

Connecticut

Sec. 53-20. Cruelty to persons. Any person who tortures, torments, cruelly or unlawfully punishes or wilfully or negligently deprives any person of necessary food, clothing, shelter or proper physical care; and any person who, having the control and custody of any child under the age of sixteen years, in any capacity whatsoever, maltreats, tortures, overworks, cruelly or unlawfully punishes or wilfully or negligently deprives such child of necessary food, clothing, or shelter shall be fined not more than five hundred dollars or imprisoned not more than one year or both.

(1949 Rev., S. 8368.)

Formerly trial justice could take final jurisdiction of offense against section. 115 C. 600. The word "unlawfully" does not connote "inhuman or barbarous treatment", but should be construed within the rule of statutory construction that a general word, following a particular enumeration, is intended to apply only to matters of the same general character. 165 C. 288, 293.

Cited. 26 CS 316. Cited. 37 CS 664, 665, 670.

Cited. 4 Conn. Cir. Ct. 571. Evidence that defendant, mother of premature twin babies, failed to obtain medical aid or other care for them was sufficient to support jury's verdict holding her guilty of crime of cruelty to persons upon death of one and severe illness of other child. 5 Conn. Cir. Ct. 698.

Sec. 53-21. Injury or risk of injury to, or impairing morals of, children. Sale of children. (a) Any person who (1) wilfully or unlawfully causes or permits any child under the age of sixteen years to be placed in such a situation that the life or limb of such child is endangered, the health of such child is likely to be injured or the morals of such child are likely to be impaired, or does any act likely to impair the health or morals of any such child, or (2) has contact with the intimate parts, as defined in section 53a-65, of a child under the age of sixteen years or subjects a child under sixteen years of age to contact with the intimate parts of such person, in a sexual and indecent manner likely to impair the health or morals of such child, or (3) permanently transfers the legal or physical custody of a child under the age of sixteen years to another person for money or other valuable consideration or acquires or receives the legal or physical custody of a child under the age of sixteen years from another person upon payment of money or other valuable consideration to such other person or a third person, except in connection with an adoption proceeding that complies with the provisions of chapter 803, shall be guilty of a class C felony for a violation of subdivision (1) or (3) of this subsection and a class B felony for a violation of subdivision (2) of this subsection.

(b) The act of a parent or agent leaving an infant thirty days or younger with a designated employee pursuant to section 17a-58 shall not constitute a violation of this section.

(1949 Rev., S. 8369; P.A. 95-142, S. 1; P.A. 97-147, S. 1; P.A. 00-207, S. 6; P.A. 02-138, S. 4.)

History: P.A. 95-142 designated existing provisions as Subdiv. (1) and amended said Subdiv. to make technical changes, added Subdiv. (2) re contact with the intimate parts of a child or subjecting a child to contact with the intimate parts of the actor, in a sexual and indecent manner likely to impair the health or morals of the child, and specified that a person who commits the proscribed acts "shall be guilty of a class C felony" rather than "shall be fined not more than five hundred dollars or imprisoned not more than ten years or both"; P.A. 97-147 added Subdiv. (3) re permanently transferring, or acquiring or receiving, the legal or physical custody of a child for money or other valuable consideration; P.A. 00-207 designated existing provisions as Subsec. (a) and added new Subsec. (b) re exemption for parent or agent leaving an infant with a designated employee pursuant to Sec. 17a-58; P.A. 02-138 amended Subsec. (a) to change the classification of a violation of Subdiv. (2) from a class C to a class B felony.

See Sec. 54-193a re statute of limitations for sexual abuse, exploitation or assault of minor.

