



General Assembly

January Session, 2015

Committee Bill No. 636

LCO No. 5662



Referred to Committee on HIGHER EDUCATION AND
EMPLOYMENT ADVANCEMENT

Introduced by:
(HED)

AN ACT CONCERNING AFFIRMATIVE CONSENT.

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

1 Section 1. Section 10a-55m of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2015*):

3 (a) For purposes of this section and sections 10a-55n to 10a-55q,
4 inclusive:

5 (1) "Affirmative consent" means an active, informed, unambiguous
6 and voluntary agreement by a person to engage in sexual activity with
7 another person that is sustained throughout the sexual activity and
8 may be revoked at any time by any person;

9 [(1)] (2) "Awareness programming" means institutional action
10 designed to inform the campus community of the affirmative consent
11 standard used pursuant to subdivision (1) of subsection (b) of this
12 section, and communicate the prevalence of sexual assaults, stalking
13 and intimate partner violence, including the nature and number of
14 cases of sexual assault, stalking and intimate partner violence reported

15 at each institution of higher education in the preceding three calendar
16 years, including, but not limited to, poster and flyer campaigns,
17 electronic communications, films, guest speakers, symposia,
18 conferences, seminars or panel discussions;

19 [(2)] (3) "Bystander intervention" means the act of challenging the
20 social norms that support, condone or permit sexual assault, stalking
21 and intimate partner violence;

22 [(3)] (4) "Institution of higher education" means an institution of
23 higher education, as defined in section 10a-55, and a for-profit
24 institution of higher education licensed to operate in this state, but
25 shall not include Charter Oak State College for purposes of subsections
26 (c) and (f) of this section and sections 10a-55n to 10a-55p, inclusive;

27 [(4)] (5) "Intimate partner violence" means any physical or sexual
28 harm against an individual by a current or former spouse of or person
29 in a dating relationship with such individual that results from any
30 action by such spouse or such person that may be classified as a sexual
31 assault under section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b
32 or 53a-73a, stalking under section 53a-181c, 53a-181d or 53a-181e, or
33 family violence as designated under section 46b-38h;

34 [(5)] (6) "Primary prevention programming" means institutional
35 action and strategies intended to prevent sexual assault, stalking and
36 intimate partner violence before it occurs by means of changing social
37 norms and other approaches, including, but not limited to, poster and
38 flyer campaigns, electronic communications, films, guest speakers,
39 symposia, conferences, seminars or panel discussions;

40 [(6)] (7) "Sexual assault" means a sexual assault under section 53a-
41 70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a;

42 [(7)] (8) "Stalking" means stalking under section 53a-181c, 53a-181d
43 or 53a-181e; and

44 [(8)] (9) "Uniform campus crime report" means a campus crime

45 report prepared by an institution of higher education pursuant to
46 section 10a-55a.

47 (b) Each institution of higher education shall adopt and disclose in
48 such institution's annual uniform campus crime report one or more
49 policies regarding sexual assault, stalking and intimate partner
50 violence. Such policy or policies shall include provisions for: [(1)
51 detailing]

52 (1) Informing students and employees that (A) affirmative consent is
53 the standard used in determining whether consent to engage in sexual
54 activity was given by all persons who engaged in the sexual activity,
55 (B) it is the responsibility of each person to ensure that he or she has
56 the affirmative consent of all persons to engage in the sexual activity,
57 (C) the existence of a dating relationship or past sexual relationship
58 between persons shall not constitute consent to engage in the sexual
59 activity, and (D) it shall not be a valid excuse to an alleged lack of
60 affirmative consent that the accused believed that the victim consented
61 to the sexual activity (i) because the accused was intoxicated or
62 reckless or failed to take reasonable steps to ascertain whether the
63 victim affirmatively consented, or (ii) if the accused knew or should
64 have known that the victim was unable to consent because the victim
65 was unconscious, asleep, unable to communicate due to a mental or
66 physical condition, or incapacitated due to the influence of drugs,
67 alcohol or medication and, as a result, was unable to understand the
68 fact, nature or extent of the sexual activity.

69 (2) Detailing the procedures that students and employees of the
70 institution who report or disclose being the victim of sexual assault,
71 stalking or intimate partner violence may follow after the commission
72 of such assault, stalking or violence, regardless of where such
73 incidences occurred, including persons or agencies to contact and
74 information regarding the importance of preserving physical evidence
75 of such assault, stalking or violence;

76 [(2) providing] (3) Providing students and employees of the

77 institution who report or disclose being the victim of sexual assault,
78 stalking or intimate partner violence both concise, written contact
79 information for and, if requested, professional assistance in accessing
80 and utilizing campus, local advocacy, counseling, health and mental
81 health services, and concise information, written in plain language,
82 concerning the rights of such students and employees to (A) notify law
83 enforcement of such assault, stalking or violence and receive assistance
84 from campus authorities in making any such notification, and (B)
85 obtain a protective order, apply for a temporary restraining order or
86 seek enforcement of an existing protective or restraining order,
87 including, but not limited to, orders issued pursuant to section 46b-15,
88 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r, against the perpetrator of
89 such assault, stalking or violence;

90 [(3) notifying] (4) Notifying such students and employees of any
91 reasonably available options for and available assistance from such
92 institution in changing academic, living, campus transportation or
93 working situations in response to such assault, stalking or violence;

94 [(4) honoring] (5) Honoring any lawful protective or temporary
95 restraining orders, including, but not limited to, orders issued
96 pursuant to section 46b-15, 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r;

