



PA 19-189—sHB 7396

*Judiciary Committee*

**AN ACT CONCERNING PARITY BETWEEN SEXUAL ASSAULT IN THE CASE OF A SPOUSAL OR COHABITATING RELATIONSHIP AND OTHER CRIMES OF SEXUAL ASSAULT AND CONCERNING THE INVESTIGATION OF A FAMILY VIOLENCE CRIME**

**SUMMARY:** This act repeals the law that specifically criminalized sexual assault in a spousal or cohabiting relationship, but it simultaneously subjects married individuals to penalties for other sexual assault offenses. It does so by repealing exemptions for married individuals from the definitions of “sexual intercourse” and “sexual contact” in the sexual offense statutes.

Under prior law, it was a class B felony (see [Table on Penalties](#)) for a spouse or cohabitor to compel the other spouse or cohabitor to engage in sexual intercourse by the use of force or threatened use of force that reasonably caused the other person to fear physical injury (i.e., “sexual assault in a spousal or cohabiting relationship”). Under the act, a spouse may be charged, depending on the circumstances, with 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree sexual assault, aggravated 1<sup>st</sup> degree sexual assault, or 3<sup>rd</sup> degree sexual assault with a firearm, for compelling his or her spouse to submit to sexual contact or intercourse by force or threatened force.

The act also narrows the exceptions to the law that requires a peace officer, in responding to a family violence complaint (see BACKGROUND) made by two or more opposing parties, to arrest the person the officer believes is the dominant aggressor.

Additionally, the act makes numerous minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2019, except the provision on the dominant aggressor law exemptions is effective July 1, 2019.

**SEXUAL ASSAULT OF A SPOUSE**

Due to the act’s changes to the definitions of “sexual intercourse” and “sexual contact” as described above, the act adds the following offenses to those for which a spouse who commits sexual assault may be charged:

1. 1<sup>st</sup> degree sexual assault if he or she compels his or her spouse to engage in sexual intercourse by the use of force against the spouse or a third person, or by a threat of such force that causes the spouse to fear physical personal injury or injury to a third person;
2. aggravated 1<sup>st</sup> degree sexual assault if he or she commits 1<sup>st</sup> degree sexual assault and, while doing so (a) uses, is armed with and threatens to use, or displays or represents that he or she possesses, a dangerous weapon; (b) injures his or her spouse intending to seriously and permanently disfigure

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- or disable him or her; (c) recklessly engages in conduct creating a risk of death to the spouse under circumstances showing an extreme indifference to human life; or (d) is aided by two or more individuals present;
3. 2<sup>nd</sup> degree sexual assault if he or she engages in sexual intercourse with his or her spouse who is (a) physically helpless or (b) impaired because of mental disability or disease to the extent that the victim-spouse is unable to consent to intercourse;
  4. 3<sup>rd</sup> degree sexual assault if he or she uses or threatens to use force to compel his or her spouse to submit to sexual contact;
  5. 3<sup>rd</sup> degree sexual assault with a firearm if he or she commits 3<sup>rd</sup> degree sexual assault while using, armed with and threatening to use, or displaying or representing by words or conduct that he or she has a firearm; and
  6. 4<sup>th</sup> degree sexual assault if he or she subjects the spouse to sexual contact without the spouse's consent or if the spouse is (a) physically helpless or (b) mentally incapacitated or impaired because of mental disability or disease to the extent that he or she is unable to consent to such contact (PA 19-16 and PA 19-93 increase the penalty for the latter crime; see BACKGROUND, *Related Acts*).

### DOMINANT AGGRESSOR LAW EXEMPTIONS

Existing law generally requires a peace officer, in responding to a family violence complaint made by two or more opposing parties, to arrest the person the officer believes is the dominant aggressor. Under the act, this does not apply to only the following individuals, unless they are family or household members: (1) college or university students residing in on- or off-campus housing owned, managed, or operated by the higher education institution or (2) tenants who live together in a residential rental property. Under prior law, it did not apply to college or university roommates in on-campus housing or such tenants, unless such roommates or tenants were in a dating relationship.

For these purposes, "family or household members" include:

1. spouses or former spouses;
2. parents or their children; or
3. individuals related by blood or marriage who (a) have a child in common regardless of whether they are or have been married or have lived together at any time or (b) who are dating or who have recently been in a dating relationship.

### BACKGROUND

#### *Family Violence*

By law, "family violence" is an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury, or assault, including stalking or a pattern of

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threatening, between family or household members. It does not include verbal abuse or argument unless there is present danger and the likelihood that physical violence will occur (CGS § 46b-38a(1)).

### *Related Acts*

PA 19-16 and PA 19-93 increase the penalty, from 4<sup>th</sup> to 3<sup>rd</sup> degree sexual assault, to subject someone to sexual contact if the victim is mentally incapacitated or impaired due to mental disability or disease to the extent that he or she cannot consent.