



General Assembly

Substitute Bill No. 6374

January Session, 2021



**AN ACT CONCERNING SEXUAL MISCONDUCT ON COLLEGE
CAMPUSES.**

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

1 Section 1. Subsections (a) and (b) of section 10a-55m of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2021*):

4 (a) For purposes of this section, [and] sections 10a-55n to 10a-55q,
5 inclusive, and sections 2 and 3 of this act:

6 (1) "Affirmative consent" means an active, clear and voluntary
7 agreement by a person to engage in sexual activity with another person;

8 (2) "Awareness programming" means institutional action designed to
9 inform the campus community of the affirmative consent standard used
10 pursuant to subdivision (1) of subsection (b) of this section, and
11 communicate the prevalence of sexual assaults, stalking and intimate
12 partner violence, including the nature and number of cases of sexual
13 assault, stalking and intimate partner violence reported at or disclosed
14 to each institution of higher education in the preceding three calendar
15 years, including, but not limited to, poster and flyer campaigns,
16 electronic communications, films, guest speakers, symposia,
17 conferences, seminars or panel discussions;

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

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

26 (5) "Intimate partner violence" means any physical or sexual harm
27 against an individual by a current or former spouse of or person in a
28 dating relationship with such individual that results from any action by
29 such spouse or such person that may be classified as a sexual assault
30 under section 53a-70b of the general statutes, revision of 1958, revised
31 to January 1, 2019, or section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or
32 53a-73a, stalking under section 53a-181c, 53a-181d or 53a-181e, or family
33 violence as designated under section 46b-38h;

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

40 (7) "Sexual assault" means a sexual assault under section 53a-70, 53a-
41 70a, 53a-71, 53a-72a, 53a-72b or 53a-73a;

42 (8) "Stalking" means stalking under section 53a-181c, 53a-181d or 53a-
43 181e; and

44 (9) "Uniform campus crime report" means a campus crime report
45 prepared by an institution of higher education pursuant to section 10a-
46 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 violence.
50 Such policy or policies shall include provisions for:

51 (1) Informing students and employees that, in the context of an
52 alleged violation of the policy or policies regarding sexual assault and
53 intimate partner violence, (A) affirmative consent is the standard used
54 in determining whether consent to engage in sexual activity was given
55 by all persons who engaged in the sexual activity, (B) affirmative
56 consent may be revoked at any time during the sexual activity by any
57 person engaged in the sexual activity, (C) it is the responsibility of each
58 person to ensure that he or she has the affirmative consent of all persons
59 engaged in the sexual activity to engage in the sexual activity and that
60 the affirmative consent is sustained throughout the sexual activity, (D)
61 it shall not be a valid excuse to an alleged lack of affirmative consent
62 that the student or employee responding to the alleged violation
63 believed that the student or employee reporting or disclosing the
64 alleged violation consented to the sexual activity (i) because the
65 responding student or employee was intoxicated or reckless or failed to
66 take reasonable steps to ascertain whether the student or employee
67 reporting or disclosing the alleged violation affirmatively consented, or
68 (ii) if the responding student or employee knew or should have known
69 that the student or employee reporting or disclosing the alleged
70 violation was unable to consent because such student or employee was
71 unconscious, asleep, unable to communicate due to a mental or physical
72 condition, or incapacitated due to the influence of drugs, alcohol or
73 medication, and (E) the existence of a past or current dating or sexual
74 relationship between the student or employee reporting or disclosing
75 the alleged violation and the responding student or employee, in and of
76 itself, shall not be determinative of a finding of affirmative consent;

77 (2) Detailing the procedures that students and employees of the
78 institution who report or disclose being the victim of sexual assault,
79 stalking or intimate partner violence may follow after the commission
80 of such assault, stalking or violence, regardless of where such incidences

81 occurred, including persons or agencies to contact and information
82 regarding the importance of preserving physical evidence of such
83 assault, stalking or violence;

84 (3) Providing students and employees of the institution who report
85 or disclose being the victim of sexual assault, stalking or intimate
86 partner violence both concise, written contact information for and, if
87 requested, professional assistance in accessing and utilizing campus,
88 local advocacy, counseling, health and mental health services, and
89 concise information, written in plain language, concerning the rights of
90 such students and employees to (A) notify law enforcement of such
91 assault, stalking or violence and receive assistance from campus
92 authorities in making any such notification, and (B) obtain a protective
93 order, apply for a temporary restraining order or seek enforcement of
94 an existing protective or restraining order, including, but not limited to,
95 orders issued pursuant to section 46b-15, 46b-38c, 53a-40e, 54-1k, 54-82q
96 or 54-82r, against the perpetrator of such assault, stalking or violence;

97 (4) Notifying such students and employees of any reasonably
98 available options for and available assistance from such institution in
99 changing academic, living, campus transportation or working situations
100 in response to [such] sexual assault, stalking or intimate partner
101 violence;

102 (5) Honoring any lawful protective or temporary restraining orders,
103 including, but not limited to, orders issued pursuant to section 46b-15,
104 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r;

