



national coalition for sexual freedom

**YOUR RIGHTS**

**YOUR PRIVACY**

**YOUR FREEDOM**

Friday March, 18, 2011

Senator Christine Kehoe

[REDACTED]

Re: SB 430

Dear Senator Kehoe:

I am writing to you on behalf of the National Coalition for Sexual Freedom (NCSF) to propose an important amendment to your bill, SB 430. NCSF represents millions of law abiding and tax paying American adults who practice mutually consensual BDSM (Bondage, Discipline, Sadomasochism). NCSF and its constituents firmly share your belief that domestic violence and abuse laws should be as strong as possible to protect the victims. In fact, NCSF works regularly with anti-violence organizations, law enforcement and prosecutors on these issues. However, we believe it is important to amend your proposal in one respect, to protect over-broad enforcement in situations that have nothing to do with domestic violence or abuse.

Our large constituency of consenting adults who engage in private erotic BDSM activities would support this legislation, provided that it was modified to ensure that it wouldn't be used to target this sexual minority. Some BDSM activities might involve use of things like hoods and gags. As this bill is currently written, it could be used as the basis for criminal prosecutions of our consensual, non-harmful activities. The vast majority of our constituents are well educated in BDSM safety and adhere to the mantra of this community related to BDSM activities, "safe, sane and consensual". For your information, we are attaching NCSF's "Best Practices in BDSM" document, which defines a standard for behavior and conduct within the BDSM community.

We are proposing two different options to modify SB 430. NCSF's preferred option would be to add a new section. The second option would be to modify the existing language slightly in two sections. Our proposed language is as follows:

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New Section: Non-Assault Strangulation—Strangulation or suffocation done as part of informed, mutually consensual erotic activity between consenting adults that does not result in death or serious bodily injury shall not be deemed to be a violation of this statute.

Changes to existing legislation:

Add to the end of 249 (d) (1) & (2) either:

“against the will of that person,” or “without the informed prior and continuing consent of that person”

The second is obviously stronger for us and underscores our commitment to consent—the first is more similar to other states. I suggest introducing the second.

Add a phrase to Section 249 (a) as follows:

(a) Any person who willfully and unlawfully “and with intent to cause physical or psychological harm or injury, or to control the victim”

We are currently collecting letters from our California constituents supporting this legislation with the above-proposed modifications and plan to present them at the public hearing on this bill, if appropriate. Please keep us informed as to the progress of the bill and when a date has been set for the public hearing. We look forward to working with you to better protect victims of domestic violence and to protect this large sexual minority.

Sincerely,

Leigha Fleming

NCSF Board Chair

cc: Cheryl Kozachenko

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