Evidence of conversations between defendant and school authorities where child was enrolled admissible to show defendant had assumed custody of child; permissible to question child concerning his observation of activities in defendant's house as having bearing on question whether defendant had placed child in situation where morals were likely to be impaired. 149 C. 491. Legislative history discussed. Voluntary intoxication is a defense in a criminal action only where specific intent is an element of crime. The second part of this section does not require specific intent as an element of the crime charged. Therefore intoxication is no defense. 150 C. 245. Cited. 143 C. 604; 152 C. 197. Defendant may put his character in issue but only as to specific traits of sexual morality and decency, and character witness' testimony must be as to these traits. 157 C. 99. Cited. 160 C. 366. Cited. 162 C. 123. Separability of conduct in statutory construction, discussed. 164 C. 69. This section does not require a showing that the health of the child was

impaired, but only that the conduct or the acts of the defendant were such that the health of the child was likely to be impaired. 165 C. 288, 292. Cited. 172 C. 140, 141. Cited. 176 C. 138, 139. In light of prior opinions of court there is sufficient warning that acts charged are proscribed by the statute. 180 C. 54—57, 59, 62—66. Cited. 181 C. 406, 408; *id.*, 426, 427. Cited. 183 C. 17—19, 21—24. Section is not constitutionally infirm since it clearly lays down a legislative policy on the subject legislated upon. *Id.*, 17, 23. Section does not violate the *ex post facto* clause of the federal constitution. *Id.*, 17, 24. Section does not contravene the doctrine of separation of powers because it does not represent any delegation of legislative powers. *Id.*, 17, 23. Cited. *Id.*, 586. Cited. 185 C. 199, 200. Cited. 186 C. 45, 46, 51. Cited. 187 C. 73, 74, 91. Cited. 188 C. 565, 566. Cited. 189 C. 1, 7, 8, 12, 13. Cited. 190 C. 84, 85. Cited. 191 C. 453, 454, 467. Statute unconstitutional when applied to instances of willing and voluntary participation by a person between fifteen and sixteen years of age. 192 C. 154—156, 158—161, 163, 164, 166. Cited. 197 C. 666—669. Cited. 199 C. 47, 55. Cited. 200 C. 734, 735. Cited. 201 C. 211, 216. Cited. 203 C. 506, 522. Cited. 204 C. 187, 189. Cited. *Id.*, 523, 524. Cited. *Id.*, 683, 684. Cited. 205 C. 27, 28. Cited. *Id.*, 515, 516, 521, 523. Cited. *Id.*, 528, 537. Cited. 207 C. 233, 234, 240. Statute unconstitutionally vague in the circumstances of this case. *Id.*, 456—459, 461—468. Cited. 210 C. 51, 53. Cited. *Id.*, 244, 246, 247, 256, 257, 260—262, 265, 266, 269, 271. Cited. *Id.*, 359, 362, 381, 383, 384, 388—390. Cited. *Id.*, 396, 397. Cited. *Id.*, 582, 584, 588, 590. Cited. 211 C. 185, 186. Cited. *Id.*, 555, 557, 581—586. Cited. 214 C. 378, 388. Cited. *Id.*, 717, 719. Cited. 215 C. 653, 654. Cited. 216 C. 699, 701, 726. Cited. 219 C. 283, 284. Cited. 222 C. 331, 335. Cited. *Id.*, 556, 558, 559. Cited. 224 C. 1, 2. Cited. *Id.*, 656, 658; judgment reversed, see 31 CA 452 *et seq.* Cited. 227 C. 207, 209, 210, 220. Cited. *Id.*, 829, 832. Cited. 228 C. 393, 396. Cited. *Id.*, 552, 554. Cited. *Id.*, 610, 612. Cited. *Id.*, 795, 801. Cited. 229 C. 580—582. Cited. *Id.*, 839, 840. Cited. 230 C. 43, 46—48, 51, 52, 54, 64, 72, 73. Cited. 233 C. 502, 504, 512. Cited. *Id.*, 813, 816. Cited. 235 C. 659, 661. Cited. *Id.*, 746. Cited. 236 C. 189, 194. Cited. *Id.*, 342, 343. Cited. 237 C. 321, 323. Cited. 240 C. 766. Cited. 241 C. 823. Cited. 242 C. 211. Cited. *Id.*, 296. Statute not unconstitutionally vague as applied to the facts of the case. 248 C. 543. Medical treatment exception to the hearsay rule applies to a child sexual assault victim's statements made to a social worker acting in the chain of medical care if statements were made to obtain medical treatment and were pertinent to the treatment sought. 260 C. 1. State not required to prove specific intent under the section and evidence re victim's injuries was sufficient to support conviction under section. *Id.*, 93. This section and Sec. 53a-59(a)(3) do not stand in relationship to each other as greater and lesser included offenses and are not the same offense for double jeopardy purposes. *Id.*

