General Assembly

Amendment

February Session, 2024

LCO No. **4122**

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Offered by:
REP. LINEHAN, 103rd Dist.
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To: Subst. House Bill No. **5262** File No. 439 Cal. No. 63

"AN ACT CONCERNING A SEXUAL ABUSE AND ASSAULT SURVEY."

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

"Section 1. Section 10-217h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2024*):

(a) For the school year commencing July 1, 2022, and biennially thereafter, the Department of Public Health shall administer the Connecticut School Health Survey to students in grades nine to twelve, inclusive, provided the department receives funding from the federal Centers for Disease Control and Prevention for such purpose. The survey shall be based on the Youth Risk Behavior Survey developed by the federal Centers for Disease Control and Prevention. The department

shall provide guidelines to the local or regional board of education regarding the administration of the survey to those high schools selected at random by the federal Centers for Disease Control and Prevention. Such local or regional board of education shall administer the survey to each high school selected to participate in the survey in accordance with the guidelines provided by the department, including, but not limited to, (1) the survey protocol as required by the federal Centers for Disease Control and Prevention, (2) the requirement to provide parents the opportunity to exclude their children from the survey by denying permission in writing, on a form prescribed by the department, (3) the requirement for the survey to be anonymous and administered in a manner designed to protect student privacy, (4) the timeframe for completion of the survey, and (5) the process by which the results of such survey are to be submitted to the department. On and after July 1, 2026, each administration of the Connecticut School Health Survey shall include the sexual abuse and assault awareness prevention survey for administrators that was created as part of the state-wide sexual abuse and assault awareness and prevention program described in section 17a-101q. Such survey for administrators shall be distributed to and completed by administrators of the school in which the Connecticut School Health Survey is being administered and the results of the administrators' surveys shall be submitted to the department at the same time as the results of the students' surveys.

(b) The department, in consultation with the Department of Mental Health and Addiction Services, the Department of Children and Families, the Department of Education and any other agency or public interest group the department deems necessary, may develop additional survey questions to be included as part of the Connecticut School Health Survey that are relevant to the health concerns of high school students in the state.

Sec. 2. Subdivision (13) of section 53a-193 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(13) **[**"Child pornography"**]** "Child sexual abuse material" means any visual depiction including any photograph, film, videotape, picture or computer-generated image or picture, whether made or produced by electronic, digital, mechanical or other means, of sexually explicit conduct, where the production of such visual depiction involves the use of a person under sixteen years of age engaging in sexually explicit conduct, provided whether the subject of a visual depiction was a person under sixteen years of age at the time the visual depiction was created is a question to be decided by the trier of fact.

Sec. 3. Section 53a-196c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) A person is guilty of importing child **[**pornography**]** sexual abuse material when, with intent to promote child **[**pornography**]** sexual abuse material, such person knowingly imports or causes to be imported into the state three or more visual depictions of child **[**pornography**]** sexual abuse material of known content and character.

(b) Importing child **[**pornography**]** sexual abuse material is a class B felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court.

Sec. 4. Section 53a-196d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) A person is guilty of possessing child **[**pornography**]** sexual abuse material in the first degree when such person knowingly possesses (1) fifty or more visual depictions of child **[**pornography**]** sexual abuse material, or (2) one or more visual depictions of child **[**pornography**]** sexual abuse material that depict the infliction or threatened infliction of serious physical injury, or (3) (A) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of two or more frames, or a film or videotape, consisting of two or more frames, that depicts (i) more than one child engaging in sexually explicit conduct, or (ii) more than one act of sexually explicit

conduct by one or more children, or (B) any combination of a (i) series of images in electronic, digital or other format, which is intended to be displayed continuously, (ii) film, or (iii) videotape, which series, film or videotape each consists of two or more frames and depicts a single act of sexually explicit conduct by one child.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the acts of the defendant, if proven, would constitute a violation of section 53a-196h, as amended by this act.

(c) Possessing child **[**pornography**]** sexual abuse material in the first degree is a class B felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court.

Sec. 5. Section 53a-196e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) A person is guilty of possessing child **[**pornography**]** sexual abuse material in the second degree when such person knowingly possesses (1) twenty or more but fewer than fifty visual depictions of child **[**pornography**]** sexual abuse material, or (2) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of twenty or more frames, or a film or videotape, consisting of twenty or more frames, that depicts a single act of sexually explicit conduct by one child.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the acts of the defendant, if proven, would constitute a violation of section 53a-196h, as amended by this act.

(c) Possessing child **[**pornography**]** sexual abuse material in the second degree is a class C felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which two years of the sentence imposed may not be suspended or reduced by the court.

