



General Assembly

February Session, 2008

***Raised Bill No. 5541***

LCO No. 1564

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Referred to Committee on Public Health

Introduced by:  
(PH)

***AN ACT CONCERNING SEXUAL ASSAULT OF PERSONS PLACED  
OR TREATED UNDER THE DIRECTION OF THE COMMISSIONER OF  
DEVELOPMENTAL SERVICES.***

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

1 Section 1. Section 53a-71 of the 2008 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2008*):

4 (a) A person is guilty of sexual assault in the second degree when  
5 such person engages in sexual intercourse with another person and: (1)  
6 Such other person is thirteen years of age or older but under sixteen  
7 years of age and the actor is more than three years older than such  
8 other person; [or] (2) such other person is mentally defective to the  
9 extent that such other person is unable to consent to such sexual  
10 intercourse; [or] (3) such other person is physically helpless; [or] (4)  
11 such other person is less than eighteen years old and the actor is such  
12 person's guardian or otherwise responsible for the general supervision  
13 of such person's welfare; [or] (5) such other person is in custody of law,  
14 placed or treated under the direction of the Commissioner of  
15 Developmental Services in any public or private facility in accordance

16 with section 17a-238 of the 2008 supplement to the general statutes, or  
17 detained in a hospital or other institution, and the actor has  
18 supervisory or disciplinary authority over such other person; [or] (6)  
19 the actor is a psychotherapist and such other person is (A) a patient of  
20 the actor and the sexual intercourse occurs during the psychotherapy  
21 session, (B) a patient or former patient of the actor and such patient or  
22 former patient is emotionally dependent upon the actor, or (C) a  
23 patient or former patient of the actor and the sexual intercourse occurs  
24 by means of therapeutic deception; [or] (7) the actor accomplishes the  
25 sexual intercourse by means of false representation that the sexual  
26 intercourse is for a bona fide medical purpose by a health care  
27 professional; [or] (8) the actor is a school employee and such other  
28 person is a student enrolled in a school in which the actor works or a  
29 school under the jurisdiction of the local or regional board of education  
30 which employs the actor; [or] (9) the actor is a coach in an athletic  
31 activity or a person who provides intensive, ongoing instruction and  
32 such other person is a recipient of coaching or instruction from the  
33 actor and (A) is a secondary school student and receives such coaching  
34 or instruction in a secondary school setting, or (B) is under eighteen  
35 years of age; or (10) the actor is twenty years of age or older and stands  
36 in a position of power, authority or supervision over such other person  
37 by virtue of the actor's professional, legal, occupational or volunteer  
38 status and such other person's participation in a program or activity,  
39 and such other person is under eighteen years of age.

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

45 Sec. 2. Section 53a-73a of the 2008 supplement to the general statutes  
46 is repealed and the following is substituted in lieu thereof (*Effective*  
47 *October 1, 2008*):

48 (a) A person is guilty of sexual assault in the fourth degree when: (1)  
49 Such person intentionally subjects another person to sexual contact  
50 who is (A) under thirteen years of age and the actor is more than two  
51 years older than such other person, or (B) thirteen years of age or older  
52 but under fifteen years of age and the actor is more than three years  
53 older than such other person, or (C) mentally defective or mentally  
54 incapacitated to the extent that such other person is unable to consent  
55 to such sexual contact, or (D) physically helpless, or (E) less than  
56 eighteen years old and the actor is such other person's guardian or  
57 otherwise responsible for the general supervision of such other  
58 person's welfare, or (F) in custody of law, placed or treated under the  
59 direction of the Commissioner of Developmental Services in any  
60 public or private facility in accordance with section 17a-238 of the 2008  
61 supplement to the general statutes, or detained in a hospital or other  
62 institution and the actor has supervisory or disciplinary authority over  
63 such other person; [or] (2) such person subjects another person to  
64 sexual contact without such other person's consent; [or] (3) such  
65 person engages in sexual contact with an animal or dead body; [or] (4)  
66 such person is a psychotherapist and subjects another person to sexual  
67 contact who is (A) a patient of the actor and the sexual contact occurs  
68 during the psychotherapy session, or (B) a patient or former patient of  
69 the actor and such patient or former patient is emotionally dependent  
70 upon the actor, or (C) a patient or former patient of the actor and the  
71 sexual contact occurs by means of therapeutic deception; [or] (5) such  
72 person subjects another person to sexual contact and accomplishes the  
73 sexual contact by means of false representation that the sexual contact  
74 is for a bona fide medical purpose by a health care professional; [or] (6)  
75 such person is a school employee and subjects another person to sexual  
76 contact who is a student enrolled in a school in which the actor works  
77 or a school under the jurisdiction of the local or regional board of  
78 education which employs the actor; [or] (7) such person is a coach in  
79 an athletic activity or a person who provides intensive, ongoing  
80 instruction and subjects another person to sexual contact who is a  
81 recipient of coaching or instruction from the actor and (A) is a

82 secondary school student and receives such coaching or instruction in  
83 a secondary school setting, or (B) is under eighteen years of age; or (8)  
84 such person subjects another person to sexual contact and (A) the actor  
85 is twenty years of age or older and stands in a position of power,  
86 authority or supervision over such other person by virtue of the actor's  
87 professional, legal, occupational or volunteer status and such other  
88 person's participation in a program or activity, and (B) such other  
89 person is under eighteen years of age.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	53a-71
Sec. 2	<i>October 1, 2008</i>	53a-73a

**Statement of Purpose:**

To expand the definitions of sexual assault in the second degree and sexual assault in the fourth degree to include assaults committed on persons placed or treated under the direction of the Commissioner of Developmental Services.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*