



General Assembly

February Session, 2024

Raised Bill No. 5340

LCO No. 2046



Referred to Committee on HIGHER EDUCATION AND
EMPLOYMENT ADVANCEMENT

Introduced by:
(HED)

**AN ACT ALLOWING THIRD PARTY VICTIMS TO PARTICIPATE IN AN
INVESTIGATION OR DISCIPLINARY PROCEEDING BY AN
INSTITUTION OF HIGHER EDUCATION.**

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

1 Section 1. Subsection (a) of section 10a-55c of the 2024 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective July 1, 2024*):

4 (a) Each institution of higher education shall maintain information
5 concerning current security policies and procedures [which] that shall
6 include, but need not be limited to, the following:

7 (1) The identification of the administrative office responsible for
8 security on the campus;

9 (2) A description of authority of any special police force established
10 pursuant to section 10a-156b, or security personnel, including z [their]
11 but not limited to, such force's or personnel's relationship with state and
12 local police authorities;

13 (3) (A) Procedures for students, employees and other persons to
14 report crimes, incidents of sexual harassment [,] or emergencies
15 occurring on campus, or occurring off campus and relating to students,
16 employees or events associated with such institution, and (B) policies
17 concerning the institution's response to such reports, including, but not
18 limited to, procedures for informing victims of the outcome of any
19 campus investigation or disciplinary proceeding resulting from the
20 victim's complaint;

21 (4) A statement of policy regarding the possession, use and sale of
22 alcoholic beverages and controlled substances, as defined in section 21a-
23 240;

24 (5) A statement of policy regarding the possession and use of
25 weapons on campus;

26 (6) A statement of policy regarding sexual harassment; and

27 (7) For each institution of higher education [which] that maintains
28 housing, policies concerning the identification and admission of
29 visitors, other than campus employees and students, to such housing
30 and the type and frequency of programs designed to inform residents
31 of such housing concerning housing security and enforcement
32 procedures.

33 Sec. 2. Section 10a-55m of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective July 1, 2024*):

35 (a) For purposes of this section and sections 10a-55n to 10a-55s,
36 inclusive:

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

39 (2) "Awareness programming" means institutional action designed to
40 inform the campus community of the affirmative consent standard used
41 pursuant to subdivision (1) of subsection (b) of this section, and
42 communicate the prevalence of sexual assaults, stalking and intimate

43 partner violence, including the nature and number of cases of sexual
44 assault, stalking and intimate partner violence reported at or disclosed
45 to each institution of higher education in the preceding three calendar
46 years, including, but not limited to, poster and flyer campaigns,
47 electronic communications, films, guest speakers, symposia,
48 conferences, seminars or panel discussions;

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

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

57 (5) "Intimate partner violence" means any physical or sexual harm
58 against an individual by a current or former spouse of or person in a
59 dating relationship with such individual that results from any action by
60 such spouse or such person that may be classified as a sexual assault
61 under section 53a-70b of the general statutes, revision of 1958, revised
62 to January 1, 2019, or section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or
63 53a-73a, stalking under section 53a-181c, 53a-181d or 53a-181e, or family
64 violence as designated under section 46b-38h;

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

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

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

74 181e; [and]

75 (9) "Uniform campus crime report" means a campus crime report
76 prepared by an institution of higher education pursuant to section 10a-
77 55a; and

78 (10) "Third party" means a person who is not a student or employee
79 of an institution of higher education, but (A) was participating, or
80 attempting to participate, in such institution's educational program or
81 activity, or (B) reports or discloses being a victim of sexual assault,
82 stalking or intimate partner violence under circumstances that indicate
83 an ongoing risk of potential harm.

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

88 (1) Informing students, [and] employees and third parties that, in the
89 context of an alleged violation of the policy or policies regarding sexual
90 assault and intimate partner violence, (A) affirmative consent is the
91 standard used in determining whether consent to engage in sexual
92 activity was given by all persons who engaged in the sexual activity, (B)
93 affirmative consent may be revoked at any time during the sexual
94 activity by any person engaged in the sexual activity, (C) it is the
95 responsibility of each person to ensure that [he or she] such person has
96 the affirmative consent of all persons engaged in the sexual activity to
97 engage in the sexual activity and that the affirmative consent is
98 sustained throughout the sexual activity, (D) it shall not be a valid
99 excuse to an alleged lack of affirmative consent that the student or
100 employee responding to the alleged violation believed that the student,
101 [or] employee or third party reporting or disclosing the alleged violation
102 consented to the sexual activity (i) because the responding student or
103 employee was intoxicated or reckless or failed to take reasonable steps
104 to ascertain whether the student, [or] employee or third party reporting
105 or disclosing the alleged violation affirmatively consented, or (ii) if the

