CRIMINAL LAW AND PUBLIC POLICY

A 2007 Department of Justice study determined that one in five college women has been a victim of sexual assault. In 2014, California followed the recommendation of a White House task force on sexual assault on campus and adopted a "Yes Means Yes" law designed to combat sexual assaults on campus. Colleges and universities receiving state financial aid funds under the California statute are required to adopt an affirmative consent standard in determining whether a sexual assault occurred. New York later became the second state to adopt a statewide, campus affirmative consent law, and it is estimated that as many as eight hundred public and private institutions have adopted the "Yes Means Yes" standard. Affirmative consent under the California law is defined as follows:

"Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. . . . The existence of a dating relationship between the persons involved, or the fact of past sexual relations