

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-28—HB 6571

Judiciary Committee

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

SUMMARY: This act increases the mandatory minimum sentence for 1st degree kidnapping with a firearm from one to 10 years. By doing so, it reinstates the 10-year mandatory minimum sentence for 1st degree kidnapping (see below).

It also makes a change to the crime of 4th degree sexual assault. One way a person commits this crime is to subject certain victims to sexual contact. The act no longer requires that this contact be intentional but leaves in place the requirement that the offender intend to (1) derive sexual gratification from the act or (2) degrade or humiliate the victim.

EFFECTIVE DATE: October 1, 2013

KIDNAPPING MANDATORY MINIMUM SENTENCES

By statute, 1st degree kidnapping is a class A felony and 10 years of a sentence for a class A felony cannot be suspended. However, in *State v. Jenkins*, the Connecticut Supreme Court ruled that it was unconstitutional to subject a person convicted of 1st degree kidnapping to a higher mandatory minimum sentence than a person convicted of kidnapping with a firearm, which was punishable as a class A felony with only a one-year mandatory minimum sentence (198 Conn. 671 (1986)). The Court ruled that the one-year mandatory minimum sentence would apply to both crimes.

By eliminating the one-year mandatory minimum for 1st degree kidnapping with a firearm, the act makes both 1st degree kidnapping and 1st degree kidnapping with a firearm class A felonies subject to a 10-year mandatory minimum sentence.

SEXUAL ASSAULT 4TH DEGREE

Under existing law, one way to commit 4th degree sexual assault is to subject to sexual contact a victim who is:

1. under age 13, when the offender is more than two years older;
2. age 13 or 14, when the offender is more than three years older;
3. mentally defective or incapacitated to the extent that he or she is unable to consent to sexual contact;
4. physically helpless;
5. under age 18, when the offender is his or her guardian or otherwise responsible for his or her welfare; or

OLR PUBLIC ACT SUMMARY

6. in custody or detained in a hospital or other institution, when the offender has supervisory or disciplinary authority over him or her.

The act no longer requires that the sexual contact be intentional but retains the requirement that the offender intend to (1) derive sexual gratification from the act or (2) degrade or humiliate the victim. Other conduct constituting 4th degree sexual assault, such as sexual contact without the victim's consent or with a student enrolled in a school where the offender works, do not require that they be committed intentionally but require that they be done for the actor's sexual gratification or to degrade or humiliate the victim.

Fourth-degree sexual assault is a class A misdemeanor (see Table on Penalties). But it is a class D felony if the victim is under age 16.

OLR Tracking: CR:KM:PF:ts