



General Assembly

Substitute Bill No. 5340

February Session, 2024



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2 the general statutes is repealed and the following is substituted in lieu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 Section 10a-55m of the general statutes is repealed and the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 to the safety of such institution's
84 educational environment.

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

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

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

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

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

138 (4) Notifying such students and employees of any reasonably
139 available options for and available assistance from such institution in
140 changing academic, living, campus transportation or working situations

141 in response to sexual assault, stalking or intimate partner violence;

142 (5) Honoring any lawful protective or temporary restraining orders,
143 including, but not limited to, orders issued pursuant to section 46b-15,
144 46b-38c, 53a-40e, 54-1k, 54-82q or 54-82r;

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

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

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

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

188 (c) Each institution of higher education shall provide (1) annual
189 sexual assault, stalking and intimate partner violence primary
190 prevention and awareness programming for all students and employees
191 that includes an explanation of the definition of affirmative consent in
192 sexual relationships, information concerning the reporting of incidences
193 of such assaults, stalking and violence and strategies for bystander
194 intervention and risk reduction; and (2) ongoing sexual assault, stalking
195 and intimate partner violence prevention and awareness campaigns.

196 (d) Each institution of higher education may provide the option for
197 any student or employee of such institution or third party who is the
198 victim of a sexual assault, stalking or intimate partner violence to report
199 or disclose such assault, stalking or violence to such institution
200 anonymously. Each such institution shall notify any such student, [or]
201 employee or third party of the institution's obligations under state or
202 federal law, if any, to (1) investigate or address such assault, stalking or
203 violence and (2) assess whether the report triggers the need for a timely
204 warning or emergency notification, as described in 34 CFR 668.46(e),
205 which obligations, in limited circumstances, may result in the learning

206 of such victim's identity.

207 (e) Each institution of higher education shall provide concise
208 notification, written in plain language, to each student and employee of
209 such institution and third party who reports or discloses having been
210 the victim of sexual assault, stalking or intimate partner violence,
211 immediately upon receiving a report or disclosure of such assault,
212 stalking or violence, of such student's, [or] employee's or third party's
213 rights and options under such institution's policy or policies regarding
214 sexual assault, stalking and intimate partner violence adopted in
215 accordance with subsection (b) of this section.

216 (f) Not later than October 1, 2015, and annually thereafter, each
217 institution of higher education shall report to the joint standing
218 committee of the General Assembly having cognizance of matters
219 relating to higher education, in accordance with the provisions of
220 section 11-4a, concerning, for the immediately preceding calendar year,
221 (1) a copy of its most recent policies regarding sexual assault, stalking
222 and intimate partner violence adopted in accordance with subsection (b)
223 of this section, or any revisions thereto, (2) a copy of its most recent
224 concise written notification of the rights and options of a student, [or]
225 employee or third party who reports or discloses an alleged violation of
226 its sexual assault, stalking and intimate partner violence policy or
227 policies required pursuant to subsection (e) of this section, (3) the
228 number and type of sexual assault, stalking and intimate partner
229 violence prevention, awareness and risk reduction programs at the
230 institution, (4) the type of sexual assault, stalking and intimate partner
231 violence prevention and awareness campaigns held by the institution,
232 (5) the number of incidences of sexual assault, stalking and intimate
233 partner violence reported or disclosed to such institution, (6) the
234 number of confidential or anonymous reports or disclosures to the
235 institution of sexual assault, stalking and intimate partner violence, (7)
236 the number of disciplinary cases at the institution related to sexual
237 assault, stalking and intimate partner violence, (8) the final outcome of
238 all disciplinary cases at the institution related to sexual assault, stalking

239 and intimate partner violence, including, but not limited to, the outcome
240 of any appeals of such final outcome, to the extent reporting on such
241 outcomes does not conflict with federal law, and (9) on a biennial basis,
242 the summary results of the sexual misconduct climate assessment
243 conducted by the institution pursuant to section 10a-55s.

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

249 (h) Nothing in this section shall be interpreted as requiring an
250 institution of higher education to adopt, verbatim, the definition of
251 "affirmative consent" set forth in subsection (a) of this section, provided
252 the institution of higher education, in the exercise of its sole authority to
253 adopt a definition of "affirmative consent", uses a definition of
254 "affirmative consent" that has the same meaning as or a meaning that is
255 substantially similar to the definition set forth in subsection (a) of this
256 section.

257 (i) Each institution of higher education that has policies or procedures
258 for responding to a person who (1) reports or discloses being a victim of
259 sexual assault, stalking or intimate partner violence allegedly
260 committed by a student or employee of such institution, and (2) does
261 not qualify for the process established by such institution for responding
262 to such a report or disclosure from a student, employee or third party
263 pursuant to this section or in compliance with the provisions of Title IX
264 of the Elementary and Secondary Education Act of 1972, 20 USC 1681 et
265 seq., as amended from time to time, shall provide such person a
266 summary of such institution's policies or procedures for responding to
267 such person. Such summary may include, but is not limited to, (A) any
268 process outlined in such institution's code of conduct, (B) whether such
269 person will be informed and able to participate in any investigation or
270 disciplinary proceeding involving the responding student or employee,
271 and (C) whether such institution will provide any supports or resources

272 to such person.

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

HED *Joint Favorable Subst.*