

An Act Concerning Recommendations of the Sentencing Commission with Respect to Penalties for Sex Offenders

Section 1. (NEW) (Effective October 1, 2019): Any person convicted of a violation of C.G.S. §53a-196d, §53a-196e or §53a-196f who has previously been convicted of a violation of C.G.S. §53a-70, §53a-70a, §53a-70c, subsection (a)(1) of C.G.S. 53a-71 provided the offender was at least 21 years of age or older at the time of the offense, subsections (a) (2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9), (a)(10), or (a)(11) of §53a-71, §53a-72a, §53a-72b, subsection (a)(1)(B) of 53a-73a provided the offender was at least 21 years of age or older at the time of the offense or subsection (a)(2) of §53-21, and the victim of any such offense was under sixteen years of age, shall be sentenced to an enhanced penalty as follows: except as provided in Section 5 of this act, the court shall sentence such person to a term of imprisonment that is not less than two times the minimum sentence authorized for such crime provided, if a mandatory minimum term of imprisonment is authorized for such crime, such sentence shall include a mandatory minimum term of imprisonment that is twice such authorized mandatory minimum term of imprisonment.

Sec. 2. *Section 53a-196d of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):* (a) A person is guilty of possessing child pornography in the first degree when such person knowingly possesses (1) fifty or more visual depictions of child pornography, or (2) one or more visual depictions of child pornography that depict the infliction or threatened infliction of serious physical injury, or (3) (A) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of two or more frames, or a film or videotape, consisting of two or more frames, that depicts (i) more than one child engaging in sexually explicit conduct, or (ii) more than one act of sexually explicit conduct by one or more children, or (B) any combination of a (i) series of images in electronic, digital or other format, which is intended to be displayed continuously, (ii) film, or (iii) videotape, which series, film or videotape each consists of two or more frames and depicts a single act of sexually explicit conduct by one child.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the acts of the defendant, if proven, would constitute a violation of section 53a-196h.

(c) Possessing child pornography in the first degree is a class B felony. ~~[and]~~ Except as provided in Section 5 of this act, any person found guilty under this section shall be sentenced to a term of imprisonment of which five years of the sentence imposed may not be suspended or reduced by the court.

Sec. 3 *Section 53a-196e of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):* (a) A person is guilty of possessing child pornography in the second degree when such person knowingly possesses (1) twenty or more but fewer than fifty visual depictions of child pornography, or (2) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of twenty or more frames, or a film or videotape, consisting of twenty or more frames, that depicts a single act of sexually explicit conduct by one child.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the acts of the defendant, if proven, would constitute a violation of section 53a-196h.

(c) Possessing child pornography in the second degree is a class C felony. ~~[and]~~ Except as provided in Section 5 of this act, any person found guilty under this section shall be sentenced to a term of imprisonment of which two years of the sentence imposed may not be suspended or reduced by the court.

Sec. 4. *Section 53a-196f of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):* (a) A person is guilty of possessing child pornography in the third degree when such person knowingly possesses (1) fewer than twenty visual depictions of child pornography, or (2) a series of images in electronic, digital or other format, which is intended to be displayed continuously, consisting of fewer than twenty frames, or

a film or videotape, consisting of fewer than twenty frames, that depicts a single act of sexually explicit conduct by one child.

(b) In any prosecution for an offense under this section, it shall be an affirmative defense that the acts of the defendant, if proven, would constitute a violation of section 53a-196h.

(c) Possessing child pornography in the third degree is a class D felony. ~~[and]~~ Except as provided in Section 5 of this act, any person found guilty under this section shall be sentenced to a term of imprisonment of which one year of the sentence imposed may not be suspended or reduced by the court.

Sec. 5. (NEW) (Effective October 1, 2019): Notwithstanding any provision of the general statutes, when sentencing a person convicted of possessing child pornography in any degree the court may, upon a showing of good cause by the defendant, depart from the prescribed mandatory minimum sentence, provided the court, at the time of sentencing, states in open court the reasons for imposing the particular sentence and the specific reason for imposing a sentence that departs from the prescribed mandatory minimum sentence.

Sec. 6. *Section 53a-71 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):*

(a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person; or (2) such other person is impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) the actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age; or (11) such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and except as provided in subdivision (c) of this section, any person found guilty under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

(c) Notwithstanding any provision of the general statutes, when sentencing a person convicted of a violation of subsection (a)(1) of this section, provided the offender was under 21 years of age at the time of the offense, the court may, upon a showing of good cause by the defendant, depart from the prescribed mandatory minimum sentence, and the court, at the time of sentencing, states in open court the reasons for imposing the particular sentence and the specific reason for imposing a sentence that departs from the prescribed mandatory minimum sentence.

Sec.7. Subsection (c) of Section 54-255 of the general statutes as amended is repealed and the following is substituted in lieu thereof (Effective October 1, 2019):

(c) Any person who: (1) Has been convicted or found not guilty by reason of mental disease or defect of a violation of subdivision (1) of subsection (a) of section 53a-71 and the defendant was under the age of 21 at the time of the offense; [between October 1, 1988, and June 30, 1999, and was under nineteen years of age at the time of the offense;] (2) has been convicted or found not guilty by reason of mental disease or defect of a violation of subdivision (2) of subsection (a) of section 53a-73a between October 1, 1988, and June 30, 1999; (3) has been convicted or found not guilty by reason of mental disease or defect of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, between October 1, 1988, and June 30, 1999, where the victim of such offense was, at the time of the offense, under eighteen years of age and related to such person within any of the degrees of kindred specified in section 46b-21; (4) has been convicted or found not guilty by reason of mental disease or defect of a violation of section 53a-70b between October 1, 1988, and June 30, 1999; or (5) has been convicted or found not guilty by reason of mental disease or defect of any crime between October 1, 1988, and September 30, 1998, which requires registration under sections 54-250 to 54-258a, inclusive, and (A) served no jail or prison time as a result of such conviction or finding of not guilty by reason of mental disease or defect, (B) has not been subsequently convicted or found not guilty by reason of mental disease or defect of any crime which would require registration under sections 54-250 to 54-258a, inclusive, and (C) has registered with the Department of Emergency Services and Public Protection in accordance with sections 54-250 to 54-258a, inclusive; may petition the court to order the Department of Emergency Services and Public Protection to restrict the dissemination of the registration information to law enforcement purposes only and to not make such information available for public access. Any person who files such a petition shall, pursuant to subsection (b) of section 54-227, notify the Office of Victim Services and the Victim Services Unit within the Department of Correction of the filing of such petition. The Office of Victim Services or the Victim Services Unit within the Department of Correction, or both, shall, pursuant to section 54-230 or 54-230a, notify any victim who has requested notification pursuant to subsection (b) of section 54-228 of the filing of such petition. Prior to granting or denying such petition, the court shall consider any information or statements provided by the victim. The court may order the Department of Emergency Services and Public Protection to restrict the dissemination of the registration information to law enforcement purposes only and to not make such information available for public access, provided the court finds that dissemination of the registration information is not required for public safety.