Cited. 2 CA 333, 334. Cited. 3 CA 459, 460. Cited. *Id.*, 607, 608, 614, 622, 623. Cited. 6 CA 150. Cited. 7 CA 46, 48. Cited. *Id.*, 131, 132. Cited. *Id.*, 653. Held to be in error for a trial court to deny request for a jury instruction on issue of consent in risk of injury case involving a fifteen-year-old girl. 8 CA 216, 242. Cited. *Id.*, 216, 218. Cited. *Id.*, 313, 314. Cited. *Id.*, 469, 477. Cited. *Id.*, 528—533, 541. Not constitutionally infirm as being void for vagueness. 9 CA 74, 75. Cited. 10 CA 591, 592. Cited. 11 CA 80, 81, 87—92, 96, 98—100. Cited. *Id.*, 236, 237. Cited. 12 CA 288, 289. Cited. *Id.*, 320, 321, 323—325, 336. Cited. *Id.*, 403—406. Cited. 13 CA 368, 369. Cited. *Id.*, 378, 379, 381. Cited. *Id.*, 667, 668, 671. Cited. 14 CA 244, 245, 247. Cited. *Id.*, 333, 334. Cited. 15 CA 222, 224, 226, 227. Cited. *Id.*, 251, 253, 256, 276, 287. Cited. 17 CA 174, 175. Cited. *Id.*, 186, 187, 196, 198. Cited. *Id.*, 447, 448, 450, 451. Cited. *Id.*, 525, 526. Cited. 18 CA 273, 274. Cited. *Id.*, 297, 298. Cited. *Id.*, 459, 460. Cited. *Id.*, 477, 478. Cited. 19 CA 44, 45. Cited. *Id.*, 646, 647. Cited. 20 CA 40, 41, 47, 49—51. Cited. *Id.*, 75, 77, 80, 81, 84, 86. Cited. *Id.*, 115—117. Cited. *Id.*, 193, 194. Cited. *Id.*, 263, 264. Cited. *Id.*, 288, 289. Cited. *Id.*, 530, 532. Cited. *Id.*, 572, 577. Cited. *Id.*, 630, 631. Cited. *Id.*, 694—699. Cited. *Id.*, 737, 738, 745, 746, 754. Cited. 21 CA 449, 450, 454—457. Cited. 23 CA 1, 2. Cited. *Id.*, 241, 242. Cited. *Id.*, 712, 713. Cited. 24 CA 57, 58. Cited. *Id.*, 146, 147. Not unconstitutionally vague or overbroad as applied to defendant. *Id.*, 300—305. Cited. *Id.*, 330, 331. Cited. 25 CA 235, 237. Cited. *Id.*, 243, 245, 253. Cited. *Id.*, 334, 335. Cited. 26 CA 81, 82. Cited. *Id.*, 625, 627, 632, 638, 640, 641; judgment reversed, see 224 C. 656 *et seq.* and 31 CA 452 *et seq.* Cited. *Id.*, 674, 676, 679, 680. Cited. *Id.*, 758, 759. Cited. 28 CA 91, 92. Cited. *Id.*, 388, 389. Cited. *Id.*, 581, 589, 590; judgment reversed, see 226 C. 601 *et seq.* Cited. 29 CA 591—597, 599, 600. Cited. *Id.*, 683, 684, 687—689. Cited. *Id.*, 689, 690, 692. Cited. *Id.*, 724, 726. Cited. 30 CA 527, 528, 531, 533—535, 538. Cited. *Id.*, 654, 655. Cited. 31 CA 120, 121. Cited. *Id.*, 497, 502. Cited. 32 CA 84, 86. Cited. *Id.*, 217, 218, 221—223; judgment reversed, see 229 C. 580 *et seq.* Cited. *Id.*, 773—775. Cited. 33 CA 133, 134. Cited. *Id.*, 162, 163. Cited. *Id.*, 205, 207. Cited. *Id.*, 743, 744, 748B; judgment reversed, see 233 C. 502 *et seq.* Cited. 34 CA 46, 48. Cited. *Id.*, 428, 429. Cited. *Id.*, 473, 474. Cited. *Id.*, 807, 808. Cited. 35 CA 520,

