



General Assembly

February Session, 2002

**Amendment**

LCO No. 5071

\*HB0542505071SR0\*

Offered by:

SEN. GENUARIO, 25<sup>th</sup> Dist.

To: Subst. House Bill No. 5425

File No. 607

Cal. No. 421

**"AN ACT CONCERNING BULLYING BEHAVIOR IN SCHOOLS  
AND CONCERNING THE PLEDGE OF ALLEGIANCE."**

1 After the last section, insert the following:

2 "Sec. 3. (NEW) (*Effective October 1, 2002*) Any municipality may, by  
3 resolution passed by its legislative body, and subject to the collective  
4 bargaining provisions of chapter 166 of the general statutes, elect to  
5 establish a retirement system for teachers employed in the public  
6 schools of the municipality. The effective date of participation shall be  
7 at least ninety days subsequent to the receipt by the Teachers'  
8 Retirement Commission of the certified copy of such resolution. The  
9 Retirement Commission shall furnish to any municipality  
10 contemplating acceptance of this part, at the expense of such  
11 municipality, an estimate of the probable cost to such municipality of  
12 such acceptance as to any department or departments thereof. Upon  
13 the request of any member of the Teachers' Retirement System eligible  
14 to participate in such a municipal retirement system, the commission  
15 shall refund his or her mandatory and voluntary contributions with

16 credited interest. Any municipality establishing a retirement system  
17 pursuant to this section may contract with a Connecticut financial  
18 institution, including, but not limited to, a bank or insurance company  
19 for purposes of administration of the system.

20 Sec. 4 Section 53a-71 of the general statutes is repealed and the  
21 following is substituted in lieu thereof (*Effective October 1, 2002*):

22 (a) A person is guilty of sexual assault in the second degree when  
23 such person engages in sexual intercourse with another person and: (1)  
24 Such other person is thirteen years of age or older but under sixteen  
25 years of age and the actor is more than two years older than such  
26 person; or (2) such other person is mentally defective to the extent that  
27 such other person is unable to consent to such sexual intercourse; or (3)  
28 such other person is physically helpless; or (4) such other person is less  
29 than eighteen years old and the actor is such person's guardian or  
30 otherwise responsible for the general supervision of such person's  
31 welfare; or (5) such other person is in custody of law or detained in a  
32 hospital or other institution and the actor has supervisory or  
33 disciplinary authority over such other person; or (6) the actor is a  
34 psychotherapist and such other person is (A) a patient of the actor and  
35 the sexual intercourse occurs during the psychotherapy session, (B) a  
36 patient or former patient of the actor and such patient or former  
37 patient is emotionally dependent upon the actor, or (C) a patient or  
38 former patient of the actor and the sexual intercourse occurs by means  
39 of therapeutic deception; or (7) the actor accomplishes the sexual  
40 intercourse by means of false representation that the sexual intercourse  
41 is for a bona fide medical purpose by a health care professional; or (8)  
42 the actor is a school employee and such other person is a student  
43 enrolled in a school in which the actor works or a school under the  
44 jurisdiction of the local or regional board of education which employs  
45 the actor; or (9) the actor is a coach in an athletic activity or a person  
46 who provides intensive, ongoing instruction and such other person is a  
47 recipient of coaching or instruction from the actor and (A) is a  
48 secondary school student and receives such coaching or instruction in  
49 a secondary school setting, or (B) is under eighteen years of age.

50 (b) Sexual assault in the second degree is a class C felony for which  
51 nine months of the sentence imposed may not be suspended or  
52 reduced by the court.

53 Sec. 5. Section 53a-73a of the general statutes is repealed and the  
54 following is substituted in lieu thereof (*Effective October 1, 2002*):

55 (a) A person is guilty of sexual assault in the fourth degree when: (1)  
56 Such person intentionally subjects another person to sexual contact  
57 who is (A) under fifteen years of age, or (B) mentally defective or  
58 mentally incapacitated to the extent that [he] such other person is  
59 unable to consent to such sexual contact, or (C) physically helpless, or  
60 (D) less than eighteen years old and the actor is such person's guardian  
61 or otherwise responsible for the general supervision of such person's  
62 welfare, or (E) in custody of law or detained in a hospital or other  
63 institution and the actor has supervisory or disciplinary authority over  
64 such other person; or (2) such person subjects another person to sexual  
65 contact without such other person's consent; or (3) such person  
66 engages in sexual contact with an animal or dead body; or (4) such  
67 person is a psychotherapist and subjects another person to sexual  
68 contact who is (A) a patient of the actor and the sexual contact occurs  
69 during the psychotherapy session, or (B) a patient or former patient of  
70 the actor and such patient or former patient is emotionally dependent  
71 upon the actor, or (C) a patient or former patient of the actor and the  
72 sexual contact occurs by means of therapeutic deception; or (5) such  
73 person subjects another person to sexual contact and accomplishes the  
74 sexual contact by means of false representation that the sexual contact  
75 is for a bona fide medical purpose by a health care professional; or (6)  
76 such person is a school employee and subjects another person to sexual  
77 contact who is a student enrolled in a school in which the actor works  
78 or a school under the jurisdiction of the local or regional board of  
79 education which employs the actor; or (7) such person is a coach in an  
80 athletic activity or a person who provides intensive, ongoing  
81 instruction and subjects another person to sexual contact who is a  
82 recipient of coaching or instruction from the actor and (A) is a  
83 secondary school student and receives such coaching or instruction in

84 a secondary school setting, or (B) is under eighteen years of age.

