

DRAFT

Proposed Substitute Bill No. 19

February Session, 2020

LCO No. 3927

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 2020
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2020*):

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,

DRAFT

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-

DRAFT

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

DRAFT

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

DRAFT

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 for
135 violation of a policy of the institution of higher education prohibiting
136 the use of drugs or alcohol if (i) the report or disclosure was made in
137 good faith, and (ii) the violation of such policy did not place the health
138 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

DRAFT

Proposed Substitute Bill No. 19

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 October 1, 2020*) (a) There is established a
148 Council on Sexual Misconduct Climate Surveys, which shall be part of
149 the Legislative Department.

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

151 (1) The cochairpersons of the joint standing committee of the General
152 Assembly having cognizance of matters relating to higher education
153 and employment advancement;

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

157 (3) One appointed by the president pro tempore of the Senate, who
158 shall be a student enrolled in a public institution of higher education in
159 the state;

160 (4) One appointed by the majority leader of the House of
161 Representatives, who has expertise in statistics, data analytics or
162 econometrics related to higher education surveys;

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

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

DRAFT

Proposed Substitute Bill No. 19

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

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

173 (9) The president of The University of Connecticut, or the president's
174 designee;

175 (10) A representative of the Connecticut State University System, who
176 shall be appointed by the Board of Regents for Higher Education;

177 (11) A representative of the regional community-technical college
178 system, who shall be appointed by the Board of Regents for Higher
179 Education;

180 (12) A representative of the independent institutions of higher
181 education in the state, who shall be appointed by the Connecticut
182 Conference of Independent Colleges;

183 (13) Three representatives of victims of sexual assault or intimate
184 partner violence, who shall be appointed by the Connecticut Alliance to
185 End Sexual Violence, one of whom shall represent such victims in rural
186 communities and one of whom shall represent such victims in urban
187 communities;

188 (14) A representative of victims of intimate partner violence, who
189 shall be appointed by the Connecticut Coalition Against Domestic
190 Violence;

191 (15) A representative of lesbian, gay, bisexual, transgender and queer
192 persons, who shall be appointed by True Colors, Inc.; and

193 (16) A person appointed by the Every Voice Coalition.

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

DRAFT

196 (d) All initial appointments to the council shall be made not later than
197 sixty days after the effective date of this section and shall terminate on
198 June 30, 2024, regardless of when the initial appointment was made.
199 Any member of the council may serve more than one term.

200 (e) The speaker of the House of Representatives and the president pro
201 tempore of the Senate shall select the chairperson of the council from
202 among the members of the council. Such chairperson shall schedule the
203 first meeting of the council, which shall be held not later than sixty days
204 after the effective date of this section.

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

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

212 (h) Any vacancy shall be filled by the appointing authority. Any
213 vacancy occurring other than by expiration of term shall be filled for the
214 balance of the unexpired term.

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

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

220 (k) The council shall have the following powers and duties: (1)
221 Identify and approve one or more sexual misconduct climate surveys
222 developed by an institution of higher education or a national association
223 for use by institutions of higher education for the purpose of assessing
224 the climate on college campuses related to sexual assault, stalking and

DRAFT

225 intimate partner violence, which selected surveys shall yield results that
226 may be compared to each other and may include, but not be limited to,
227 questions regarding (A) student awareness of institutional policies and
228 procedures related to sexual assault, stalking and intimate partner
229 violence, (B) if a student reported sexual assault, stalking or violence to
230 an institution of higher education or law enforcement, the response to
231 and results of such report, the facts surrounding such assault, stalking
232 or violence and the demographic information of the victim, and (C)
233 student perceptions of campus safety; (2) recommend guidelines for the
234 implementation of such surveys, which shall include, but need not be
235 limited to, procedures for (A) achieving a high rate of response to such
236 surveys to ensure statistically accurate survey results, (B) protecting the
237 anonymity of respondents to such surveys, and (C) receiving responses
238 to such surveys from as broad and diverse a segment of the student
239 population as possible; (3) not later than six months after receiving the
240 results of such surveys from each institution of higher education
241 pursuant to subsection (c) of section 3 of this act, recommend best
242 practices to such institutions in addressing such results; (4) obtain from
243 any executive department, board, commission or other agency of the
244 state such assistance and data as necessary and available to carry out the
245 purposes of this section; (5) accept any gift, donation or bequest for the
246 purpose of performing the duties described in this section; and (6)
247 perform such other acts as may be necessary and appropriate to carry
248 out the duties described in this section.

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

254 (m) Not later than October 1, 2021, and every four years thereafter,
255 the council shall submit a report, in accordance with the provisions of
256 section 11-4a of the general statutes, to the joint standing committee of
257 the General Assembly having cognizance of matters relating to higher

DRAFT

258 education and to each institution of higher education in the state on the
259 sexual misconduct climate surveys approved by the council which shall
260 include, but need not be limited to, (1) a copy of each approved sexual
261 misconduct climate survey; and (2) recommended guidelines for the
262 implementation of such surveys.

263 Sec. 3. (NEW) (*Effective October 1, 2020*) (a) Not later than March 1,
264 2021, and every four years thereafter, each institution of higher
265 education in the state shall conduct a sexual misconduct climate survey
266 at each campus of such institution for the purpose of assessing the
267 climate on the campus related to sexual assault, stalking and intimate
268 partner violence. On and after October 1, 2021, the survey conducted
269 shall be one of the sexual misconduct climate surveys approved by the
270 Council on Sexual Misconduct Climate Surveys, pursuant to section 2 of
271 this act. Each institution shall distribute such survey to each enrolled
272 student in accordance with the guidelines recommended by said
273 council. Any institution may append to the sexual misconduct climate
274 survey additional institution or campus-specific questions, provided
275 such additional questions, if any, (1) do not require the disclosure of
276 personal identifying information, or (2) are not unnecessarily
277 traumatizing to victims of sexual assault, stalking or violence.

278 (b) Each institution of higher education shall distribute with the
279 sexual misconduct climate survey a statement that (1) the anonymity of
280 survey respondents shall be protected, (2) students should not disclose
281 personal identifying information with their survey responses, and (3) no
282 survey responses may be used as a basis of investigation, disciplinary
283 action or legal proceeding.

284 (c) Not later than October 1, 2022, and every four years thereafter,
285 each institution of higher education in the state shall (1) submit a report,
286 in accordance with the provisions of section 11-4a of the general statutes,
287 to the joint standing committee of the General Assembly having
288 cognizance of matters relating to higher education and to the Council
289 on Sexual Misconduct Climate Surveys on the summary results for each

DRAFT

Proposed Substitute Bill No. 19

290 question of the sexual misconduct climate survey, and (2) post on its
291 Internet web site the campus-level results of the sexual misconduct
292 climate survey, its uniform campus crime report prepared pursuant to
293 section 10a-55a of the general statutes and an Internet link to the
294 summary results of such survey reported to the joint standing
295 committee of the General Assembly having cognizance of matters
296 relating to higher education.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2020</i>	10a-55m(a) and (b)
Sec. 2	<i>October 1, 2020</i>	New section
Sec. 3	<i>October 1, 2020</i>	New section