521. Cited. Id., 728, 730. Cited. Id., 754, 755. Cited. 36 CA 383, 384. Cited. Id., 448, 449; judgment reversed, see 236 C. 342 et seq. Cited. Id., 525, 526. Cited. 37 CA 21, 22. Cited. Id., 180—182, 184. Cited. Id., 388—391. Cited. Id., 534, 535, 537—542. Cited. 38 CA 56, 58. Cited. Id., 125, 126. Cited. 39 CA 267, 268, 274—276. Cited. Id., 657, 658, 664. Cited. Id., 702, 703. Cited. Id., 742, 744. Cited. 40 CA 1—7, 10, 12, 14. Cited. Id., 132, 133, 148. Cited. Id., 233, 235. Cited. Id., 395, 397. Cited. Id., 805, 806, 823, 825, 828. Cited. 41 CA 204, 205. Cited. Id., 287, 288. Cited. Id., 333, 334, 338, 341. Cited. Id., 701, 703. Cited. 42 CA 147. Cited. Id., 186; judgment reversed, see 241 C. 823 et seq. Cited. Id., 371. Cited. Id., 382. Cited. 43 CA 142. Cited. Id., 458. Cited. Id., 578. Cited. Id., 619. Cited. Id., 667. Cited. Id., 715. Cited. Id., 785. Cited. 44 CA 457. Cited. 45 CA 66. Cited. Id., 116. Cited. Id., 261. Cited. Id., 512. Cited. Id., 613. Cited. Id., 756. Cited. 46 CA 24. Cited. Id., 691. Although victim must be less than sixteen, there is no age requirement for the actor; thus, violation can result in adjudication that defendant is a youthful offender. Not unconstitutionally vague where defendant charged with consensual statutory rape had fair notice from the terms of the statute and from judicial opinions. 47 CA 68. Evidence presented at trial concerning death of healthy one-year-old left in defendant's care was sufficient to support conviction. Id., 188. This offense and offense of sexual assault in the fourth degree under Sec. 53a-73a(a)(1)(A) are not the same offense for double jeopardy purposes. 49 CA 409. Sentencing under both risk of injury and promoting prostitution statutes not a double jeopardy violation. 53 CA 627. Statute found not to be unconstitutionally vague on its face as applied to facts of case; defendant had sufficient notice that leaving three young children unattended created a situation that endangered their physical well being. 56 CA 395. Evidence was sufficient for jury to find defendant guilty beyond a reasonable doubt. 57 CA 736. Not unconstitutionally vague and overbroad with respect to the display of pornographic material to minors. 69 CA 400. Not unconstitutionally vague with respect to Sec. 30-86 (delivery of alcohol to minor, exceptions) where defendant was merely a care provider and Department of Children and Families retained guardianship over minor in question. Id. Does not unconstitutionally interfere with rights of parents to raise children and is not unconstitutionally vague and overbroad in violation of right to freedom of speech where defendant was not parent of teenaged girls and prior case law gave fair warning that conduct of showing pornographic movies to children could result in arrest. Defendant's conduct was at issue, not content of pornographic movies. Id.

Evidence of conviction under this section held not sufficient evidence to warrant a decree of divorce for the commission of an infamous crime involving a violation of conjugal duty. 21 CS 198. Defendant arrested and charged under this section after hearing was properly bound over to superior court where he was charged with aggravated assault. 27 CS 429. Cited. 29 CS 187. Presentment for this crime barred by the prohibition against double jeopardy where defendant had been convicted in circuit court for lesser offense for the same actions. 31 CS 28. Cited 41 CS 229, 231, 232.