85 (b) Sexual assault in the fourth degree is a class A misdemeanor.

86 Sec. 6. Subsection (b) of section 17a-101 of the general statutes is  
87 repealed and the following is substituted in lieu thereof (*Effective*  
88 *October 1, 2002*):

89 (b) The following persons shall be mandated reporters: Any  
90 physician or surgeon licensed under the provisions of chapter 370, any  
91 resident physician or intern in any hospital in this state, whether or not  
92 so licensed, any registered nurse, licensed practical nurse, medical  
93 examiner, dentist, dental hygienist, psychologist, coach of intramural  
94 or interscholastic athletics, school teacher, school principal, school  
95 guidance counselor, school paraprofessional, social worker, police  
96 officer, clergyman, pharmacist, physical therapist, optometrist,  
97 chiropractor, podiatrist, mental health professional or physician  
98 assistant, any person who is a licensed substance abuse counselor, any  
99 person who is a licensed marital and family therapist, any person who  
100 is a sexual assault counselor or a battered women's counselor as  
101 defined in section 52-146k, any person paid to care for a child in any  
102 public or private facility, day care center or family day care home  
103 licensed by the state, the Child Advocate and any employee of the  
104 Office of Child Advocate.

105 Sec. 7. Section 17a-101a of the general statutes is repealed and the  
106 following is substituted in lieu thereof (*Effective October 1, 2002*):

107 Any mandated reporter, as defined in section 17a-101, as amended  
108 by this act, who in [his] such person's professional capacity has  
109 reasonable cause to suspect or believe that any child under the age of  
110 eighteen years has been abused, as defined in section 46b-120, or has  
111 had nonaccidental physical injury, or injury which is at variance with  
112 the history given of such injury, inflicted upon [him] such child by a  
113 person responsible for such child's health, welfare or care or by a  
114 person given access to such child by such responsible person, or is  
115 placed at imminent risk of serious harm by an act or failure to act on

116 the part of such responsible person, or has been neglected, as defined  
117 in section 46b-120, shall report or cause a report to be made in  
118 accordance with the provisions of sections 17a-101b to 17a-101d,  
119 inclusive. Any person required to report under the provisions of this  
120 section who fails to make such report shall be fined not less than one  
121 thousand dollars nor more than five [hundred] thousand dollars.

122 Sec. 8. Subsection (g) of section 10-145b of the general statutes is  
123 repealed and the following is substituted in lieu thereof (*Effective July*  
124 *1, 2002*):

125 (g) On and after July 1, 1989, the State Board of Education, upon  
126 receipt of a proper application, shall issue a provisional educator  
127 certificate to any person who (1) has successfully completed a  
128 beginning educator program and one school year of successful  
129 teaching as attested to by the superintendent, or the superintendent's  
130 designee, in whose local or regional school district such person was  
131 employed, (2) has completed at least three years of successful teaching  
132 in a public or nonpublic school approved by the State Board of  
133 Education or appropriate governing body in another state within ten  
134 years prior to application for such provisional educator certificate, as  
135 attested to by the superintendent, or the superintendent's designee, in  
136 whose school district such person was employed, or by the supervising  
137 agent of the nonpublic school in which such person was employed,  
138 and has met preparation and eligibility requirements for an initial  
139 educator certificate, (3) has taught successfully in public schools in this  
140 state for the 1988-1989 school year under a temporary emergency  
141 permit and has met the preparation and eligibility requirements for an  
142 initial educator certificate, or (4) has successfully taught with a  
143 provisional teaching certificate for the year immediately preceding an  
144 application for a provisional educator certificate as an employee of a  
145 local or regional board of education or facility approved for special  
146 education by the State Board of Education.

147 Sec. 9. Subsection (k) of section 10-145b of the general statutes is  
148 repealed and the following is substituted in lieu thereof (*Effective July*

149 1, 2002):

150 (k) Unless otherwise provided in regulations adopted under section  
151 10-145d, in not less than three years nor more than eight years after the  
152 issuance of a provisional educator certificate pursuant to subsection (g)  
153 of this section, as amended by this act, and upon the statement of the  
154 superintendent in whose school district such certificate holder was  
155 employed, or the [superintendent] supervisory agent of a nonpublic  
156 school approved by the State Board of Education, in whose school such  
157 certificate holder was employed, that the provisional educator  
158 certificate holder and such superintendent or supervisory agent have  
159 mutually determined or approved an individual program pursuant to  
160 subdivision (2) of subsection (j) of this section and upon the statement  
161 of such superintendent or supervisory agent that such certificate  
162 holder has a record of competency in the discharge of [his] such  
163 certificate holder's duties during such provisional period, the state  
164 board upon receipt of a proper application shall issue such certificate  
165 holder a professional educator certificate. A signed recommendation  
166 from the superintendent of schools, or the superintendent's designee,  
167 for the local or regional board of education or from the  
168 [superintendent] supervisory agent of a nonpublic school approved by  
169 the State Board of Education shall be evidence of competency. Such  
170 recommendation shall state that the person who holds or has held a  
171 provisional educator certificate has successfully completed at least  
172 three school years of satisfactory teaching for one or more local or  
173 regional boards of education or such nonpublic schools. Each applicant  
174 for a certificate pursuant to this subsection shall provide to the  
175 Department of Education, in such manner and form as prescribed by  
176 the commissioner, evidence that the applicant has successfully  
177 completed coursework pursuant to subsection (h) or (j) of this section,  
178 as appropriate.

