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Proposed bill number: S.B. No. 636

Proposed bill name : AN ACT CONCERNING AFFIRMATIVE CONSENT

Committee: Joint Committee on Higher Education and Employment Advancement

###Beginning of written testimony###

Unreliable statistics: 1 in 4 women on college campuses are victims of sexual assault

- Based on an online survey of two universities
- Based on the reports of only 1,500 college seniors
- High non-response bias (response rate of only 43%)
- <https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>

Reliable statistics: 6.1 per 1,000 female students are sexually assaulted/raped per year

- That is at most 2.44% over a four year period
- Non students experience sexual assault/rape at a greater rate (7.6 per 1,000)
- Sample size of 160,040 persons, about half of whom would be female
- Low non-response bias (response rate of 88%)
- <http://www.bjs.gov/content/pub/pdf/rsavcaf9513.pdf>

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Under a newly proposed bill in the General Assembly, men and boys accused of sexual assault are one step closer to being presumed guilty until proven innocent. Originally, it was only in the court of public opinion that the possibility of innocence could be neglected, but this dangerous train of thought, which runs contrary to civil society, has now permeated our academic and legislative institutions.

The recently introduced [bill](#), An Act Concerning Affirmative Consent, is co-sponsored by Sen. Mae Flexer, D-Killingly, and Rep. Gregory Haddad, D-Mansfield. Not much is known about the act other than it will institute affirmative consent — a poorly defined term — into campus conduct codes across the state. Affirmative consent is already included in codes at the University of Connecticut and Yale University. The bill will clarify existing policies about consent and will extend the rule to all colleges and universities in the state, Haddad said.

The text released so far only states that, “affirmative consent, which means affirmative, conscious and voluntary agreement to engage in sexual activity, as a key element in determining whether sexual activity was consensual.” A similar bill passed into law in California gives one a more complete, if not more concerning, glimpse into Connecticut’s future.

This sister [bill](#) in California expands on the concept of affirmative consent asserting that, “Lack of protest or resistance does not mean consent, nor does silence mean consent.” Is that to mean consent must be verbal? If not, would moaning and other signs of enjoyment count? Surely, affirmative consent has to mean something more than he or she seemed to enjoy the encounter; otherwise, what would be the point?

This law must also be viewed in tandem with the [Obama administration’s insistence](#), through the Department of Education’s Office of Civil Rights, that schools adjudicate such cases based on the preponderance of the evidence — that said offense is more likely to have occurred than not — and not the standard of beyond reasonable doubt used for criminal cases. How are colleges to determine if affirmative consent was likely granted? Assuming the alleged assault took place in private, it’s one person’s word against another.

The true effect of these policies will be to muddy the waters enough for kangaroo courts — made up of school administrators and bureaucrats — to find any sexually active individual guilty of sexual assault.

If lawmakers seriously believe this to be the threshold for sexual assault, then why just college students? After all, according to a [recent report](#) issued by the Bureau of Justice Statistics women who go to college experience rape and sexual assault at a rate of 6.1 per 1,000, while women of the same age and not attending college experience sexual assault at a rate of 7.6 per 1,000. Perhaps the lawmakers lack the political resolve to make affirmative consent the law of the land, but they can at least hold themselves to a higher standard.

If these legislators stand behind these requirements, they should empower the Office of State Ethics to issue civil penalties against public officials who fail to obtain affirmative consent during sexual intercourse or, for that matter, if their sexual partner is under the influence of alcohol. This would subject public officials to the same vague regime that many students already find themselves living under. Alternatively, they could do something of substance.

To be clear, rape and sexual assault are heinous crimes, which is exactly why politicians and school administrators should deal with these attacks the same way they would deal with any major offense — by informing the police. Instead of muddying the waters with dual investigations, crimes like these should be reported directly to the police. After all, we don’t expect schools to investigate on-campus murders. Rape and sexual assault should be treated with that same level of professionalism.