Cited. 6 Conn. Cir. Ct. 548.

Subsec. (a):

Subdiv. (2) cited. 240 C. 743. Statute does not contain an element of physical violence; nor does it require actual impairment of the health or moral values of child. 260 C. 486.

Subdiv. (2): Jury's finding of contact between penis and anus or buttocks area suffices as the requisite contact. 53 CA 720. Statute not unconstitutionally vague as applied to defendant whose birthday is within two years of the victim's birthday. 61 CA 738.

Secs. 53-24 to 53-33. Taking or enticing away a child. Unlawful exhibition or employment of child. Abduction of child by either parent. Kidnapping. Assault with intent to rob. Attempt to procure miscarriage or abortion. Abortion or miscarriage: Fine. Encouraging the commission of abortion. Abortion or miscarriage inducement: Class D felony. Severability. Use of drugs or instruments to prevent conception. Penalty for unlawful operation. Sections 53-24 to 53-33, inclusive, are repealed.

(1949 Rev., S. 4183, 8361, 8363—8365, 8367, 8371—8373, 8568; 1969, P.A. 828, S. 214; May, 1972, P.A. 1, S. 1, 2; P.A. 77-614, S. 323, 610; P.A. 80-135; P.A. 90-113, S. 4.)

See Secs. 53a-97, 53a-98 re custodial interference.

See Secs. 53a-133 to 53a-136, inclusive, re robbery.

See chapter 952, part VII (Sec. 53a-91 et seq.) re kidnapping and related offenses.

Sec. 53a-65. Definitions. As used in this part, except section 53a-70b, the following terms have the following meanings:

- (1) "Actor" means a person accused of sexual assault.
 - (2) "Sexual intercourse" means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body.
 - (3) "Sexual contact" means any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.
 - (4) "Mentally defective" means that a person suffers from a mental disease or defect which renders such person incapable of appraising the nature of such person's conduct.
 - (5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling such person's conduct owing to the influence of a drug or intoxicating substance administered to such person without such person's consent, or owing to any other act committed upon such person without such person's consent.
 - (6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
 - (7) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.
 - (8) "Intimate parts" means the genital area, groin, anus, inner thighs, buttocks or breasts.
 - (9) "Psychotherapist" means a physician, psychologist, nurse, substance abuse counselor, social worker, clergyman, marital and family therapist, mental health service provider or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.
 - (10) "Psychotherapy" means the professional treatment, assessment or counseling of a mental or emotional illness, symptom or condition.
 - (11) "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the patient or former patient is unable to withhold consent to sexual contact by or sexual intercourse with the psychotherapist.
 - (12) "Therapeutic deception" means a representation by a psychotherapist that sexual contact by or sexual intercourse with the psychotherapist is consistent with or part of the patient's treatment.
 - (13) "School employee" means a teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or a private elementary or secondary school or working in a public or private elementary or secondary school.
- (1969, P.A. 828, S. 66; P.A. 75-619, S. 1; P.A. 81-27, S. 2; P.A. 85-341, S. 1; P.A. 87-259; P.A. 92-260, S. 32; P.A. 93-340, S. 1; P.A. 94-221, S. 17.)
- History: P.A. 75-619 deleted definitions of "deviate sexual intercourse", "female" and "forcible compulsion", added definitions of "actor", "use of force" and "intimate parts", redefined "sexual intercourse" in detail where previously defined as having "its ordinary meaning" and made minor changes in wording of remaining definitions; P.A. 81-27 exempted section 53a-70b from applicability of definitions in this section; P.A. 85-341 amended definition of sexual contact to include "contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor"; P.A. 87-259 amended definition of sexual contact to include contact made for the purpose of degrading or humiliating the victim; P.A. 92-260 made a technical change in the definition of sexual intercourse by repositioning language; P.A. 93-340 added definitions of "psychotherapist", "psychotherapy", "emotionally dependent" and "therapeutic deception"; P.A. 94-221 added the definition of "school employee".
- Cited. 170 C. 111. Statute includes definition of sexual intercourse and provides that "penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio ...". It specifically omits cunnilingus, therefore penetration is not an essential element of the crime where cunnilingus is charged. 186 C. 757, 765, 767. Cited. 187 C. 216, 220, 221. Cited. 191 C. 453, 463. Cited. 192 C. 154, 160, 161. Cited. 198 C. 190, 196. Cited. 210 C. 110, 127. Cited. 3 CA 374, 388. Cited. 11 CA 102, 112, 118. Cited. Id., 316, 322. Cited. 33 CA 133, 139. Cited. 35 CA 173, 174, 180. Smacking victim's buttocks considered to be sexual contact. 59 CA 538.

