



General Assembly

Amendment

January Session, 2015

LCO No. 7416



Offered by:

SEN. FLEXER, 29th Dist.

SEN. BARTOLOMEO, 13th Dist.

REP. HADDAD, 54th Dist.

REP. WILLIS, 64th Dist.

To: Subst. Senate Bill No. 636

File No. 551

Cal. No. 321

"AN ACT CONCERNING AFFIRMATIVE CONSENT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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 Section 10a-55m of the general statutes is repealed and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

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

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

11 [(1)] (2) "Awareness programming" means institutional action

12 designed to inform the campus community of the affirmative consent
13 standard used pursuant to subdivision (1) of subsection (b) of this
14 section, and communicate the prevalence of sexual assaults, stalking
15 and intimate partner violence, including the nature and number of
16 cases of sexual assault, stalking and intimate partner violence reported
17 at each institution of higher education in the preceding three calendar
18 years, including, but not limited to, poster and flyer campaigns,
19 electronic communications, films, guest speakers, symposia,
20 conferences, seminars or panel discussions;

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

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

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

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

42 [(6)] (7) "Sexual assault" means a sexual assault under section 53a-

43 70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a;

44 [(7)] (8) "Stalking" means stalking under section 53a-181c, 53a-181d
45 or 53a-181e; and

46 [(8)] (9) "Uniform campus crime report" means a campus crime
47 report prepared by an institution of higher education pursuant to
48 section 10a-55a.

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

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

71 (2) Detailing the procedures that students and employees of the
72 institution who report or disclose being the victim of sexual assault,
73 stalking or intimate partner violence may follow after the commission

74 of such assault, stalking or violence, regardless of where such
75 incidences occurred, including persons or agencies to contact and
76 information regarding the importance of preserving physical evidence
77 of such assault, stalking or violence;

78 [(2) providing] (3) Providing students and employees of the
79 institution who report or disclose being the victim of sexual assault,
80 stalking or intimate partner violence both concise, written contact
81 information for and, if requested, professional assistance in accessing
82 and utilizing campus, local advocacy, counseling, health and mental
83 health services, and concise information, written in plain language,
84 concerning the rights of such students and employees to (A) notify law
85 enforcement of such assault, stalking or violence and receive assistance
86 from campus authorities in making any such notification, and (B)
87 obtain a protective order, apply for a temporary restraining order or
88 seek enforcement of an existing protective or restraining order,
89 including, but not limited to, orders issued pursuant to section 46b-15,
90 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r, against the perpetrator of
91 such assault, stalking or violence;

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

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

99 [(5) disclosing] (6) Disclosing a summary of such institution's
100 student investigation and disciplinary procedures, including clear
101 statements advising that (A) victims of such assault, stalking or
102 violence shall have the opportunity to request that [disciplinary
103 proceedings] an investigation begin promptly, (B) the investigation
104 and any disciplinary proceedings shall be conducted by an official
105 trained annually in issues relating to sexual assault, stalking and

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

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

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

134 (c) Each institution of higher education shall provide (1) annual
135 sexual assault, stalking and intimate partner violence primary
136 prevention and awareness programming for all students and
137 employees that includes an explanation of the definition of affirmative
138 consent in sexual relationships, information concerning the reporting

139 of incidences of such assaults, stalking and violence and strategies for
140 bystander intervention and risk reduction; and (2) ongoing sexual
141 assault, stalking and intimate partner violence prevention and
142 awareness campaigns.

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

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

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

172 required pursuant to subsection (e) of this section, (3) the number and
 173 type of sexual assault, stalking and intimate partner violence
 174 prevention, awareness and risk reduction programs at the institution,
 175 (4) the type of sexual assault, stalking and intimate partner violence
 176 prevention and awareness campaigns held by the institution, (5) the
 177 number of incidences of sexual assault, stalking and intimate partner
 178 violence reported to such institution, (6) the number of confidential or
 179 anonymous reports or disclosures to the institution of sexual assault,
 180 stalking and intimate partner violence, (7) the number of disciplinary
 181 cases at the institution related to sexual assault, stalking and intimate
 182 partner violence, and (8) the final outcome of all disciplinary cases at
 183 the institution related to sexual assault, stalking and intimate partner
 184 violence, including, but not limited to, the outcome of any appeals of
 185 such final outcome, to the extent reporting on such outcomes does not
 186 conflict with federal law.

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

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