



House of Representatives

File No. 651

General Assembly

February Session, 2004 (Reprint of File No. 491)

Substitute House Bill No. 5603
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 23, 2004

**AN ACT CONCERNING SEXUAL ASSAULT OF YOUTHS BY
PERSONS STANDING IN A POSITION OF POWER, 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 Section 53a-71 of the general statutes is repealed and the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 twenty years of age or older and stands in a position of
32 power, authority or supervision over such other person by virtue of
33 the actor's professional, legal, occupational or volunteer status and
34 such other person's participation in a program or activity, and such
35 other person is under eighteen years of age.

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

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 Section 53a-73a of the general statutes is repealed and the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

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

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

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

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

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:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 05 \$ | FY 06 \$ |
|---|-------------------|-----------------|-----------------|
| Judicial Department (Probation & Adult Services); Correction, Dept. Resources of the General Fund | GF - Cost | Potential | Potential |
| | 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 person who is twenty years old or older and 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).¹ 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.

¹ 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.

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

House Amendment "A" increased the minimum age (from 18 to 20) at which one could be guilty of the bill's crime of sexual assault by a person standing in a position of trust, authority or supervision. It could thereby reduce the number of individuals found guilty, and decrease the potential cost under the bill.

OLR BILL ANALYSIS

sHB 5603 (as amended by House "A")*

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 who participates in a program or activity if the adult's professional, legal, occupational, or volunteer status gives him power, authority, or supervision over the minor. The bill covers actors age 20 or older.

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.

*House Amendment "A" narrows the bill's scope by raising the actor's minimum age from 18 to 20 and applying it only if the minor participates in a program or activity with which the adult is associated.

EFFECTIVE DATE: October 1, 2004

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 32 Nay 9