



# House of Representatives

General Assembly

**File No. 491**

February Session, 2004

Substitute House Bill No. 5603

*House of Representatives, April 6, 2004*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING SEXUAL ASSAULT OF YOUTHS BY PERSONS STANDING IN A POSITION OF TRUST, AUTHORITY OR SUPERVISION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-71 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) A person is guilty of sexual assault in the second degree when  
4 such person engages in sexual intercourse with another person and: (1)  
5 Such other person is thirteen years of age or older but under sixteen  
6 years of age and the actor is more than two years older than such  
7 person; or (2) such other person is mentally defective to the extent that  
8 such other person is unable to consent to such sexual intercourse; or (3)  
9 such other person is physically helpless; or (4) such other person is less  
10 than eighteen years old and the actor is such person's guardian or  
11 otherwise responsible for the general supervision of such person's  
12 welfare; or (5) such other person is in custody of law or detained in a

13 hospital or other institution and the actor has supervisory or  
14 disciplinary authority over such other person; or (6) the actor is a  
15 psychotherapist and such other person is (A) a patient of the actor and  
16 the sexual intercourse occurs during the psychotherapy session, (B) a  
17 patient or former patient of the actor and such patient or former  
18 patient is emotionally dependent upon the actor, or (C) a patient or  
19 former patient of the actor and the sexual intercourse occurs by means  
20 of therapeutic deception; or (7) the actor accomplishes the sexual  
21 intercourse by means of false representation that the sexual intercourse  
22 is for a bona fide medical purpose by a health care professional; or (8)  
23 the actor is a school employee and such other person is a student  
24 enrolled in a school in which the actor works or a school under the  
25 jurisdiction of the local or regional board of education which employs  
26 the actor; or (9) the actor is a coach in an athletic activity or a person  
27 who provides intensive, ongoing instruction and such other person is a  
28 recipient of coaching or instruction from the actor and (A) is a  
29 secondary school student and receives such coaching or instruction in  
30 a secondary school setting, or (B) is under eighteen years of age; or (10)  
31 the actor is eighteen years of age or older and stands in a position of  
32 trust, authority or supervision over such other person by virtue of the  
33 actor's professional, legal, occupational or volunteer status and such  
34 other person is under eighteen years of age.

35 (b) Sexual assault in the second degree is a class C felony or, if the  
36 victim of the offense is under sixteen years of age, a class B felony, and  
37 any person found guilty under this section shall be sentenced to a term  
38 of imprisonment of which nine months of the sentence imposed may  
39 not be suspended or reduced by the court.

40 Sec. 2. Section 53a-73a of the general statutes is repealed and the  
41 following is substituted in lieu thereof (*Effective October 1, 2004*):

42 (a) A person is guilty of sexual assault in the fourth degree when: (1)  
43 Such person intentionally subjects another person to sexual contact  
44 who is (A) under fifteen years of age, or (B) mentally defective or  
45 mentally incapacitated to the extent that such other person is unable to

