"AN ACT CONCERNING AFFIRMATIVE CONSENT AND CONSENT FOR THE CARE AND TREATMENT OF COLLEGE STUDENTS WHO ARE THE VICTIM OF SEXUAL ASSAULT."

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

2 "Section 1. Section 10a-55m of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2016):

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

4 (1) "Awareness programming" means institutional action designed to communicate the prevalence of sexual assaults, stalking and intimate partner violence, including the nature and number of cases of sexual assault, stalking and intimate partner violence reported at each institution of higher education in the preceding three calendar years, including, but not limited to, poster and flyer campaigns, electronic
communications, films, guest speakers, symposia, conferences, seminars or panel discussions;

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

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

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

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

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

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

(8) "Uniform campus crime report" means a campus crime report prepared by an institution of higher education pursuant to section 10a-55a.
(b) Each institution of higher education shall adopt and disclose in such institution's annual uniform campus crime report one or more policies regarding sexual assault, stalking and intimate partner violence. Such policy or policies shall include provisions for (1) detailing the procedures that students and employees of the institution who report or disclose being the victim of sexual assault, stalking or intimate partner violence may follow after the commission of such assault, stalking or violence, regardless of where such incidences occurred, including persons or agencies to contact and information regarding the importance of preserving physical evidence of such assault, stalking or violence; (2) providing students and employees of the institution who report or disclose being the victim of sexual assault, stalking or intimate partner violence both concise, written contact information for and, if requested, professional assistance in accessing and utilizing campus, local advocacy, counseling, health and mental health services, and concise information, written in plain language, concerning the rights of such students and employees to (A) notify law enforcement of such assault, stalking or violence and receive assistance from campus authorities in making any such notification, and (B) obtain a protective order, apply for a temporary restraining order or seek enforcement of an existing protective or restraining order, including, but not limited to, orders issued pursuant to section 46b-15, 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r, against the perpetrator of such assault, stalking or violence; (3) notifying such students and employees of any reasonably available options for and available assistance from such institution in changing academic, living, campus transportation or working situations in response to such assault, stalking or violence; (4) honoring any lawful protective or temporary restraining orders, including, but not limited to, orders issued pursuant to section 46b-15, 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r; [(5) disclosing a summary of such institution's student disciplinary procedures, including clear statements advising that (A) victims of such assault, stalking or violence shall have the opportunity to request that disciplinary proceedings begin promptly, (B) disciplinary proceedings shall be conducted by an official trained annually in
issues relating to sexual assault, stalking and intimate partner violence
and shall use the preponderance of the evidence standard in making a
determination concerning the alleged assault, stalking or violence, (C)
both the victim of such assault, stalking or violence and the accused (i)
are entitled to be accompanied to any meeting or proceeding relating
to the allegation of such assault, stalking or violence by an advisor or
support person of their choice, provided the involvement of such
advisor or support person does not result in the postponement or
delay of such meeting as scheduled, and (ii) shall have the opportunity
to present evidence and witnesses on their behalf during any
disciplinary proceeding, (D) both such victim and accused are entitled
to be informed in writing of the results of any disciplinary proceeding
not later than one business day after the conclusion of such
proceeding, and (E) the institution of higher education shall not
disclose the identity of the victim or the accused, except as necessary to
carry out a disciplinary proceeding or as permitted under state or
federal law; (6) disclosing a summary of such institution's
employee disciplinary procedures; and [(7) disclosing the range of
sanctions that may be imposed following the implementation of such
institution's student and employee disciplinary procedures in response
to such assault, stalking or violence.

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

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

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

(f) Not later than October 1, 2015, and annually thereafter, each institution of higher education shall report to the joint standing committee of the General Assembly having cognizance of matters relating to higher education, in accordance with the provisions of section 11-4a, concerning, for the immediately preceding calendar year, (1) a copy of its most recent policies regarding sexual assault, stalking and intimate partner violence adopted in accordance with subsection (b) of this section, or any revisions thereto, (2) a copy of its most recent concise written notification of a victim's rights and options under its sexual assault, stalking and intimate partner violence policy or policies required pursuant to subsection (e) of this section, (3) the number and type of sexual assault, stalking and intimate partner violence prevention, awareness and risk reduction programs at the institution, (4) the type of sexual assault, stalking and intimate partner violence prevention and awareness campaigns held by the institution, (5) the number of incidences of sexual assault, stalking and intimate partner violence reported to such institution, (6) the number of confidential or anonymous reports or disclosures to the institution of sexual assault, stalking and intimate partner violence, (7) the number of disciplinary
cases at the institution related to sexual assault, stalking and intimate partner violence, and (8) the final outcome of all disciplinary cases at the institution related to sexual assault, stalking and intimate partner violence, including, but not limited to, the outcome of any appeals of such final outcome, to the extent reporting on such outcomes does not conflict with federal law.