Former section 53-216 cited. 5 Conn. Cir. Ct. 44, 45.

Subdiv. (2):

Court properly defined the term "cunnilingus" since statute contained no specific definitions. Penetration is not an essential element of the crime where cunnilingus is charged. 186 C. 757, 763, 765. Cited. 187 C. 216, 221. Cited. 194 C. 258, 271, 273. Cited. 198 C. 285, 289. Cited. Id., 617, 621. Cited. 201 C. 211, 215, 216. Cited. 202 C. 509, 514. Cited. 207 C. 646, 652. Cited. 209 C. 733, 740. Cited. 210 C. 110, 115, 117, 123—125, 127—129. Cited. 211 C. 18, 35. Cited. 224 C. 397, 412, 413, 415. Cited. 226 C. 618, 660.

Penetration of the labia majora constitutes vaginal penetration. 252 C. 795. Penetration element of statute applicable to first degree sexual assault by fellatio not satisfied when alleged victim is compelled to lick perpetrator's penis without necessarily also being compelled to insert penis into the mouth. 256 C. 517. Cited. 7 CA 489, 493. Cited. Id., 701, 709. Cited. 11 CA 102, 110, 117—119. Cited. Id., 316, 319. Cited. 14 CA 451, 455. Cited. 23 CA 712, 714. Cited. 26 CA 395, 405. Cited. Id., 625, 626; judgment reversed, see 224 C. 656 et seq.; judgment reversed, see 31 CA 452 et seq.; judgment reversed see 224 C. 656 et seq. Cited. 33 CA 133, 139. Withdrawal of consent communicated to the other person followed by a compelling use of force to continue sexual intercourse would constitute sexual assault. 35 CA 173, 180, 181. Cited. 38 CA 56, 59—61. Cited. 41 CA 139, 141. Cited. Id., 287, 296. Cited. 43 CA 785. Applies least penetration doctrine. 50 CA 715.

Subdiv. (3):

Cited. 187 C. 216, 221. Cited. 191 C. 604, 619. Cited. 199 C. 121, 123. Cited. 205 C. 386, 410. Cited. 224 C. 397, 417. Cited. Id., 656, 663; judgment reversed, see 31 CA 452 et seq. Cited. 1 CA 724, 725, 730. Cited. 8 CA 607, 613. Cited. 11 CA 102, 114. Cited. 15 CA 251, 278. Cited. 20 CA 694, 698. Cited. 25 CA 653, 657, 658; judgment reversed, see 223 C. 52 et seq. Cited. 26 CA 395, 405. Cited. Id., 625, 627, 636; judgment reversed, see 224 C. 656 et seq.; judgment reversed, see 31 CA 452 et seq.; judgment reversed, see 224 C. 656 et seq. Cited. 28 CA 402, 408. Cited. 30 CA 281, 282, 291. Cited. 31 CA 452, 454.

Subdiv. (6):

Cited. 198 C. 53, 61. Cited. 205 C. 386, 398.

Subdiv. (7):

Cited. 186 C. 757, 766. Subpara. (B) cited. 189 C. 611, 629. Subpara. (B) cited. 202 C. 509, 514; 205 C. 386, 391, 393. Cited. 228 C. 552, 570.

