



General Assembly

Corrected Copy  
***Raised Bill No. 5472***

---

February Session, 2022

LCO No. 3385



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***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 Section 53a-65 of the general statutes is repealed and the  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.

71 Sec. 2. Section 53a-71 of the general statutes is repealed and the  
72 following is substituted in lieu thereof (*Effective October 1, 2022*):

73 (a) A person is guilty of sexual assault in the second degree when

74 such person engages in sexual intercourse with another person and: (1)  
75 Such other person is thirteen years of age or older but under sixteen  
76 years of age and the actor is more than three years older than such other  
77 person; or (2) such other person is impaired because of mental disability  
78 or disease to the extent that such other person is unable to consent to  
79 such sexual intercourse; or (3) such other person is physically helpless;  
80 or (4) such other person is less than eighteen years old and the actor is  
81 such person's guardian or otherwise responsible for the general  
82 supervision of such person's welfare; or (5) such other person is in  
83 custody of law or detained in a hospital or other institution and the actor  
84 has supervisory or disciplinary authority over such other person; or (6)  
85 the actor is a psychotherapist and such other person is (A) a patient of  
86 the actor and the sexual intercourse occurs during the psychotherapy  
87 session, (B) a patient or former patient of the actor and such patient or  
88 former patient is emotionally dependent upon the actor, or (C) a patient  
89 or former patient of the actor and the sexual intercourse occurs by means  
90 of therapeutic deception; or (7) the actor accomplishes the sexual  
91 intercourse by means of false representation that the sexual intercourse  
92 is for a bona fide medical purpose by a health care professional; or (8)  
93 the actor is a school employee and such other person is a student  
94 enrolled in a school in which the actor works or a school under the  
95 jurisdiction of the local or regional board of education which employs  
96 the actor; or (9) the actor is a coach in an athletic activity or a person who  
97 provides intensive, ongoing instruction and such other person is a  
98 recipient of coaching or instruction from the actor and (A) is a secondary  
99 school student and receives such coaching or instruction in a secondary  
100 school setting, or (B) is under eighteen years of age; or (10) the actor is  
101 twenty years of age or older and stands in a position of power, authority  
102 or supervision over such other person by virtue of the actor's  
103 professional, legal, occupational or volunteer status and such other  
104 person's participation in a program or activity, and such other person is  
105 under eighteen years of age; [or] (11) such other person is placed or  
106 receiving services under the direction of the Commissioner of  
107 Developmental Services in any public or private facility or program and  
108 the actor has supervisory or disciplinary authority over such other

109 person; or (12) such other person does not consent to such sexual  
110 intercourse.

111 (b) Sexual assault in the second degree is a class C felony or, if the  
112 victim of the offense is under sixteen years of age, a class B felony, and  
113 any person found guilty under this section shall be sentenced to a term  
114 of imprisonment of which nine months of the sentence imposed may not  
115 be suspended or reduced by the court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	53a-65
Sec. 2	<i>October 1, 2022</i>	53a-71

**Statement of Purpose:**

To define "consent" for purposes of sexual assault statutes and clarify that sexual intercourse without consent is a crime.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*