



House of Representatives

General Assembly

File No. 527

February Session, 2022

Substitute House Bill No. 5472

House of Representatives, April 19, 2022

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING SEXUAL ASSAULT AND THE ABSENCE OF CONSENT.

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

1 Section 1. Section 53a-65 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 As used in this part, the following terms have the following
4 meanings:

5 (1) "Actor" means a person accused of sexual assault.

6 (2) "Sexual intercourse" means vaginal intercourse, anal intercourse,
7 fellatio or cunnilingus between persons regardless of sex. Penetration,
8 however slight, is sufficient to complete vaginal intercourse, anal
9 intercourse or fellatio and does not require emission of semen.
10 Penetration may be committed by an object manipulated by the actor
11 into the genital or anal opening of the victim's body.

12 (3) "Sexual contact" means any contact with the intimate parts of a
13 person for the purpose of sexual gratification of the actor or for the
14 purpose of degrading or humiliating such person or any contact of the
15 intimate parts of the actor with a person for the purpose of sexual
16 gratification of the actor or for the purpose of degrading or humiliating
17 such person.

18 (4) "Impaired because of mental disability or disease" means that a
19 person suffers from a mental disability or disease which renders such
20 person incapable of appraising the nature of such person's conduct.

21 (5) "Mentally incapacitated" means that a person is rendered
22 temporarily incapable of appraising or controlling such person's
23 conduct owing to the influence of a drug or intoxicating substance
24 administered to such person without such person's consent, or owing to
25 any other act committed upon such person without such person's
26 consent.

27 (6) "Physically helpless" means that a person is (A) unconscious, or
28 (B) for any other reason, is physically unable to resist an act of sexual
29 intercourse or sexual contact or to communicate unwillingness to an act
30 of sexual intercourse or sexual contact.

31 (7) "Use of force" means: (A) Use of a dangerous instrument; or (B)
32 use of actual physical force or violence or superior physical strength
33 against the victim.

34 (8) "Intimate parts" means the genital area or any substance emitted
35 therefrom, groin, anus or any substance emitted therefrom, inner thighs,
36 buttocks or breasts.

37 (9) "Psychotherapist" means a physician, psychologist, nurse,
38 substance abuse counselor, social worker, clergyman, marital and
39 family therapist, mental health service provider, hypnotist or other
40 person, whether or not licensed or certified by the state, who performs
41 or purports to perform psychotherapy.

42 (10) "Psychotherapy" means the professional treatment, assessment

43 or counseling of a mental or emotional illness, symptom or condition.

44 (11) "Emotionally dependent" means that the nature of the patient's
45 or former patient's emotional condition and the nature of the treatment
46 provided by the psychotherapist are such that the psychotherapist
47 knows or has reason to know that the patient or former patient is unable
48 to withhold consent to sexual contact by or sexual intercourse with the
49 psychotherapist.

50 (12) "Therapeutic deception" means a representation by a
51 psychotherapist that sexual contact by or sexual intercourse with the
52 psychotherapist is consistent with or part of the patient's treatment.

53 (13) "School employee" means: (A) A teacher, substitute teacher,
54 school administrator, school superintendent, guidance counselor,
55 school counselor, psychologist, social worker, nurse, physician, school
56 paraprofessional or coach employed by a local or regional board of
57 education or a private elementary, middle or high school or working in
58 a public or private elementary, middle or high school; or (B) any other
59 person who, in the performance of his or her duties, has regular contact
60 with students and who provides services to or on behalf of students
61 enrolled in (i) a public elementary, middle or high school, pursuant to a
62 contract with the local or regional board of education, or (ii) a private
63 elementary, middle or high school, pursuant to a contract with the
64 supervisory agent of such private school.

65 (14) "Consent" means the unambiguous, informed and voluntary
66 manifestation of agreement freely given without the use of force, fraud
67 or coercion by each person who actively agrees to engage in a sexual act.
68 Prior participation by a person in a sexual act, the absence of verbal
69 resistance by a person to a sexual act or the withdrawal by a person from
70 such agreement to engage in a sexual act do not constitute consent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	53a-65

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill adds an additional definition in the sexual assault law, defining "consent" and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5472

AN ACT CONCERNING SEXUAL ASSAULT AND THE ABSENCE OF CONSENT.

SUMMARY

This bill defines “consent” for purposes of the state’s sexual assault laws.

Under the bill, consent is each person’s unambiguous, informed, and voluntary manifestation of agreement to engage in a sexual act. Each person must agree actively and freely, and not due to force, fraud, or coercion. A person’s (1) prior participation in a sexual act, (2) absence of verbal resistance, or (3) withdrawn agreement to engage in the act, does not constitute consent.

Various provisions of the sexual assault laws directly reference consent. For example:

1. first degree sexual assault includes engaging in sexual intercourse with someone who is mentally incapacitated to the extent that the person cannot consent (CGS § 53a-70(a)(4));
2. second degree sexual assault includes engaging in sexual intercourse with someone who is impaired due to mental disability or disease to the extent that the person cannot consent (CGS § 53a-71(a)(2)); and
3. fourth degree sexual assault includes subjecting someone to sexual contact without the person’s consent (CGS § 53a-73a(a)(2)).

EFFECTIVE DATE: October 1, 2022

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 33 Nay 5 (03/31/2022)