

**Proposed Substitute  
Bill No. 636**

LCO No. 5773

**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 Section 10a-55m of the general statutes is repealed and the  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, unambiguous and  
6 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 investigation and disciplinary procedures, including clear  
99 statements advising that (A) victims of such assault, stalking or  
100 violence shall have the opportunity to request that [disciplinary  
101 proceedings] an investigation begin promptly, (B) the investigation  
102 and any disciplinary proceedings shall be conducted by an official  
103 trained annually in issues relating to sexual assault, stalking and  
104 intimate partner violence and shall use the preponderance of the  
105 evidence standard in making a determination concerning the alleged  
106 assault, stalking or violence, (C) both the victim of such assault,  
107 stalking or violence and the accused (i) are entitled to be accompanied  
108 to any meeting or proceeding relating to the allegation of such assault,  
109 stalking or violence by an advisor or support person of their choice,  
110 provided the involvement of such advisor or support person does not  
111 result in the postponement or delay of such meeting as scheduled, and  
112 (ii) shall have the opportunity to present evidence and witnesses on  
113 their behalf during any disciplinary proceeding, (D) both such victim  
114 and accused are entitled to be informed in writing of the results of any

115 disciplinary proceeding not later than one business day after the  
116 conclusion of such proceeding, [and] (E) the institution of higher  
117 education shall not disclose the identity of the victim or the accused,  
118 except as necessary to carry out [a] an investigation or disciplinary  
119 proceeding or as permitted under state or federal law, and (F) a  
120 standard of affirmative consent is used in determining whether  
121 consent to engage in sexual activity was given by all persons who  
122 engaged in the sexual activity;

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

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

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

141 (d) Each institution of higher education may provide the option for  
142 any student or employee of such institution who is the victim of a  
143 sexual assault, stalking or intimate partner violence to report or  
144 disclose such assault, stalking or violence to such institution  
145 anonymously. Each such institution shall notify any such student or  
146 employee of the institution's obligations under state or federal law, if

147 any, to (1) investigate or address such assault, stalking or violence and  
148 (2) assess whether the report triggers the need for a timely warning or  
149 emergency notification, as described in 34 CFR 668.46(e), which  
150 obligations, in limited circumstances, may result in the learning of  
151 such victim's identity.

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

160 (f) Not later than October 1, 2015, and annually thereafter, each  
161 institution of higher education shall report to the joint standing  
162 committee of the General Assembly having cognizance of matters  
163 relating to higher education, in accordance with the provisions of  
164 section 11-4a, concerning, for the immediately preceding calendar year,  
165 (1) a copy of its most recent policies regarding sexual assault, stalking  
166 and intimate partner violence adopted in accordance with subsection  
167 (b) of this section, or any revisions thereto, (2) a copy of its most recent  
168 concise written notification of a victim's rights and options under its  
169 sexual assault, stalking and intimate partner violence policy or policies  
170 required pursuant to subsection (e) of this section, (3) the number and  
171 type of sexual assault, stalking and intimate partner violence  
172 prevention, awareness and risk reduction programs at the institution,  
173 (4) the type of sexual assault, stalking and intimate partner violence  
174 prevention and awareness campaigns held by the institution, (5) the  
175 number of incidences of sexual assault, stalking and intimate partner  
176 violence reported to such institution, (6) the number of confidential or  
177 anonymous reports or disclosures to the institution of sexual assault,  
178 stalking and intimate partner violence, (7) the number of disciplinary  
179 cases at the institution related to sexual assault, stalking and intimate  
180 partner violence, and (8) the final outcome of all disciplinary cases at

181 the institution related to sexual assault, stalking and intimate partner  
182 violence, including, but not limited to, the outcome of any appeals of  
183 such final outcome, to the extent reporting on such outcomes does not  
184 conflict with federal law.

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

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