106 responding student or employee knew or should have known that the
107 student, [or] employee or third party reporting or disclosing the alleged
108 violation was unable to consent because such student, [or] employee or
109 third party was unconscious, asleep, unable to communicate due to a
110 mental or physical condition, or incapacitated due to the influence of
111 drugs, alcohol or medication, and (E) the existence of a past or current
112 dating or sexual relationship between the student, [or] employee or
113 third party reporting or disclosing the alleged violation and the
114 responding student or employee, in and of itself, shall not be
115 determinative of a finding of affirmative consent;

116 (2) Detailing the procedures that students and employees of the
117 institution and third parties who report or disclose being the victim of
118 sexual assault, stalking or intimate partner violence may follow after the
119 commission of such assault, stalking or violence, regardless of where
120 such incidences occurred, including persons or agencies to contact and
121 information regarding the importance of preserving physical evidence
122 of such assault, stalking or violence;

123 (3) Providing students and employees of the institution and third
124 parties who report or disclose being the victim of sexual assault, stalking
125 or intimate partner violence both concise, written contact information
126 for and, if requested, professional assistance in accessing and utilizing
127 campus, local advocacy, counseling, health and mental health services,
128 and concise information, written in plain language, concerning the
129 rights of such students, [and] employees and third parties to (A) notify
130 law enforcement of such assault, stalking or violence and receive
131 assistance from campus authorities in making any such notification, and
132 (B) obtain a protective order, apply for a temporary restraining order or
133 seek enforcement of an existing protective or restraining order,
134 including, but not limited to, orders issued pursuant to section 46b-15,
135 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r, against the perpetrator of such
136 assault, stalking or violence;

137 (4) Notifying such students and employees of any reasonably
138 available options for and available assistance from such institution in

139 changing academic, living, campus transportation or working situations
140 in response to sexual assault, stalking or intimate partner violence;

141 (5) Honoring any lawful protective or temporary restraining orders,
142 including, but not limited to, orders issued pursuant to section 46b-15,
143 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r;

144 (6) Disclosing a summary of such institution's student investigation
145 and disciplinary procedures, including clear statements advising that
146 (A) a student, [or] employee or third party who reports or discloses
147 being a victim of sexual assault, stalking or intimate partner violence
148 shall have the opportunity to request that an investigation begin
149 promptly, (B) the investigation and any disciplinary proceedings shall
150 be conducted by an official trained annually in issues relating to sexual
151 assault, stalking and intimate partner violence and shall use the
152 preponderance of the evidence standard in making a determination
153 concerning the alleged assault, stalking or violence, (C) both the student,
154 [or] employee or third party who reports or discloses the alleged assault,
155 stalking or violence and the student responding to such report or
156 disclosure (i) are entitled to be accompanied to any meeting or
157 proceeding relating to the allegation of such assault, stalking or violence
158 by an advisor or support person of their choice, provided the
159 involvement of such advisor or support person does not result in the
160 postponement or delay of such meeting as scheduled, and (ii) shall have
161 the opportunity to present evidence and witnesses on their behalf
162 during any disciplinary proceeding, (D) both the student, [or] employee
163 or third party reporting or disclosing the alleged assault stalking or
164 violence and such responding student are entitled to be informed in
165 writing of the results of any disciplinary proceeding not later than one
166 business day after the conclusion of such proceeding, (E) the institution
167 of higher education shall not disclose the identity of any party to an
168 investigation or disciplinary proceeding, except as necessary to carry
169 out the investigation or disciplinary proceeding or as permitted under
170 state or federal law, (F) a standard of affirmative consent is used in
171 determining whether consent to engage in sexual activity was given by
172 all persons who engaged in the sexual activity, and (G) a student or

173 employee who reports or discloses the alleged assault, stalking or
174 violence shall not be subject to disciplinary action by the institution of
175 higher education for violation of a policy of such institution concerning
176 the use of drugs or alcohol if (i) the report or disclosure was made in
177 good faith, and (ii) the violation of such policy did not place the health
178 or safety of another person at risk;

179 (7) Disclosing a summary of such institution's employee investigation
180 and disciplinary procedures, including clear statements advising that a
181 standard of affirmative consent is used in determining whether consent
182 to engage in sexual activity was given by all persons who engaged in
183 the sexual activity; [and]

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

188 (9) Disclosing a summary of such institution's procedures for
189 responding to a person who is not a student, employee or third party
190 and reports or discloses being a victim of sexual assault, stalking or
191 intimate partner violence allegedly committed by a student or employee
192 of such institution. Such summary may include, but is not limited to, (A)
193 any process outlined in such institution's code of conduct, (B) whether
194 such person will be informed and able to participate in any investigation
195 or disciplinary proceeding involving the responding student or
196 employee, and (C) whether such institution will provide any supports
197 or resources to such person.