97 [(5) disclosing] (6) Disclosing a summary of such institution's
98 student disciplinary procedures, including clear statements advising
99 that (A) victims of such assault, stalking or violence shall have the
100 opportunity to request that [disciplinary proceedings] an investigation
101 begin promptly, (B) the investigation and any disciplinary proceedings
102 shall be conducted by an official trained annually in issues relating to
103 sexual assault, stalking and intimate partner violence and shall use the
104 preponderance of the evidence standard in making a determination
105 concerning the alleged assault, stalking or violence, (C) both the victim
106 of such assault, stalking or violence and the accused (i) are entitled to
107 be accompanied to any meeting or proceeding relating to the allegation
108 of such assault, stalking or violence by an advisor or support person of

109 their choice, provided the involvement of such advisor or support
110 person does not result in the postponement or delay of such meeting
111 as scheduled, and (ii) shall have the opportunity to present evidence
112 and witnesses on their behalf during any disciplinary proceeding, (D)
113 both such victim and accused are entitled to be informed in writing of
114 the results of any disciplinary proceeding not later than one business
115 day after the conclusion of such proceeding, [and] (E) the institution of
116 higher education shall not disclose the identity of the victim or the
117 accused, except as necessary to carry out [a] an investigation or
118 disciplinary proceeding or as permitted under state or federal law, and
119 (F) a standard of affirmative consent is used in determining whether
120 consent to engage in sexual activity was given by all persons who
121 engaged in the sexual activity;

122 [(6) disclosing] (7) Disclosing a summary of such institution's
123 employee investigation and disciplinary procedures, including clear
124 statements advising that a standard of affirmative consent is used in
125 determining whether consent to engage in sexual activity was given by
126 all persons who engaged in the sexual activity; and

127 [(7) disclosing] (8) Disclosing the range of sanctions that may be
128 imposed following the implementation of such institution's student
129 and employee disciplinary procedures in response to such assault,
130 stalking or violence.

131 (c) Each institution of higher education shall provide (1) annual
132 sexual assault, stalking and intimate partner violence primary
133 prevention and awareness programming for all students and
134 employees that includes an explanation of the definition of affirmative
135 consent in sexual relationships, information concerning the reporting
136 of incidences of such assaults, stalking and violence and strategies for
137 bystander intervention and risk reduction; and (2) ongoing sexual
138 assault, stalking and intimate partner violence prevention and
139 awareness campaigns.

140 (d) Each institution of higher education may provide the option for

141 any student or employee of such institution who is the victim of a
142 sexual assault, stalking or intimate partner violence to report or
143 disclose such assault, stalking or violence to such institution
144 anonymously. Each such institution shall notify any such student or
145 employee of the institution's obligations under state or federal law, if
146 any, to (1) investigate or address such assault, stalking or violence and
147 (2) assess whether the report triggers the need for a timely warning or
148 emergency notification, as described in 34 CFR 668.46(e), which
149 obligations, in limited circumstances, may result in the learning of
150 such victim's identity.

151 (e) Each institution of higher education shall provide concise
152 notification, written in plain language, to each student and employee
153 of such institution who has been the victim of sexual assault, stalking
154 or intimate partner violence, immediately upon receiving a report of
155 such assault, stalking or violence, of such victim's rights and options
156 under such institution's policy or policies regarding sexual assault,
157 stalking and intimate partner violence adopted in accordance with
158 subsection (b) of this section.

159 (f) Not later than October 1, 2015, and annually thereafter, each
160 institution of higher education shall report to the joint standing
161 committee of the General Assembly having cognizance of matters
162 relating to higher education, in accordance with the provisions of
163 section 11-4a, concerning, for the immediately preceding calendar year,
164 (1) a copy of its most recent policies regarding sexual assault, stalking
165 and intimate partner violence adopted in accordance with subsection
166 (b) of this section, or any revisions thereto, (2) a copy of its most recent
167 concise written notification of a victim's rights and options under its
168 sexual assault, stalking and intimate partner violence policy or policies
169 required pursuant to subsection (e) of this section, (3) the number and
170 type of sexual assault, stalking and intimate partner violence
171 prevention, awareness and risk reduction programs at the institution,
172 (4) the type of sexual assault, stalking and intimate partner violence
173 prevention and awareness campaigns held by the institution, (5) the

174 number of incidences of sexual assault, stalking and intimate partner
175 violence reported to such institution, (6) the number of confidential or
176 anonymous reports or disclosures to the institution of sexual assault,
177 stalking and intimate partner violence, (7) the number of disciplinary
178 cases at the institution related to sexual assault, stalking and intimate
179 partner violence, and (8) the final outcome of all disciplinary cases at
180 the institution related to sexual assault, stalking and intimate partner
181 violence, including, but not limited to, the outcome of any appeals of
182 such final outcome, to the extent reporting on such outcomes does not
183 conflict with federal law.

184 (g) Nothing in this section shall be interpreted to prohibit Charter
185 Oak State College from providing, either in person or electronically,
186 optional sexual assault, stalking and intimate partner violence
187 prevention and awareness programming for all students and
188 employees of said college.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2015	10a-55m

Statement of Purpose:

To establish affirmative consent as the threshold in sexual assault and intimate partner violence cases.

[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.]

Co-Sponsors: SEN. FLEXER, 29th Dist.; REP. HADDAD, 54th Dist.

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