Sec. 6. Section 53a-196f of the general statutes is repealed and the

following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) A person is guilty of possessing child **[**pornography**]** sexual abuse material in the third degree when such person knowingly possesses (1) fewer than twenty visual depictions of child **[**pornography**]** sexual abuse material, or (2) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of fewer than twenty frames, or a film or videotape, consisting of fewer than twenty frames, that depicts a single act of sexually explicit conduct by one child.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the acts of the defendant, if proven, would constitute a violation of section 53a-196h, as amended by this act.

(c) Possessing child **[**pornography**]** sexual abuse material in the third degree is a class D felony and any person found guilty under this section shall be sentenced to a term of imprisonment of which one year of the sentence imposed may not be suspended or reduced by the court.

Sec. 7. Section 53a-196g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

In any prosecution for a violation of section 53a-196d, as amended by this act, 53a-196e, as amended by this act, 53a-196f, as amended by this act, or 53a-196h, as amended by this act, it shall be an affirmative defense that (1) the defendant (A) possessed fewer than three visual depictions, other than a series of images in electronic, digital or other format, which is intended to be displayed continuously, or a film or videotape, of child **[**pornography**]** sexual abuse material, (B) did not knowingly purchase, procure, solicit or request such visual depictions or knowingly take any other action to cause such visual depictions to come into the defendant's possession, and (C) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof, took reasonable steps to destroy each such visual depiction or reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction, or

(2) the defendant possessed a visual depiction of a nude person under sixteen years of age for a bona fide artistic, medical, scientific, educational, religious, governmental or judicial purpose.

Sec. 8. Section 53a-196h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) (1) No person who is under eighteen years of age may knowingly possess any visual depiction of child **[**pornography**]** sexual abuse material that the subject of such visual depiction knowingly and voluntarily transmitted by means of an electronic communication device to such person and in which the subject of such visual depiction is a person under sixteen years of age.

(2) No person who is under sixteen years of age may knowingly and voluntarily transmit by means of an electronic communication device a visual depiction of child **[**pornography**]** sexual abuse material in which such person is the subject of such visual depiction to another person who is under eighteen years of age.

(b) As used in this section, **[**"child pornography"**]** "child sexual abuse material" and "visual depiction" have the same meanings as provided in section 53a-193, as amended by this act, and "electronic communication device" means any electronic device that is capable of transmitting a visual depiction, including a computer, computer network and computer system, as those terms are defined in section 53a-250, and a cellular or wireless telephone.

(c) Any person who violates the provisions of this section shall be guilty of a class A misdemeanor.

Sec. 9. Section 54-86m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

Notwithstanding the provisions of section 54-86a, in any criminal proceeding, any property or material that constitutes child **[**pornography**]** sexual abuse material shall remain in the care, custody

and control of the state, and a court shall deny any request by the defendant to copy, photograph, duplicate or otherwise reproduce any property or material that constitutes child **[**pornography**]** sexual abuse material provided the attorney for the state makes the property or material reasonably available to the defendant. Such property or material shall be deemed to be reasonably available to the defendant if the attorney for the state provides the defendant, the defendant's attorney or any individual the defendant may seek to qualify to furnish expert testimony at trial, ample opportunity for inspection, viewing and examination of the property or material at a state facility or at another facility agreed upon by the attorney for the state and the defendant. For the purposes of this section, **[**"child pornography"**]** "child sexual abuse material" has the same meaning as in section 53a-193, as amended by this act.

Sec. 10. Subdivision (2) of subsection (c) of section 19a-343 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(2) Promoting an obscene performance or obscene material under section 53a-196 or 53a-196b, employing a minor in an obscene performance under section 53a-196a, importing child **[**pornography**]** sexual abuse material under section 53a-196c, as amended by this act, possessing child **[**pornography**]** sexual abuse material in the first degree under section 53a-196d, as amended by this act, possessing child **[**pornography**]** sexual abuse material in the second degree under section 53a-196e, as amended by this act, or possessing child **[**pornography**]** sexual abuse material in the third degree under section 53a-196f, as amended by this act.

Sec. 11. (*Effective from passage*) (a) There is established a task force to study the responsiveness of state agencies and the Judicial Branch to issues concerning child sexual abuse. The task force shall undertake an examination of state agency and Judicial Branch policies and practices relating to and impacting children in order to identify opportunities to detect, mitigate, prevent and effectively respond to such abuse. For the

purposes of this section, "state agency" means the Departments of Children and Families, Public Health, Developmental Services, Social Services, Mental Health and Addiction Services, Emergency Services and Public Protection and Education.