198 (c) Each institution of higher education shall provide (1) annual
199 sexual assault, stalking and intimate partner violence primary
200 prevention and awareness programming for all students and employees
201 that includes an explanation of the definition of affirmative consent in
202 sexual relationships, information concerning the reporting of incidences
203 of such assaults, stalking and violence and strategies for bystander
204 intervention and risk reduction; and (2) ongoing sexual assault, stalking

205 and intimate partner violence prevention and awareness campaigns.

206 (d) Each institution of higher education may provide the option for
207 any student or employee of such institution or third party who is the
208 victim of a sexual assault, stalking or intimate partner violence to report
209 or disclose such assault, stalking or violence to such institution
210 anonymously. Each such institution shall notify any such student, [or]
211 employee or third party of the institution's obligations under state or
212 federal law, if any, to (1) investigate or address such assault, stalking or
213 violence and (2) assess whether the report triggers the need for a timely
214 warning or emergency notification, as described in 34 CFR 668.46(e),
215 which obligations, in limited circumstances, may result in the learning
216 of such victim's identity.

217 (e) Each institution of higher education shall provide concise
218 notification, written in plain language, to each student and employee of
219 such institution and third party who reports or discloses having been
220 the victim of sexual assault, stalking or intimate partner violence,
221 immediately upon receiving a report or disclosure of such assault,
222 stalking or violence, of such student's, [or] employee's or third party's
223 rights and options under such institution's policy or policies regarding
224 sexual assault, stalking and intimate partner violence adopted in
225 accordance with subsection (b) of this section.

226 (f) Not later than October 1, 2015, and annually thereafter, each
227 institution of higher education shall report to the joint standing
228 committee of the General Assembly having cognizance of matters
229 relating to higher education, in accordance with the provisions of
230 section 11-4a, concerning, for the immediately preceding calendar year,
231 (1) a copy of its most recent policies regarding sexual assault, stalking
232 and intimate partner violence adopted in accordance with subsection (b)
233 of this section, or any revisions thereto, (2) a copy of its most recent
234 concise written notification of the rights and options of a student, [or]
235 employee or third party who reports or discloses an alleged violation of
236 its sexual assault, stalking and intimate partner violence policy or
237 policies required pursuant to subsection (e) of this section, (3) the

238 number and type of sexual assault, stalking and intimate partner
239 violence prevention, awareness and risk reduction programs at the
240 institution, (4) the type of sexual assault, stalking and intimate partner
241 violence prevention and awareness campaigns held by the institution,
242 (5) the number of incidences of sexual assault, stalking and intimate
243 partner violence reported or disclosed to such institution, (6) the
244 number of confidential or anonymous reports or disclosures to the
245 institution of sexual assault, stalking and intimate partner violence, (7)
246 the number of disciplinary cases at the institution related to sexual
247 assault, stalking and intimate partner violence, (8) the final outcome of
248 all disciplinary cases at the institution related to sexual assault, stalking
249 and intimate partner violence, including, but not limited to, the outcome
250 of any appeals of such final outcome, to the extent reporting on such
251 outcomes does not conflict with federal law, and (9) on a biennial basis,
252 the summary results of the sexual misconduct climate assessment
253 conducted by the institution pursuant to section 10a-55s.

254 (g) Nothing in this section shall be interpreted to prohibit Charter
255 Oak State College from providing, either in person or electronically,
256 optional sexual assault, stalking and intimate partner violence
257 prevention and awareness programming for all students and employees
258 of said college.

259 (h) Nothing in this section shall be interpreted as requiring an
260 institution of higher education to adopt, verbatim, the definition of
261 "affirmative consent" set forth in subsection (a) of this section, provided
262 the institution of higher education, in the exercise of its sole authority to
263 adopt a definition of "affirmative consent", uses a definition of
264 "affirmative consent" that has the same meaning as or a meaning that is
265 substantially similar to the definition set forth in subsection (a) of this
266 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2024</i>	10a-55c(a)
Sec. 2	<i>July 1, 2024</i>	10a-55m

Statement of Purpose:

To allow a victim of sexual harassment, sexual assault, stalking or intimate partner violence who is not a student or employee of an institution of higher education to be informed and participate in an investigation or disciplinary hearing of the responding student or employee.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]