Cited. 7 CA 489, 493. Cited. 11 CA 316, 319. Cited. 14 CA 40. Cited. Id., 451, 454. Cited. 16 CA 75, 79. Subpara. (B) cited. 18 CA 694, 698. Cited. 21 CA 411, 419. Cited. 30 CA 281, 288.

Subdiv. (8):

Cited. 186 C. 757, 767. Cited. 187 C. 216, 221. Cited. 191 C. 604, 619. Cited. 192 C. 154, 160. Cited. 207 C. 456, 463.

Cited. 11 CA 316, 321. Cited. 20 CA 694, 697. Cited. 25 CA 653, 657; judgment reversed, see 223 C. 52 et seq. Cited. 26 CA 395, 405. Cited. Id., 625, 627; judgment reversed, see 224 C. 656 et seq. Cited. 28 CA 402, 408.

Sec. 53a-67. Affirmative defenses. (a) In any prosecution for an offense under this part based on the victim's being mentally defective, mentally incapacitated or physically helpless, it shall be an affirmative defense that the actor, at the time such actor engaged in the conduct constituting the offense, did not know of such condition of the victim.

(b) In any prosecution for an offense under this part, except an offense under section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, it shall be an affirmative defense that the defendant and the alleged victim were, at the time of the alleged offense, living together by mutual consent in a relationship of cohabitation, regardless of the legal status of their relationship.

(1969, P.A. 828, S. 68; P.A. 75-619, S. 2; P.A. 81-27, S. 3; P.A. 90-162.)

History: P.A. 75-619 deleted former Subsec. (b) which had allowed as affirmative defense the actor's belief that alleged victim was above the specified age in cases where age is an element of offense unless victim is under fourteen, relettering Subsec. (c) accordingly; P.A. 81-27 amended Subsec. (b) to exempt prosecutions for an offense under section 53a-70b; P.A. 90-162 amended Subsec. (b) to exempt prosecutions for an offense under section 53a-70, 53a-70a, 53a-71, 53a-72a or 53a-72b.

Cited. 192 C. 154, 164. Cited. 198 C. 190, 196. Cited. 202 C. 86, 91.

Cited. 3 CA 374, 388.

Subsec. (b):

Discussion of "cohabitation" and burden of producing evidence thereof for entitlement to a charge on the affirmative defense under statute. 181 C. 426, 432—434. Cited. 198 C. 190, 191, 193, 195, 199. Cited. 209 C. 733, 739—741, 752. Cited. 233 C. 813, 850.

Cited. 1 CA 724, 730. Cited. 10 CA 709, 712, 716. Cited. 11 CA 102, 116. Sec. 53a-67(c) (Revised to 1972) cited. Id. Cited. 25 CA 384, 389. Cited. 28 CA 581, 591; judgment reversed, see 226 C. 601 et seq. Cited. 41 CA 604, 619.

Sec. 53a-90a. Enticing a minor. Penalties. (a) A person is guilty of enticing a minor when such person uses an interactive computer service to knowingly persuade, induce, entice or coerce any person under sixteen years of age to engage in prostitution or sexual activity for which the actor may be charged with a criminal offense. For purposes of this section, "interactive computer service" means any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(b) Enticing a minor is a class A misdemeanor for a first offense, a class D felony for a second offense and a class C felony for any subsequent offense.

(P.A. 99-113.)

Sec. 53a-196. Obscenity as to minors: Class D felony. (a) A person is guilty of obscenity as to minors when he knowingly promotes to a minor, for monetary consideration, any material or performance which is obscene as to minors.

(b) For purposes of this section, "knowingly" means having general knowledge of or reason to know or a belief or ground for belief which warrants further inspection or inquiry as to (1) the character and content of any material or performance which is reasonably susceptible of examination by such person and (2) the age of the minor.

(c) In any prosecution for obscenity as to minors, it shall be an affirmative defense that the defendant made (1) a reasonable mistake as to age, and (2) a reasonable bona fide attempt to ascertain the true age of such minor, by examining a draft card, driver's license, birth certificate or other official or apparently official document, exhibited by such minor, purporting to establish that such minor was seventeen years of age or older.

