”

The bill would extend mandatory minimum sentences—which currently apply to rape by force, pandering, aggravated sexual assault of a child, and other crimes—to all cases of “rape, sodomy, penetration with a foreign object, or oral copulation if the victim was either unconscious or incapable of giving consent due to intoxication.”

Stanford law professor Michele Dauber praised the bill as “common sense.” Dauber, a “Hillblazer” and member of Hillary Clinton’s National Finance Committee, is leading the campaign to recall Santa Clara Superior Court Judge Aaron Persky, who decided the sentence in the Turner case.

The past several months have witnessed the introduction of a host of reactionary laws purporting to target sexual violence, with California legislators trampling each other for a chance to extend the powers of the state.

The so-called Justice for Victims Act (Senate Bill 813), passed by the California Senate on Tuesday, would abrogate the statute of limitations in cases of rape and felonious sexual assault. A statute of limitations prohibits the authorities from prosecuting a crime after the passage of a certain amount of time.

If Senate Bill 813 were passed, this would mean that the authorities could arrest and prosecute a person years, even decades, after the event was alleged to have taken place.

“The statute of limitations is there for a reason,” Natasha Minsker, director of the ACLU of California Center for Advocacy and Policy, told the *Los Angeles Times*. “When a case is prosecuted literally decades after the event, it becomes much more...difficult to prove that you are wrongfully accused.” In other words, in a case of protracted delay, it would be almost impossible for the accused person to gather evidence, investigate or identify witnesses.

Another bill, passed August 24, would redefine all forms of nonconsensual sexual assault as “rape.” (In the Turner case, notwithstanding the ubiquitous media description of the student as a “rapist,” all rape charges were dropped because Turner’s conduct did not meet the legal criteria.)

These bills and others would only increase the populations of California’s dangerous, filthy and overcrowded prisons. California currently incarcerates approximately 160,000 individuals, out of around 2.2 million individuals behind bars in the US as a whole.

California’s barrage of law-and-order legislation further underscores the reactionary content of the ongoing campaign over sexual violence, promoted by the Democratic Party and its allies.

The purpose of this campaign, like all law-and-order campaigns orchestrated by the political establishment,

is to whip up confused moral sentiments and direct them behind a reactionary social agenda. Campaigns over sexual crimes in particular have long been the province of the extreme right. The furor over “sexual violence” also contributes to the broader efforts to present every social, historical and political question in terms of race, gender or sex.

The political interests behind the campaign were revealed by the unprecedented intervention of Vice President Joe Biden in the Turner case. In an open letter to the victim, one of the leading representatives of the American ruling class attempted to present himself as a crusader for moral virtue. (See: “The right-wing campaign over the Stanford University sexual assault case”)

Whatever happened between Turner and the woman he was convicted of assaulting, it is now even clearer that the campaign over the sentencing was aimed at creating the environment for undermining democratic rights and expanding the power of prosecutors and the state.

The imposition of mandatory sentencing will increase the pressure on accused individuals to plead guilty to lesser offenses even if they are innocent, while eliminating the ability of judges to take account of broader circumstances in handing out an appropriate sentence—as Persky did in the Turner case.

On August 25, Judge Persky was voluntarily reassigned to a civil docket. He will no longer preside over criminal cases. In a statement published on his recently launched website this week, Persky made his first public reference to the intense campaign of vilification against him. Without referring to the Turner case in particular, the judge called attention to the antidemocratic implications of the campaign.

“I believe strongly in judicial independence,” Persky wrote. “I took an oath to uphold the Constitution, not to appease politicians or ideologues. When your own rights and property are at stake, you want the judge to make a fair and lawful decision, free from political influence.” Persky also published letters of support from retired judges, from California law professors, from Stanford law school alumnae, and from professional organizations of attorneys.

Campaigns against judges who are allegedly “soft on crime” or otherwise insufficiently reactionary belong to a right-wing tradition. In 1986, three California

Supreme Court justices were ousted as a result of a campaign based on their categorical opposition to the death penalty. In Iowa in 2010, three Iowa Supreme Court justices that endorsed same-sex marriage were targeted by recall campaigns orchestrated by Christian fundamentalist groups.

Indeed, the campaign against Persky brought Hillary Clinton supporters like Dauber together with figures from the far right. “[Persky] got it wrong,” Texas Republican legislator and Christian fundamentalist Ted Poe declared on the floor of Congress in June. “There’s an archaic philosophy in some courts that sin ain’t sin as long as good folk do it. In this case, the court and the defendant’s father wanted a pass for the rapist because he was a big shot swimmer. The judge should be removed.”

For all the furious denunciations of Persky, the sentence imposed against Turner cannot be described as “lenient.” Under America’s draconian sex offender registration system, Turner will be on a sex offender registry for the rest of his life. He will have to notify his neighbors that he was convicted of a sexual crime; he will be prohibited from living within a certain distance of schools, malls, churches and other buildings; and he will be barred from certain jobs and face other restrictions. Turner was also expelled from Stanford University.

There are signs of a reaction against the law-and-order campaign over sexual violence on campuses. The *Washington Post* reported earlier this week on the formation of two organizations of mothers of individuals accused of sexual assault on campuses. It cited the cases of several students who were expelled from their schools after being denied the most elementary forms of due process and the presumption of innocence.



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