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

(h) Officials of each institution of higher education who investigate allegations of sexual assault, intimate partner violence and stalking shall:

(1) Discharge their duties with objectivity and impartiality;

(2) Make reasonable efforts to contact all potential witnesses, not just those recommended by the reporting student or employee or responding student or employee;

(3) Seek to identify both inculpatory and exculpatory evidence;

(4) Thoroughly document or videotape all communications with potential witnesses, evidence collected and interviews conducted, which shall be made available to the reporting student or employee and accused prior to any institutional disciplinary hearing;

(5) Compile and evaluate evidence in an impartial manner before rendering an opinion; and

(6) Not serve as victim advocate, prosecutor, adjudicator or appellate adjudicator for the same case.

(i) (1) Institutional investigative procedures and disciplinary proceedings shall afford the presumption of innocence to the
responding student or employee.

(2) The institutional policy regarding the presumption of innocence shall be stated in the student handbook.

(3) For all allegations that include physical injury, attempted physical violence or threats of physical violence, the institution of higher education shall inform the reporting student or employee of the option to obtain an order through the local court system that may restrict the contact between the reporting student or employee and the responding student or employee if there is an immediate and present danger to the reporting student or employee.

(j) No institution of higher education may impose any sanction on any student in response to an alleged sexual assault, intimate partner violence or stalking that is reported to the institution, unless the sanction is imposed under a formal adjudicatory proceeding, in accordance with institutional policies that meet each of the following requirements:

(1) The reporting student or employee and the responding student or employee shall have the right to be treated with dignity, respect, and sensitivity throughout the investigation and disciplinary hearing.

(2) Institutions shall give the responding student or employee written notice of all allegations being made against the student or employee not later than forty-eight hours after the decision is rendered to pursue disciplinary proceedings. Such notice shall delineate the nature of the alleged offense and factual information about the underlying incident.

(3) The institution shall provide all parties to the proceeding with adequate written notice of the allegation not later than two weeks prior to the start of any formal hearing or similar adjudicatory proceeding. The notice shall include a description of all rights and responsibilities under the proceeding, a statement of all relevant details of the allegation including the nature of the alleged offense and factual
information underlying the incident, and a specific statement of the
sanctions that may be imposed.

(4) The institution shall provide each responding student or
employee with a meaningful opportunity to admit or contest the
allegation at the proceeding or similar adjudicatory proceeding.

(5) The institution shall ensure that all parties to the proceeding
have reasonable access to all material evidence, including both
inculpatory and exculpatory evidence, not later than two weeks prior
to the start of any formal hearing or similar adjudicatory proceeding.
Such evidence may include, but is not limited to, statements of the
reporting student or employee, third-party witness statements,
electronically stored information, written communications, social
media posts and demonstrative evidence.

(6) The institution shall permit each party to the proceeding to be
represented, at the sole expense of the party, by an attorney or other
nonattorney advocate for the duration of the proceeding, including
during the investigation of the allegation, interviews of the reporting
or responding student or employee, and other preliminary stages prior
to a formal adjudicatory proceeding. The institution shall permit the
attorney or other advocate to ask questions in the proceeding, file
relevant papers, examine evidence and examine witnesses.

(7) The reporting student or employee and responding student or
employee shall be informed of the right to remain silent, and that any
statements made to investigators prior to the proceeding, or made
during the course of the proceeding, may be used against the
responding student or employee in a court of law if criminal charges
are filed.

(8) The institution shall permit each party to the proceeding to
safely confront witnesses, including the reporting student or employee
and responding student or employee, in an appropriate manner,
including by submitting written questions to be asked by the person
serving as the adjudicator in any formal hearing or similar
adjudicatory proceeding.

(9) The institution shall ensure that the proceeding is carried out free from conflicts of interest by ensuring that there is no commingling of administrative or adjudicative roles. For purposes of this subdivision, an institution shall be considered to commingle such roles if any individual carries out more than one of the following roles with respect to the proceeding:

(A) Victim counselor and victim advocate.

(B) Confidential advisor.

(C) Investigator.

(D) Prosecutor.

(E) Adjudicator.

(F) Appellate adjudicator.

(k) An institution of higher education may establish and apply such standard of proof as it considers appropriate for purposes of any adjudication carried out as part of an institutional disciplinary proceeding under this section. Said standard of proof shall be commensurate with the severity of the allegation and the potential penalties."

This act shall take effect as follows and shall amend the following sections:

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