46 consent to such sexual contact, or (C) physically helpless, or (D) less  
47 than eighteen years old and the actor is such other person's guardian  
48 or otherwise responsible for the general supervision of such other  
49 person's welfare, or (E) in custody of law or detained in a hospital or  
50 other institution and the actor has supervisory or disciplinary  
51 authority over such other person; or (2) such person subjects another  
52 person to sexual contact without such other person's consent; or (3)  
53 such person engages in sexual contact with an animal or dead body; or  
54 (4) such person is a psychotherapist and subjects another person to  
55 sexual contact who is (A) a patient of the actor and the sexual contact  
56 occurs during the psychotherapy session, or (B) a patient or former  
57 patient of the actor and such patient or former patient is emotionally  
58 dependent upon the actor, or (C) a patient or former patient of the  
59 actor and the sexual contact occurs by means of therapeutic deception;  
60 or (5) such person subjects another person to sexual contact and  
61 accomplishes the sexual contact by means of false representation that  
62 the sexual contact is for a bona fide medical purpose by a health care  
63 professional; or (6) such person is a school employee and subjects  
64 another person to sexual contact who is a student enrolled in a school  
65 in which the actor works or a school under the jurisdiction of the local  
66 or regional board of education which employs the actor; or (7) such  
67 person is a coach in an athletic activity or a person who provides  
68 intensive, ongoing instruction and subjects another person to sexual  
69 contact who is a recipient of coaching or instruction from the actor and  
70 (A) is a secondary school student and receives such coaching or  
71 instruction in a secondary school setting, or (B) is under eighteen years  
72 of age; or (8) such person subjects another person to sexual contact and  
73 (A) the actor is eighteen years of age or older and stands in a position  
74 of trust, authority or supervision over such other person by virtue of  
75 the actor's professional, legal, occupational or volunteer status, and (B)  
76 such other person is under eighteen years of age.

77 (b) Sexual assault in the fourth degree is a class A misdemeanor or,  
78 if the victim of the offense is under sixteen years of age, a class D  
79 felony.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Judicial Department (Probation & Adult Services); Correction, Dept.	GF - Cost	Potential	Potential
Resources of the General Fund	GF - Revenue Gain	Less than 5,000	Less than 5,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill increases the criminal penalty for any adult who has sexual intercourse or contact with a minor if the adult’s professional, legal, occupation, or volunteer status places the adult in a position of trust, authority or supervision of the minor. It thereby subjects offenders to longer periods of incarceration and probation and results in a potential cost. Any revenue gain from imposed fines would be minimal.

The annual cost of imprisonment is about \$25,000; the average, annual cost of probation supervision by the Judicial Department’s Court Support Services Division is estimated to be \$2,000 (excluding services) to \$3,300 (including services.)<sup>1</sup> It is anticipated that, on an annual basis, the increased cost associated with increasing penalties for certain sexual assault under the bill will be minimal (i.e., less than \$50,000). On a cumulative basis over several years, however, the cost could be significant (greater than \$100,000) – depending upon the increased penalty for any single individual.

The number of potential offenders under the bill is anticipated to be

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<sup>1</sup> It is anticipated that such individuals would be placed on medium-level supervision or higher. The averages include direct and indirect (overhead) costs to the Judicial Department, in addition to fringe benefits.

few since there are few offenses under similar provisions in existing law. For example, in FY 03 there were a total of five offenses resulting in two convictions under: 53a-71(a)(5) covering individuals in custody of law or detained in a hospital or other institution; 53a-71(a)(8) which covers school employee actors and students; and 53a-71(a)(9), covering coaches.

**OLR Bill Analysis**

sHB 5603

**AN ACT CONCERNING SEXUAL ASSAULT OF YOUTHS BY PERSONS STANDING IN A POSITION OF TRUST, AUTHORITY OR SUPERVISION****SUMMARY:**

This bill makes it second- or fourth-degree sexual assault for an adult to have sexual intercourse or sexual contact, respectively, with a person under age 18 if the adult's professional, legal, occupational, or volunteer status places him in a position of trust, authority, or supervision over the minor. The bill covers actors over age 18.

Second-degree sexual assault is a class C felony unless the victim is under age 16 in which case it is a class B felony. A class C felony is punishable by up to 10 years' imprisonment, up to a \$10,000 fine, or both. A class B felony is punishable by up to 20 years' imprisonment, up to a \$15,000 fine, or both. Nine months of the prison term cannot be reduced or suspended.

Fourth-degree sexual assault is a class A misdemeanor unless the victim is under age 16 in which case it is a class D felony. A class A misdemeanor is punishable by up to one year in prison, a \$2,000 fine, or both. A class D felony is punishable by up to five years' imprisonment, up to a \$5,000 fine, or both.

EFFECTIVE DATE: October 1, 2004

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 32    Nay 9