



Senate

General Assembly

File No. 560

January Session, 2005

Senate Bill No. 892

Senate, April 28, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING CONSENSUAL SEXUAL ACTIVITY BETWEEN ADOLESCENTS CLOSE IN AGE TO EACH OTHER.

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 Section 53a-71 of the general statutes is repealed and the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, 2005*):

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 (A) thirteen years of age or older but under
6 [sixteen] fourteen years of age and the actor is more than two calendar
7 years older than such other person, or (B) fourteen years of age or
8 older but under sixteen years of age and the actor is more than three
9 calendar years older than such other person; or (2) such other person is
10 mentally defective to the extent that such other person is unable to
11 consent to such sexual intercourse; or (3) such other person is
12 physically helpless; or (4) such other person is less than eighteen years
13 old and the actor is such person's guardian or otherwise responsible

14 for the general supervision of such person's welfare; or (5) such other
15 person is in custody of law or detained in a hospital or other institution
16 and the actor has supervisory or disciplinary authority over such other
17 person; or (6) the actor is a psychotherapist and such other person is
18 (A) a patient of the actor and the sexual intercourse occurs during the
19 psychotherapy session, (B) a patient or former patient of the actor and
20 such patient or former patient is emotionally dependent upon the
21 actor, or (C) a patient or former patient of the actor and the sexual
22 intercourse occurs by means of therapeutic deception; or (7) the actor
23 accomplishes the sexual intercourse by means of false representation
24 that the sexual intercourse is for a bona fide medical purpose by a
25 health care professional; or (8) the actor is a school employee and such
26 other person is a student enrolled in a school in which the actor works
27 or a school under the jurisdiction of the local or regional board of
28 education which employs the actor; or (9) the actor is a coach in an
29 athletic activity or a person who provides intensive, ongoing
30 instruction and such other person is a recipient of coaching or
31 instruction from the actor and (A) is a secondary school student and
32 receives such coaching or instruction in a secondary school setting, or
33 (B) is under eighteen years of age; or (10) the actor is twenty years of
34 age or older and stands in a position of power, authority or
35 supervision over such other person by virtue of the actor's
36 professional, legal, occupational or volunteer status and such other
37 person's participation in a program or activity, and such other person
38 is under eighteen years of age.

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

44 Sec. 2. Section 53a-73a of the general statutes is repealed and the
45 following is substituted in lieu thereof (*Effective October 1, 2005*):

46 (a) A person is guilty of sexual assault in the fourth degree when: (1)

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

82 older and stands in a position of power, authority or supervision over
83 such other person by virtue of the actor's professional, legal,
84 occupational or volunteer status and such other person's participation
85 in a program or activity, and (B) such other person is under eighteen
86 years of age.

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

90 Sec. 3. Section 53-21 of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective October 1, 2005*):

92 (a) Any person who (1) wilfully or unlawfully causes or permits any
93 child under [the age of] sixteen years of age to be placed in such a
94 situation that the life or limb of such child is endangered, the health of
95 such child is likely to be injured or the morals of such child are likely
96 to be impaired, or does any act likely to impair the health or morals of
97 any such child, or (2) (A) has contact with the intimate parts, as
98 defined in section 53a-65, of a child under [the age of sixteen years]
99 thirteen years of age or subjects a child under [sixteen] thirteen years
100 of age to contact with the intimate parts of such person, in a sexual and
101 indecent manner likely to impair the health or morals of such child, or
102 (B) has contact with the intimate parts, as defined in section 53a-65, of
103 a child thirteen years of age or older but under fourteen years of age or
104 subjects a child thirteen years of age or older but under fourteen years
105 of age to contact with the intimate parts of such person, in a sexual and
106 indecent manner likely to impair the health or morals of such child,
107 and such person is more than two calendar years older than such child,
108 or (C) has contact with the intimate parts, as defined in section 53a-65,
109 of a child fourteen years of age or older but under sixteen years of age
110 or subjects a child fourteen years of age or older but under sixteen
111 years of age to contact with the intimate parts of such person, in a
112 sexual and indecent manner likely to impair the health or morals of
113 such child, and such person is more than three calendar years older
114 than such child, or (3) permanently transfers the legal or physical

115 custody of a child under the age of sixteen years to another person for
 116 money or other valuable consideration or acquires or receives the legal
 117 or physical custody of a child under the age of sixteen years from
 118 another person upon payment of money or other valuable
 119 consideration to such other person or a third person, except in
 120 connection with an adoption proceeding that complies with the
 121 provisions of chapter 803, shall be guilty of a class C felony for a
 122 violation of subdivision (1) or (3) of this subsection and a class B felony
 123 for a violation of subdivision (2) of this subsection.

124 (b) The act of a parent or agent leaving an infant thirty days or
 125 younger with a designated employee pursuant to section 17a-58 shall
 126 not constitute a violation of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	53a-71
Sec. 2	<i>October 1, 2005</i>	53a-73a
Sec. 3	<i>October 1, 2005</i>	53-21

JUD *Joint Favorable*

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 06 \$	FY 07 \$
Judicial Department (Probation); Correction, Dept.	GF - Savings	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill decriminalizes certain consensual sexual activity between adolescents; it could thereby result in state savings by reducing the number of individuals incarcerated or on probation supervision in the community. It is anticipated that the bill would result in less than fifty fewer convictions annually on a statewide basis. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

OLR Bill Analysis

SB 892

***AN ACT CONCERNING CONSENSUAL SEXUAL ACTIVITY
BETWEEN ADOLESCENTS CLOSE IN AGE TO EACH OTHER*****SUMMARY:**

This bill decriminalizes consensual sexual intercourse and sexual contact between youths who are close in age to one another.

EFFECTIVE DATE: October 1, 2005

SEXUAL ASSAULT***Statutory Rape***

Under current law, anyone who has sexual intercourse with a person who is more than two years younger and at least age 13 but under age 16 is guilty of second-degree sexual assault.

The bill limits actors guilty of this crime to those more than three calendar years, rather than two years, older than a youth who is at least age 14 but under age 16. It requires the age difference between actors and 13-year-olds to be measured in calendar years, rather than simply years. Second-degree sexual assault against victims age 16 and younger is a class B felony, punishable by up to 20 years in prison, a \$15,000 fine, or both. Nine months of the sentence cannot be suspended or reduced.

Sexual Contact

Under current law, anyone who has sexual contact with a person under age 15 is guilty of fourth-degree sexual assault, a class D felony punishable by up to five years in prison, a \$5,000 fine, or both.

The bill limits actors guilty of this crime to those more than two calendar years older than a 13-year-old or more than three calendar years older than a 14-year-old. The bill leaves unchanged the law making anyone, regardless of age, guilty of this crime if he has sexual contact with a person under age 13.

RISK OF INJURY TO MINORS

Under current law, a person is guilty of risk of injury to a minor if he has contact with the intimate parts of a person under age 16 or subjects the youth to contact with the actor's intimate parts in a sexual and indecent manner likely to impair the youth's health or morals.

The bill reduces the youth's age from 16 to 13 years. It limits actors guilty of this crime when the youth is age 13 to those more than two calendar years older. When the youth is age 14 or 15, the bill limits actors guilty of this crime to those more than three calendar years older. Risk of injury to a minor is a class B felony. It does not, however, carry a mandatory minimum sentence.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 35 Nay 5