

FIRST REGULAR SESSION

# SENATE BILL NO. 53

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0701S.011

## AN ACT

To repeal section 589.015, RSMo, and to enact in lieu thereof two new sections relating to higher education requirements regarding affirmative consent to sexual activity.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 589.015, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 589.015 and 589.050, to read as follows:

589.015. As used in sections 589.010 to 589.040 **the following terms**

**shall mean:**

(1) [The term "center" shall mean] **"Affirmative consent", an active, unambiguous and voluntary agreement by a person to engage in sexual activity with another person that is sustained throughout the sexual activity and may be revoked at any time by any person;**

(2) **"Awareness programming", institutional action designed to inform the campus community of the affirmative consent standard used under section 589.050, including poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions;**

(3) **"Center", the state center for the prevention and control of sexual assault established pursuant to section 589.030;**

[(2) The term] (4) **"Sexual assault" [shall include] includes:**

(a) The acts of rape in the first or second degree, forcible rape, rape, statutory rape in the first degree, statutory rape in the second degree, sexual

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 assault, sodomy in the first or second degree, forcible sodomy, sodomy, statutory  
18 sodomy in the first degree, statutory sodomy in the second degree, child  
19 molestation in the first, second, third, or fourth degree, deviate sexual assault,  
20 sexual misconduct, sexual misconduct in the first, second, or third degree, sexual  
21 abuse, and sexual abuse in the first or second degree, or attempts to commit any  
22 of the aforesaid, as these acts are defined in chapter 566;

23 (b) The act of incest, as this act is defined in section 568.020;

24 (c) The act of abuse of a child under section 568.060, which involves  
25 sexual contact;

26 (d) The act of use of a child in a sexual performance; and

27 (e) The act of enticement of a child, as defined in section 566.151, or any  
28 attempt to commit such act.

**589.050. 1. Each institution of higher education required under  
2 federal law to prepare an annual campus security report shall adopt  
3 and disclose in its annual report one or more provisions informing  
4 students and employees that:**

5 **(1) Affirmative consent is the standard used in determining  
6 whether consent to engage in sexual activity was given by all persons  
7 who engaged in the sexual activity;**

8 **(2) It is the responsibility of each person to ensure that he or she  
9 has the affirmative consent of all persons to engage in the sexual  
10 activity;**

11 **(3) The existence of a dating relationship or past sexual  
12 relationship between persons shall not constitute consent to engage in  
13 the sexual activity;**

14 **(4) It shall not be a valid excuse to an alleged lack of affirmative  
15 consent that the accused believed that the victim consented to the  
16 sexual activity because the accused was intoxicated or reckless or  
17 failed to take reasonable steps to ascertain whether the victim  
18 affirmatively consented, or if the accused knew or should have known  
19 that the victim was unable to consent because the victim was  
20 unconscious, asleep, unable to communicate due to a mental or physical  
21 condition, or incapacitated due to the influence of drugs, alcohol, or  
22 medication and, as a result, was unable to understand the fact, nature  
23 or extent of the sexual activity.**

24 **2. Each institution of higher education shall provide annual**

25 awareness programming for all students and employees that includes  
26 an explanation of the definition of affirmative consent in sexual  
27 relationships.

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Unofficial

Bill

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