105 (6) Disclosing a summary of such institution's student investigation
106 and disciplinary procedures, including clear statements advising that
107 (A) a student or employee who reports or discloses being a victim of
108 [such] sexual assault, stalking or intimate partner violence shall have the
109 opportunity to request that an investigation begin promptly, (B) the
110 investigation and any disciplinary proceedings shall be conducted by
111 an official trained annually in issues relating to sexual assault, stalking
112 and intimate partner violence and shall use the preponderance of the

113 evidence standard in making a determination concerning the alleged
114 assault, stalking or violence, (C) both the student or employee who
115 reports or discloses the alleged assault, stalking or violence and the
116 student responding to such report or disclosure (i) are entitled to be
117 accompanied to any meeting or proceeding relating to the allegation of
118 such assault, stalking or violence by an advisor or support person of
119 their choice, provided the involvement of such advisor or support
120 person does not result in the postponement or delay of such meeting as
121 scheduled, and (ii) shall have the opportunity to present evidence and
122 witnesses on their behalf during any disciplinary proceeding, (D) both
123 the student or employee reporting or disclosing the alleged assault
124 stalking or violence and such responding student are entitled to be
125 informed in writing of the results of any disciplinary proceeding not
126 later than one business day after the conclusion of such proceeding, (E)
127 the institution of higher education shall not disclose the identity of any
128 party to an investigation or disciplinary proceeding, except as necessary
129 to carry out the investigation or disciplinary proceeding or as permitted
130 under state or federal law, [and] (F) a standard of affirmative consent is
131 used in determining whether consent to engage in sexual activity was
132 given by all persons who engaged in the sexual activity, and (G) a
133 student or employee who reports or discloses the alleged assault,
134 stalking or violence shall not be subject to disciplinary action by the
135 institution of higher education for violation of a policy of such
136 institution concerning the use of drugs or alcohol if (i) the report or
137 disclosure was made in good faith, and (ii) the violation of such policy
138 did not place the health or safety of another person at risk;

139 (7) Disclosing a summary of such institution's employee investigation
140 and disciplinary procedures, including clear statements advising that a
141 standard of affirmative consent is used in determining whether consent
142 to engage in sexual activity was given by all persons who engaged in
143 the sexual activity; and

144 (8) Disclosing the range of sanctions that may be imposed following
145 the implementation of such institution's student and employee

146 disciplinary procedures in response to such assault, stalking or violence.

147 Sec. 2. (NEW) (*Effective July 1, 2021*) (a) There is established a Council
148 on Sexual Misconduct Climate Assessments, which shall be part of the
149 Legislative Department. The council shall have the following powers
150 and duties: (1) Develop a list of data points to be collected by institutions
151 of higher education through student responses to sexual misconduct
152 climate assessments. Such data points shall include, but not be limited
153 to, data regarding (A) student awareness of institutional policies and
154 procedures related to sexual assault, stalking and intimate partner
155 violence, (B) if a student reported sexual assault, stalking or violence to
156 an institution of higher education or law enforcement, the response to
157 and results of such report, and (C) student perceptions of campus safety;
158 (2) recommend one or more sexual misconduct climate assessments that
159 collect the data points identified by the council; (3) recommend
160 guidelines for the implementation of such assessments, which shall
161 include, but need not be limited to, procedures for (A) achieving a high
162 rate of response to such assessments to ensure statistically accurate
163 survey results, (B) protecting the confidentiality of respondents to such
164 assessments, and (C) receiving responses to such assessments from as
165 broad and diverse a segment of the student population as possible; and
166 (4) perform such other acts as may be necessary and appropriate to carry
167 out the duties described in this section.

168 (b) The council shall consist of the following members:

169 (1) The cochairpersons of the joint standing committee of the General
170 Assembly having cognizance of matters relating to higher education
171 and employment advancement;

172 (2) One appointed by the speaker of the House of Representatives,
173 who has expertise in the development and design of sexual misconduct
174 climate assessments;

175 (3) One appointed by the president pro tempore of the Senate, who
176 shall be a student enrolled in a public institution of higher education in

177 the state;

178 (4) One appointed by the majority leader of the House of
179 Representatives, who has expertise in statistics, data analytics or
180 econometrics related to higher education assessments;

181 (5) One appointed by the majority leader of the Senate, who shall be
182 a student enrolled in an independent institution of higher education in
183 the state;

184 (6) One appointed by the minority leader of the House of
185 Representatives, who shall be a representative of the Victim Rights
186 Center of Connecticut;

187 (7) One appointed by the minority leader of the Senate, who shall be
188 a Title IX coordinator at an institution of higher education in the state;

189 (8) The Commissioner of Public Health, or the commissioner's
190 designee;

191 (9) The president of The University of Connecticut, or the president's
192 designee;

193 (10) Two designated by the Board of Regents for Higher Education,
194 one of whom represents the Connecticut State University System and
195 one of whom represents the regional community-technical college
196 system;

197 (11) One designated by the Connecticut Conference of Independent
198 Colleges, who represents the independent institutions of higher
199 education in the state;