(d) Obscenity as to minors is a class D felony.

(1969, P.A. 828, S. 198; P.A. 85-496, S. 1; P.A. 92-260, S. 78.)

History: P.A. 85-496 increased penalty from class A misdemeanor to class D felony; P.A. 92-260 made a technical change in Subsec. (c).

Subsec. (a):

Cited. 36 CS 352, 357.

Sec. 53a-196a. Employing a minor in an obscene performance: Class A felony. (a) A person is guilty of employing a minor in an obscene performance when (1) he employs any minor, whether or not such minor receives any consideration, for the purpose of promoting any material or performance which is obscene as to minors, notwithstanding that such material or performance is intended for an adult audience, or (2) he permits any such minor to be employed, whether or not such minor receives any consideration, in the promotion of any material or performance which is obscene as to minors, notwithstanding that such material or performance is intended for an adult audience, and he is the parent or guardian of such minor or otherwise responsible for the general supervision of such minor's welfare.

(b) Employing a minor in an obscene performance is a class A felony.

(P.A. 77-577, S. 2; P.A. 78-345, S. 2, 4; P.A. 85-496, S. 2; P.A. 92-260, S. 79.)

History: P.A. 78-345 restated provisions for conformity with Sec. 53a-193 as amended; P.A. 85-496 increased penalty from class B felony to class A felony; P.A. 92-260 made technical changes.

See Sec. 17a-47 re legal division within Department of Children and Families.

Cited. 227 C. 207, 209, 210.

Sec. 53a-196b. Promoting a minor in an obscene performance: Class B felony. (a) A person is guilty of promoting a minor in an obscene performance when he knowingly promotes any material or performance

in which a minor is employed, whether or not such minor receives any consideration, and such material or performance is obscene as to minors notwithstanding that such material or performance is intended for an adult audience.

(b) For purposes of this section, "knowingly" means having general knowledge of or reason to know or a belief or ground for belief which warrants further inspection or inquiry as to (1) the character and content of any material or performance which is reasonably susceptible of examination by such person and (2) the age of the minor employed.

(c) Promoting a minor in an obscene performance is a class B felony.

(P.A. 78-345, S. 3, 4; P.A. 85-496, S. 3; P.A. 92-260, S. 80.)

History: P.A. 85-496 increased penalty from class C felony to class B felony; P.A. 92-260 made technical changes in Subsec. (a).

Cited. 28 CA 91, 95—97, 100.

Subsec. (a):

Cited. 28 CA 91, 92, 100.

Subsec. (c):

Cited. 28 CA 91, 96.

Sec. 53a-196c. Importing child pornography: Class C felony. (a) A person is guilty of importing child pornography when, with intent to promote child pornography, he knowingly imports or causes to be imported into the state any child pornography of known content and character.

(b) Importation of two or more copies of any publication containing child pornography shall be prima facie evidence that such publications were imported with intent to promote child pornography.

(c) Importing child pornography is a class C felony.

(P.A. 85-496, S. 5.)

Sec. 53a-196d. Possessing child pornography: Class D felony. (a) A person is guilty of possessing child pornography when he knowingly possesses child pornography, as defined in subdivision (13) of section 53a-193. Possession of a photographic or other visual reproduction of a nude minor for a bona fide artistic, medical, scientific, educational, religious, governmental or judicial purpose shall not be a violation of this subsection.

(b) Possessing child pornography is a class D felony.

(P.A. 95-143, S. 3.)

Trial court properly rejected defendant's claim that statute is unconstitutionally vague; there is no first amendment right to possess materials otherwise covered by the definition of child pornography specified in Sec. 53a-193 (13) when the person depicted is younger than eighteen, statute is not unconstitutional on its face and defendant having conceded that statute clearly gives fair notice that pornographic materials depicting children under sixteen are prohibited and having admitted that he possessed materials depicting children under sixteen, statute is not unconstitutionally vague as applied to defendant. "Minor", for purposes of statute, means a person under sixteen years of age. 252 C. 579.

=====
=====