(b) The task force shall consist of the following members:

(1) One appointed by the speaker of the House of Representatives, who is a member of the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary;

(2) One appointed by the president pro tempore of the Senate, who is a psychologist licensed pursuant to chapter 383 of the general statutes with expertise in the treatment of children who have suffered from child sexual abuse;

(3) One appointed by the majority leader of the House of Representatives, who is a clinical social worker licensed pursuant to chapter 383b of the general statutes with expertise in identifying child sexual abuse;

(4) One appointed by the majority leader of the Senate, who is a physician licensed pursuant to chapter 370 of the general statutes with expertise in pediatric medicine;

(5) One appointed by the minority leader of the House of Representatives, who is an attorney admitted to the bar of this state with expertise in child welfare;

(6) One appointed by the minority leader of the Senate, who is a representative of a state-wide organization dedicated to the prevention of sexual violence;

(7) The Commissioner of Children and Families, or the commissioner's designee;

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

(9) The Commissioner of Developmental Services, or the commissioner's designee;

(10) The Commissioner of Social Services, or the commissioner's designee;

(11) The Commissioner of Mental Health and Addiction Services, or the commissioner's designee;

(12) The Commissioner of Emergency Services and Public Protection, or the commissioner's designee;

(13) The Commissioner of Education, or the commissioner's designee;

(14) The Chief Court Administrator, or the administrator's designee;

(15) The Probate Court Administrator, or the administrator's designee;

(16) The Chief State's Attorney, or the Chief State's Attorney's designee;

(17) The Chief Public Defender, or the Chief Public Defender's designee;

(18) The Child Advocate, or the Child Advocate's designee;

(19) The executive director of the Commission on Women, Children, Seniors, Equity and Opportunity, or the executive director's designee;

(20) A member of the Trafficking in Persons Council, designated by the chairperson of the council;

(21) A member of the Governor's Task Force on Justice for Abused Children, established in accordance with the Child Abuse Prevention and Treatment Act, 42 USC 5106c et seq., jointly designated by the cochairpersons of the task force; and

(22) One appointed by the Governor, who is a representative of a

children's advocacy center, as defined in section 17a-106a of the general statutes.

(c) Any member of the task force appointed under subdivision (1), (2), (3), (4), (5) or (6) of subsection (b) of this section may be a member of the General Assembly.

(d) All initial appointments to the task force shall be made not later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(e) The speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons of the task force from among the members of the task force. Such chairpersons shall schedule the first meeting of the task force, which shall be held not later than sixty days after the effective date of this section.

(f) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to children shall serve as administrative staff of the task force.

(g) Not later than July 1, 2025, the task force shall submit a report on its findings and recommendations to the joint standing committees of the General Assembly having cognizance of matters relating to children and the judiciary, in accordance with the provisions of section 11-4a of the general statutes. Such recommendations shall include, but need not be limited to, any legislative recommendations and recommendations for changes to the policies or procedures of any state agency or the Judicial Branch that would aid such agency or said branch in the detection, mitigation, prevention and effective response to child sexual abuse. The task force shall terminate on the date that it submits such report or July 1, 2025, whichever is later.

Sec. 12. (*Effective from passage*) Not later than January 1, 2025, the Office of the Child Advocate shall review state agency practices and procedures for ensuring the care and protection of minors in Probate Court guardianship proceedings, and submit a report, in accordance

with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to children and the judiciary concerning the adequacy of such practices and procedures. Such report shall include, but not be limited to, an analysis of the (1) statutory requirements applicable to such proceedings, (2) applicable court rules and policies and quality assurance measures, (3) practices, procedures and quality assurance framework applicable to the work of the Department of Children and Families in Probate Court matters, (4) training and contractual expectations for counsel assigned to minors and guardians ad litem in Probate Court guardianship matters, and (5) practices and procedures for providing guardianship subsidies to eligible recipients by the Department of Social Services and the quality assurance framework applicable to the administration of such benefits."

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2024*	10-217h
Sec. 2	*October 1, 2024*	53a-193(13)
Sec. 3	*October 1, 2024*	53a-196c
Sec. 4	*October 1, 2024*	53a-196d
Sec. 5	*October 1, 2024*	53a-196e
Sec. 6	*October 1, 2024*	53a-196f
Sec. 7	*October 1, 2024*	53a-196g
Sec. 8	*October 1, 2024*	53a-196h
Sec. 9	*October 1, 2024*	54-86m
Sec. 10	*October 1, 2024*	19a-343(c)(2)
Sec. 11	*from passage*	New section
Sec. 12	*from passage*	New section