179 Sec. 10. (NEW) (*Effective July 1, 2002*) If a person holding a  
180 certificate, authorization or permit issued by the State Board of  
181 Education under the provisions of sections 10-144o to 10-149, inclusive,  
182 of the general statutes, as amended by this act, is convicted of a felony

183 or fined pursuant to section 17a-101a of the general statutes, as  
184 amended by this act, the state's attorney or assistant state's attorney for  
185 the judicial district in which the conviction or fine occurred shall  
186 notify, in writing, the Commissioner of Education of such conviction  
187 or fine.

188 Sec. 11. Subsection (m) of section 10-145b of the general statutes, as  
189 amended by section 53 of public act 01-173, is repealed and the  
190 following is substituted in lieu thereof (*Effective October 1, 2002*):

191 (m) (1) The State Board of Education may revoke any certificate,  
192 authorization or permit issued pursuant to sections 10-144o to 10-149,  
193 inclusive, as amended by this act, for any of the following reasons: (A)  
194 The holder of the certificate, authorization or permit obtained such  
195 certificate, authorization or permit through fraud or misrepresentation  
196 of a material fact; (B) the holder has persistently neglected to perform  
197 the duties for which the certificate, authorization or permit was  
198 granted; (C) the holder is professionally unfit to perform the duties for  
199 which the certificate, authorization or permit was granted; (D) the  
200 holder is convicted in a court of law of a crime involving moral  
201 turpitude or of any other crime of such nature that in the opinion of  
202 the board continued holding of a certificate, authorization or permit by  
203 the person would impair the standing of certificates, authorizations or  
204 permits issued by the board; or (E) other due and sufficient cause. The  
205 State Board of Education shall revoke any certificate, authorization or  
206 permit issued pursuant to said sections if the holder is found to have  
207 intentionally disclosed specific questions or answers to students or  
208 otherwise improperly breached the security of any administration of a  
209 state-wide examination pursuant to section 10-14n or if the holder is  
210 fined pursuant to section 17a-101a, as amended by this act. In any  
211 revocation proceeding pursuant to this section, the State Board of  
212 Education shall have the burden of establishing the reason for such  
213 revocation by a preponderance of the evidence. Revocation shall be in  
214 accordance with procedures established by the State Board of  
215 Education pursuant to chapter 54.

216 (2) When the Commissioner of Education is notified, pursuant to  
217 section 17a-101i, as amended, or section 7 of this act that a person  
218 holding a certificate, authorization or permit issued by the State Board  
219 of Education under the provisions of sections 10-144o to 10-149,  
220 inclusive, as amended by this act, has been convicted of (A) a capital  
221 felony, pursuant to section 53a-54b, as amended, (B) arson murder,  
222 pursuant to section 53a-54d, (C) a class A felony, (D) a class B felony,  
223 except a violation of section 53a-122, 53a-252 or 53a-291, (E) a crime  
224 involving an act of child abuse or neglect as described in section 46b-  
225 120, or (F) a violation of section 53-21, 53-37a, 53a-60b, as amended,  
226 53a-60c, 53a-71, 53a-72a, 53a-72b, 53a-73a, 53a-88, 53a-99, 53a-103a, 53a-  
227 181c, 53a-191, 53a-196, 53a-196c, 53a-216, 53a-217b, as amended, or 21a-  
228 278, as amended, or subsection (a) of section 21a-277, any certificate,  
229 permit or authorization issued by the State Board of Education and  
230 held by such person shall be deemed revoked and the commissioner  
231 shall notify such person of such revocation, provided such person may  
232 request reconsideration pursuant to regulations adopted by the State  
233 Board of Education, in accordance with the provisions of chapter 54.

234 (3) The State Board of Education may deny an application for a  
235 certificate, authorization or permit for any of the following reasons: (A)  
236 The applicant seeks to obtain a certificate, authorization or permit  
237 through fraud or misrepresentation of a material fact; (B) the applicant  
238 has been convicted in a court of law of a crime involving moral  
239 turpitude or of any other crime of such nature that in the opinion of  
240 the board issuance of a certificate, authorization or permit would  
241 impair the standing of certificates, authorizations or permits issued by  
242 the board; or (C) other due and sufficient cause. Any applicant denied  
243 a certificate, authorization or permit shall be notified in writing of the  
244 reasons for denial. Any applicant denied a certificate, authorization or  
245 permit may request a review of such denial by the State Board of  
246 Education."