



House of Representatives

General Assembly

File No. 456

January Session, 2005

House Bill No. 5321

House of Representatives, April 20, 2005

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT REQUIRING JUDICIAL BRANCH COMPLIANCE WITH CERTAIN STATUTORY PROVISIONS CONCERNING HUMAN RIGHTS AND OPPORTUNITIES.

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

1 Section 1. Section 46a-70a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 The Judicial Department shall comply with the provisions of
4 [section] subsections (a) and (b) of section 46a-68, sections 46a-68g, 46a-
5 70 and [shall, not later than January 15, 1985, submit a report of such
6 compliance to the General Assembly] 46a-71, subsections (a) and (c) of
7 section 46a-77 and sections 46a-81h and 46a-81i.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	46a-70a
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JUD Joint Favorable

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Human Rights & Opportunities, Com.	GF - Cost	60,500	59,500
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	13,024	30,596
Judicial Dept.	GF - Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires the judicial branch to file affirmative action plans with the Commission on Human Rights and Opportunities (CHRO) for review and approval. The judicial branch employs approximately 4,000 employees in several distinct divisions, which may result in several plans being filed. In 2003, the CHRO staff that reviews affirmative action plans was reduced from four to two as a result of layoffs. To implement the bill, CHRO would need to hire one additional Human Rights and Opportunities Representative to review affirmative plans submitted by the Judicial Department and provide technical assistance. Therefore in FY 06 and FY 07, CHRO would incur costs of approximately \$57,500 in Personal Services.¹ The CHRO would also require \$2,000 for Other Expenses to cover increased costs for paper, postage and copying and \$1,000 for a computer.

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated fringe benefit reimbursement rate as a percentage of payroll is 53.91%, effective July 1, 2004. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 22.65%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

The Judicial Department would incur a minimal cost to comply with the bill's various provisions. Any workload increase associated with the Judicial Department's responsibilities under the bill could be accommodated without requiring additional appropriations.

OLR Bill Analysis

HB 5321

AN ACT REQUIRING JUDICIAL BRANCH COMPLIANCE WITH CERTAIN STATUTORY PROVISIONS CONCERNING HUMAN RIGHTS AND OPPORTUNITIES**SUMMARY:**

The bill requires the Judicial Department to develop and implement an affirmative action plan and comply with all responsibilities under certain antidiscrimination laws. It also specifies that the department must comply with certain other antidiscrimination laws.

EFFECTIVE DATE: Upon passage

AFFIRMATIVE ACTION PLANS

The bill requires the Judicial Department to develop and implement, in cooperation with the Commission on Human Rights and Opportunities (CHRO), an affirmative action plan that commits it to a program of affirmative action in all aspects of personnel and administration. The plan must be developed pursuant to CHRO regulations to ensure that affirmative action is undertaken as required by state and federal laws to provide equal employment opportunities and to comply with all responsibilities under certain antidiscrimination laws. These laws include the duty to establish programs of career mobility and accommodation and entry level training of people with disabilities (CGS §§ 4-61u to 4-61w).

The bill also requires the department to designate a full- or part-time affirmative action officer, who must be responsible for:

1. mitigating any discrimination;
2. investigating all complaints of discrimination made to him;
3. reporting to the chief justice all findings and recommendations upon the conclusion of an investigation; and

4. completing 10 hours of training provided by CHRO and the Permanent Commission on the Status of Women.

CONTRACTS WITH THOSE WHO HAVE NOT COMPLIED WITH AFFIRMATIVE ACTION REQUIREMENTS

The bill specifies that the Judicial Department may not enter into contracts with bidders or prospective contractors unless they have satisfactorily complied with certain antidiscrimination and affirmative action laws or submitted a program for compliance acceptable to CHRO.

DISCRIMINATORY PRACTICES BY STATE AGENCIES

The bill :

1. requires the Judicial Department to perform services without discrimination based upon race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, or learning or physical disability, including blindness;
2. requires it to analyze all of its operations to ascertain possible instances of noncompliance with the state's antidiscrimination policy and initiate comprehensive programs to remedy any defect;
3. prohibits it from using any of its facilities to further any discrimination or from becoming a party to any agreement, arrangement, or plan that has the effect of sanctioning discrimination; and
4. requires that every contract or subcontract for construction, or for goods and services conform to the intent of the law that prohibits discrimination and requires affirmative action provisions in state contracts.

COOPERATION WITH CHRO AND COMPLIANCE WITH ADA

The bill requires the department to:

1. cooperate with CHRO in its enforcement and educational programs, and

2. comply in all of its services, programs, and activities with the provisions of the Americans with Disabilities Act (ADA) to the same extent that it provides rights and protections for persons with physical or mental disabilities beyond those provided by state law.

SEXUAL ORIENTATION DISCRIMINATION

The bill specifies that the Judicial Department must:

1. recruit, appoint, assign, train, evaluate, and promote state personnel on the basis of merit and qualifications, without considering the applicant's or employee's sexual orientation;
2. promulgate written directives to carry out this policy, guarantee equal employment opportunities, and regularly review its personnel practices to assure compliance; and
3. conduct continuing orientation and training programs with emphasis on human relations and nondiscriminatory employment practices.

SEXUAL ORIENTATION DISCRIMINATION – SERVICES OF STATE AGENCIES

The bill specifies that the Judicial Department must:

1. perform all services without discrimination based upon sexual orientation,
2. not allow its facilities to be used to further any discrimination, or become a party to any agreement, arrangement, or plan, which has the effect of sanctioning discrimination, and
3. analyze all of its operations to ascertain possible instances of noncompliance with the state's antidiscrimination policy and initiate programs to remedy any defect.

It also requires every Judicial Department contract or subcontract for construction on public buildings or for other public work or for goods and services, to conform to the intent of the law that prohibits

discrimination and requires affirmative action provisions in state contracts.

BACKGROUND

Related Laws

The law already requires the Judicial Department to:

1. recruit, appoint, assign, train, evaluate, and promote on the basis of merit and qualifications, without regard for race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, learning disability or physical disability including blindness, unless it is shown that the disability prevents performance of the work involved;
2. promulgate written directives to carry out an antidiscriminatory policy and guarantee equal employment opportunities at all levels of state government, and regularly review its personnel practices to assure compliance;
3. conduct continuing orientation and training programs with emphasis on human relations and nondiscriminatory employment practices; and
4. exercise care to insure utilization of minority group persons.

It also appears to authorize the the commissioner of administrative services to insure that the Judicial Department’s examination process, including qualifications appraisal, is free from bias (CGS § 46a-70).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 25 Nay 15