



General Assembly

February Session, 2012

**Raised Bill No. 100**

LCO No. 838

\*00838 \_\_\_\_\_ JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE  
SENTENCING COMMISSION WITH RESPECT TO SEXUAL ASSAULT  
IN THE FOURTH DEGREE AND KIDNAPPING IN THE FIRST DEGREE  
WITH A FIREARM.**

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

1 Section 1. Section 53a-73a of the 2012 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2012*):

4 (a) A person is guilty of sexual assault in the fourth degree when: (1)  
5 Such person [intentionally] subjects another person to sexual contact  
6 who is (A) under thirteen years of age and the actor is more than two  
7 years older than such other person, or (B) thirteen years of age or older  
8 but under fifteen years of age and the actor is more than three years  
9 older than such other person, or (C) mentally defective or mentally  
10 incapacitated to the extent that such other person is unable to consent  
11 to such sexual contact, or (D) physically helpless, or (E) less than  
12 eighteen years old and the actor is such other person's guardian or  
13 otherwise responsible for the general supervision of such other  
14 person's welfare, or (F) in custody of law or detained in a hospital or

15 other institution and the actor has supervisory or disciplinary  
16 authority over such other person; or (2) such person subjects another  
17 person to sexual contact without such other person's consent; or (3)  
18 such person engages in sexual contact with an animal or dead body; or  
19 (4) such person is a psychotherapist and subjects another person to  
20 sexual contact who is (A) a patient of the actor and the sexual contact  
21 occurs during the psychotherapy session, or (B) a patient or former  
22 patient of the actor and such patient or former patient is emotionally  
23 dependent upon the actor, or (C) a patient or former patient of the  
24 actor and the sexual contact occurs by means of therapeutic deception;  
25 or (5) such person subjects another person to sexual contact and  
26 accomplishes the sexual contact by means of false representation that  
27 the sexual contact is for a bona fide medical purpose by a health care  
28 professional; or (6) such person is a school employee and subjects  
29 another person to sexual contact who is a student enrolled in a school  
30 in which the actor works or a school under the jurisdiction of the local  
31 or regional board of education which employs the actor; or (7) such  
32 person is a coach in an athletic activity or a person who provides  
33 intensive, ongoing instruction and subjects another person to sexual  
34 contact who is a recipient of coaching or instruction from the actor and  
35 (A) is a secondary school student and receives such coaching or  
36 instruction in a secondary school setting, or (B) is under eighteen years  
37 of age; or (8) such person subjects another person to sexual contact and  
38 (A) the actor is twenty years of age or older and stands in a position of  
39 power, authority or supervision over such other person by virtue of  
40 the actor's professional, legal, occupational or volunteer status and  
41 such other person's participation in a program or activity, and (B) such  
42 other person is under eighteen years of age; or (9) such person subjects  
43 another person to sexual contact who is placed or receiving services  
44 under the direction of the Commissioner of Developmental Services in  
45 any public or private facility or program and the actor has supervisory  
46 or disciplinary authority over such other person.

47 (b) Sexual assault in the fourth degree is a class A misdemeanor or,  
48 if the victim of the offense is under sixteen years of age, a class D

49 felony.

50 Sec. 2. Section 53a-92a of the general statutes is repealed and the  
51 following is substituted in lieu thereof (*Effective October 1, 2012*):

52 (a) A person is guilty of kidnapping in the first degree with a  
53 firearm when [he] such person commits kidnapping in the first degree  
54 as provided in section 53a-92, and in the commission of said crime [he]  
55 such person uses or is armed with and threatens the use of or displays  
56 or represents by [his] such person's words or conduct that [he] such  
57 person possesses a pistol, revolver, machine gun, shotgun, rifle or  
58 other firearm. No person shall be convicted of kidnapping in the first  
59 degree and kidnapping in the first degree with a firearm upon the  
60 same transaction but such person may be charged and prosecuted for  
61 both such offenses upon the same information.

62 (b) Kidnapping in the first degree with a firearm is a class A felony,  
63 [for which one year of the sentence imposed may not be suspended or  
64 reduced by the court.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	53a-73a
Sec. 2	<i>October 1, 2012</i>	53a-92a

**Statement of Purpose:**

To: (1) Delete the word "intentionally" regarding sexual assault in the fourth degree for consistency with the remainder of the section; and (2) resolve an irreconcilable conflict in the mandatory minimum sentences prescribed for kidnapping in the first degree and kidnapping in the first degree with a firearm.

*[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.]*