



Substitute House Bill No. 6374

Public Act No. 21-81

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

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

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 Subsections (a) and (b) of section 10a-55m of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

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

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

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

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

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

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

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

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

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

(9) "Uniform campus crime report" means a campus crime report prepared by an institution of higher education pursuant to section 10a-55a.

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(b) Each institution of higher education shall adopt and disclose in such institution's annual uniform campus crime report one or more policies regarding sexual assault, stalking and intimate partner violence. Such policy or policies shall include provisions for:

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

(2) Detailing the procedures that students and employees of the

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institution who report or disclose being the victim of sexual assault, stalking or intimate partner violence may follow after the commission of such assault, stalking or violence, regardless of where such incidences occurred, including persons or agencies to contact and information regarding the importance of preserving physical evidence of such assault, stalking or violence;

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

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

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

(6) Disclosing a summary of such institution's student investigation and disciplinary procedures, including clear statements advising that (A) a student or employee who reports or discloses being a victim of

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[such] sexual assault, stalking or intimate partner violence shall have the opportunity to request that an investigation begin promptly, (B) the investigation and any disciplinary proceedings shall be conducted by an official trained annually in issues relating to sexual assault, stalking and intimate partner violence and shall use the preponderance of the evidence standard in making a determination concerning the alleged assault, stalking or violence, (C) both the student or employee who reports or discloses the alleged assault, stalking or violence and the student responding to such report or disclosure (i) are entitled to be accompanied to any meeting or proceeding relating to the allegation of such assault, stalking or violence by an advisor or support person of their choice, provided the involvement of such advisor or support person does not result in the postponement or delay of such meeting as scheduled, and (ii) shall have the opportunity to present evidence and witnesses on their behalf during any disciplinary proceeding, (D) both the student or employee reporting or disclosing the alleged assault stalking or violence and such responding student are entitled to be informed in writing of the results of any disciplinary proceeding not later than one business day after the conclusion of such proceeding, (E) the institution of higher education shall not disclose the identity of any party to an investigation or disciplinary proceeding, except as necessary to carry out the investigation or disciplinary proceeding or as permitted under state or federal law, [and] (F) a standard of affirmative consent is used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity, and (G) a student or employee who reports or discloses the alleged assault, stalking or violence shall not be subject to disciplinary action by the institution of higher education for violation of a policy of such institution concerning the use of drugs or alcohol if (i) the report or disclosure was made in good faith, and (ii) the violation of such policy did not place the health or safety of another person at risk;

(7) Disclosing a summary of such institution's employee investigation

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and disciplinary procedures, including clear statements advising that a standard of affirmative consent is used in determining whether consent to engage in sexual activity was given by all persons who engaged in the sexual activity; and

(8) Disclosing the range of sanctions that may be imposed following the implementation of such institution's student and employee disciplinary procedures in response to such assault, stalking or violence.

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

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

(1) The cochairpersons of the joint standing committee of the General

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Assembly having cognizance of matters relating to higher education and employment advancement;

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

(3) One appointed by the president pro tempore of the Senate, who has expertise in statistics, data analytics or econometrics related to higher education assessments;

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

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

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

(7) The president of The University of Connecticut, or the president's designee;

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

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

(10) Three designated by the Connecticut Alliance to End Sexual Violence, one of whom is a victim of sexual assault or intimate partner violence who resides in a rural community in the state, one of whom is

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a victim of sexual assault or intimate partner violence who resides in an urban community in the state and at least one of whom is a person who is black, indigenous or a person of color;

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

(12) One designated by True Colors, Inc., who identifies as lesbian, gay, bisexual, transgender or a queer;

(13) The staff director of the Every Voice Coalition of Connecticut, or the staff director's designee; and

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

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

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

(e) The cochairpersons of the joint standing committee of the General Assembly having cognizance of matters relating to higher education shall jointly select the chairperson of the council from among the members of the council. The chairperson of the council shall schedule the first meeting of the council, 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

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General Assembly having cognizance of matters relating to higher education shall serve as administrative staff of the council.

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

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

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

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

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

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

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Sec. 3. (NEW) (*Effective July 1, 2021*) (a) On or before March 1, 2023, and every two years thereafter, each institution of higher education in the state shall conduct a sexual misconduct climate assessment that collects the data points developed by the Council on Sexual Misconduct Climate Assessments, pursuant to section 2 of this act, and distribute such assessment to each enrolled student in accordance with the guidelines recommended by said council. An institution may use any sexual misconduct climate assessment, including, but not limited to, one recommended by the council or developed by an institution of higher education or a national association, provided such assessment collects all of the data points developed by the council.

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

(c) Not later than six months after the distribution of the sexual misconduct climate assessment pursuant to subsection (a) of this section, and every two years thereafter, each institution of higher education in the state shall post on its Internet web site (1) the campus-level results of the sexual misconduct climate assessment, (2) its uniform campus crime report prepared pursuant to section 10a-55a of the general statutes, and (3) an Internet link to the report submitted to the joint standing committee of the General Assembly having cognizance of matters relating to higher education pursuant to subsection (f) of section 10a-55m of the general statutes, as amended by this act.

Sec. 4. Subsection (f) of section 10a-55m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

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(f) Not later than October 1, 2015, and annually thereafter, each institution of higher education shall report to the joint standing committee of the General Assembly having cognizance of matters relating to higher education, in accordance with the provisions of section 11-4a, concerning, for the immediately preceding calendar year, (1) a copy of its most recent policies regarding sexual assault, stalking and intimate partner violence adopted in accordance with subsection (b) of this section, or any revisions thereto, (2) a copy of its most recent concise written notification of the rights and options of a student or employee who reports or discloses an alleged violation of its sexual assault, stalking and intimate partner violence policy or policies required pursuant to subsection (e) of this section, (3) the number and type of sexual assault, stalking and intimate partner violence prevention, awareness and risk reduction programs at the institution, (4) the type of sexual assault, stalking and intimate partner violence prevention and awareness campaigns held by the institution, (5) the number of incidences of sexual assault, stalking and intimate partner violence reported or disclosed to such institution, (6) the number of confidential or anonymous reports or disclosures to the institution of sexual assault, stalking and intimate partner violence, (7) the number of disciplinary cases at the institution related to sexual assault, stalking and intimate partner violence, [and] (8) the final outcome of all disciplinary cases at the institution related to sexual assault, stalking and intimate partner violence, including, but not limited to, the outcome of any appeals of such final outcome, to the extent reporting on such outcomes does not conflict with federal law, and (9) on a biennial basis, the summary results of the sexual misconduct climate assessment conducted by the institution pursuant to section 3 of this act.