200 (12) Three designated by the Connecticut Alliance to End Sexual
201 Violence, one of whom is a victim of sexual assault or intimate partner
202 violence who resides in a rural community in the state, one of whom is
203 a victim of sexual assault or intimate partner violence who resides in an
204 urban community in the state and at least one of whom is a person who

205 is black, indigenous or a person of color;

206 (13) One designated by the Connecticut Coalition Against Domestic
207 Violence who is a victim of intimate partner violence;

208 (14) One designated by True Colors, Inc. who is a lesbian, gay,
209 bisexual, transgender or a queer person;

210 (15) The staff director of the Every Voice Coalition, or the staff
211 director's designee; and

212 (16) Three students, designated by the Every Voice Coalition, one of
213 whom is enrolled at a public institution of higher education, one of
214 whom is enrolled at an independent institution of higher education and
215 at least one of whom is a person who is black, indigenous or a person of
216 color.

217 (c) Any member of the council appointed or designated under
218 subsection (b) of this section may be a member of the General Assembly.

219 (d) All initial appointments to the council shall be made not later than
220 sixty days after the effective date of this section and shall terminate on
221 June 30, 2026, regardless of when the initial appointment or designation
222 was made. Any member of the council may serve more than one term.

223 (e) The cochairpersons of the joint standing committee of the General
224 Assembly having cognizance of matters relating to higher education
225 shall jointly select the chairperson of the council from among the
226 members of the council. The chairperson of the council shall schedule
227 the first meeting of the council, which shall be held not later than sixty
228 days after the effective date of this section.

229 (f) The administrative staff of the joint standing committee of the
230 General Assembly having cognizance of matters relating to higher
231 education shall serve as administrative staff of the council.

232 (g) Members of the council who are appointed or designated shall

233 serve for four-year terms, which shall commence on the date of
234 appointment, except as provided in subsection (d) of this section.
235 Members shall continue to serve until their successors are appointed or
236 designated.

237 (h) Any vacancy shall be filled by the appointing or designating
238 authority not later than thirty days after the vacancy occurs. Any
239 vacancy occurring other than by expiration of term shall be filled for the
240 balance of the unexpired term.

241 (i) A majority of the council shall constitute a quorum for the
242 transaction of any business.

243 (j) The members of the council shall serve without compensation, but
244 shall, within the limits of available funds, be reimbursed for expenses
245 necessarily incurred in the performance of their duties.

246 (k) The council shall meet as often as deemed necessary by the
247 chairperson or a majority of the council. Any appointed or designated
248 member who fails to attend three consecutive meetings or who fails to
249 attend fifty per cent of all meetings held during any calendar year shall
250 be deemed to have resigned from the council.

251 (l) Not later than January 1, 2022, and every two years thereafter, the
252 council shall submit, in accordance with the provisions of section 11-4a
253 of the general statutes, to the joint standing committee of the General
254 Assembly having cognizance of matters relating to higher education
255 and to each institution of higher education in the state the (1) list of data
256 points developed by the council, and (2) recommended sexual
257 misconduct climate assessments and guidelines for the implementation
258 of such assessments.

259 Sec. 3. (NEW) (*Effective July 1, 2021*) (a) On or before March 1, 2023,
260 and every two years thereafter, each institution of higher education in
261 the state shall conduct a sexual misconduct climate assessment that
262 collects the data points developed by the Council on Sexual Misconduct
263 Climate Assessments, pursuant to section 2 of this act, and distribute

264 such assessment to each enrolled student in accordance with the
265 guidelines recommended by said council. An institution may use any
266 sexual misconduct climate assessment, including, but not limited to, one
267 recommended by the council or developed by an institution of higher
268 education or a national association, provided such assessment collects
269 all of the data points developed by the council.

270 (b) Each institution of higher education shall include with the sexual
271 misconduct climate assessment a statement that (1) the identity of
272 assessment respondents shall be confidential, (2) students should not
273 disclose personally identifying information with their assessment
274 responses, and (3) no assessment responses may be used as a basis of
275 disciplinary action or legal proceeding.

276 (c) Not later than six months after the distribution of the sexual
277 misconduct climate assessment pursuant to subsection (a) of this
278 section, and every two years thereafter, each institution of higher
279 education in the state shall (1) submit a report, in accordance with the
280 provisions of section 11-4a of the general statutes, to the joint standing
281 committee of the General Assembly having cognizance of matters
282 relating to higher education on the summary results for each question
283 of the sexual misconduct climate assessment, and (2) post on its Internet
284 web site the campus-level results of the sexual misconduct climate
285 assessment, its uniform campus crime report prepared pursuant to
286 section 10a-55a of the general statutes, and an Internet link to the report
287 on the summary results of such assessment submitted to the joint
288 standing committee of the General Assembly having cognizance of
289 matters relating to higher education.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	10a-55m(a) and (b)
Sec. 2	July 1, 2021	New section
Sec. 3	July 1, 2021	New section

HED *Joint Favorable Subst.*