



Substitute House Bill No. 6668

Public Act No. 17-118

AN ACT CONCERNING PREGNANT WOMEN IN THE WORKPLACE.

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

Section 1. Section 46a-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) As used in this section:

(1) "Pregnancy" means pregnancy, childbirth or a related condition, including, but not limited to, lactation;

(2) "Reasonable accommodation" means, but shall not be limited to, being permitted to sit while working, more frequent or longer breaks, periodic rest, assistance with manual labor, job restructuring, light duty assignments, modified work schedules, temporary transfers to less strenuous or hazardous work, time off to recover from childbirth or break time and appropriate facilities for expressing breast milk; and

(3) "Undue hardship" means an action requiring significant difficulty or expense when considered in light of factors such as (A) the nature and cost of the accommodation; (B) the overall financial resources of the employer; (C) the overall size of the business of the employer with respect to the number of employees, and the number,

Substitute House Bill No. 6668

type and location of its facilities; and (D) the effect on expenses and resources or the impact otherwise of such accommodation upon the operation of the employer.

[(a)] (b) It shall be a discriminatory practice in violation of this section:

(1) For an employer, by the employer or the employer's agent, except in the case of a bona fide occupational qualification or need, to refuse to hire or employ or to bar or to discharge from employment any individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment because of the individual's race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability or physical disability, including, but not limited to, blindness;

(2) For any employment agency, except in the case of a bona fide occupational qualification or need, to fail or refuse to classify properly or refer for employment or otherwise to discriminate against any individual because of such individual's race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability or physical disability, including, but not limited to, blindness;

(3) For a labor organization, because of the race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability or physical disability, including, but not limited to, blindness of any individual to exclude from full membership rights or to expel from its membership such individual or to discriminate in any way against any of its members or

Substitute House Bill No. 6668

against any employer or any individual employed by an employer, unless such action is based on a bona fide occupational qualification;

(4) For any person, employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because such person has opposed any discriminatory employment practice or because such person has filed a complaint or testified or assisted in any proceeding under section 46a-82, 46a-83 or 46a-84;

(5) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any act declared to be a discriminatory employment practice or to attempt to do so;

(6) For any person, employer, employment agency or labor organization, except in the case of a bona fide occupational qualification or need, to advertise employment opportunities in such a manner as to restrict such employment so as to discriminate against individuals because of their race, color, religious creed, age, sex, gender identity or expression, marital status, national origin, ancestry, present or past history of mental disability, intellectual disability, learning disability or physical disability, including, but not limited to, blindness;

(7) For an employer, by the employer or the employer's agent: (A) To terminate a woman's employment because of her pregnancy; (B) to refuse to grant to that employee a reasonable leave of absence for disability resulting from her pregnancy; (C) to deny to that employee, who is disabled as a result of pregnancy, any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by the employer; (D) to fail or refuse to reinstate the employee to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits and other service credits upon her

Substitute House Bill No. 6668

signifying her intent to return unless, in the case of a private employer, the employer's circumstances have so changed as to make it impossible or unreasonable to do so; [(E) to fail or refuse to make a reasonable effort to transfer a pregnant employee to any suitable temporary position which may be available in any case in which an employee gives written notice of her pregnancy to her employer and the employer or pregnant employee reasonably believes that continued employment in the position held by the pregnant employee may cause injury to the employee or fetus; (F) to fail or refuse to inform the pregnant employee that a transfer pursuant to subparagraph (E) of this subdivision may be appealed under the provisions of this chapter; or] (E) to limit, segregate or classify the employee in a way that would deprive her of employment opportunities due to her pregnancy; (F) to discriminate against an employee or person seeking employment on the basis of her pregnancy in the terms or conditions of her employment; (G) to fail or refuse to [inform employees of the employer, by any reasonable means, that they must give written notice of their pregnancy in order to be eligible for transfer to a temporary position;] make a reasonable accommodation for an employee or person seeking employment due to her pregnancy, unless the employer can demonstrate that such accommodation would impose an undue hardship on such employer; (H) to deny employment opportunities to an employee or person seeking employment if such denial is due to the employee's request for a reasonable accommodation due to her pregnancy; (I) to force an employee or person seeking employment affected by pregnancy to accept a reasonable accommodation if such employee or person seeking employment (i) does not have a known limitation related to her pregnancy, or (ii) does not require a reasonable accommodation to perform the essential duties related to her employment; (J) to require an employee to take a leave of absence if a reasonable accommodation can be provided in lieu of such leave; and (K) to retaliate against an employee in the terms, conditions or privileges of her employment

Substitute House Bill No. 6668

based upon such employee's request for a reasonable accommodation;

(8) For an employer, by the employer or the employer's agent, for an employment agency, by itself or its agent, or for any labor organization, by itself or its agent, to harass any employee, person seeking employment or member on the basis of sex or gender identity or expression. "Sexual harassment" shall, for the purposes of this [section] subdivision, be defined as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

(9) For an employer, by the employer or the employer's agent, for an employment agency, by itself or its agent, or for any labor organization, by itself or its agent, to request or require information from an employee, person seeking employment or member relating to the individual's child-bearing age or plans, pregnancy, function of the individual's reproductive system, use of birth control methods, or the individual's familial responsibilities, unless such information is directly related to a bona fide occupational qualification or need, provided an employer, through a physician may request from an employee any such information which is directly related to workplace exposure to substances which may cause birth defects or constitute a hazard to an individual's reproductive system or to a fetus if the employer first informs the employee of the hazards involved in exposure to such substances;

(10) For an employer, by the employer or the employer's agent, after informing an employee, pursuant to subdivision (9) of this subsection,

Substitute House Bill No. 6668

of a workplace exposure to substances which may cause birth defects or constitute a hazard to an employee's reproductive system or to a fetus, to fail or refuse, upon the employee's request, to take reasonable measures to protect the employee from the exposure or hazard identified, or to fail or refuse to inform the employee that the measures taken may be the subject of a complaint filed under the provisions of this chapter. Nothing in this subdivision is intended to prohibit an employer from taking reasonable measures to protect an employee from exposure to such substances. For the purpose of this subdivision, "reasonable measures" shall be those measures which are consistent with business necessity and are least disruptive of the terms and conditions of the employee's employment;

(11) For an employer, by the employer or the employer's agent, for an employment agency, by itself or its agent, or for any labor organization, by itself or its agent: (A) To request or require genetic information from an employee, person seeking employment or member, or (B) to discharge, expel or otherwise discriminate against any person on the basis of genetic information. For the purpose of this subdivision, "genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or a family member.

[(b)] (c) (1) The provisions of this section concerning age shall not apply to: (A) The termination of employment of any person with a contract of unlimited tenure at an independent institution of higher education who is mandatorily retired, on or before July 1, 1993, after having attained the age of seventy; (B) the termination of employment of any person who has attained the age of sixty-five and who, for the two years immediately preceding such termination, is employed in a bona fide executive or a high policy-making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit under a pension, profit-sharing, savings or deferred compensation

Substitute House Bill No. 6668

plan, or any combination of such plans, from such person's employer, which equals, in aggregate, at least forty-four thousand dollars; (C) the termination of employment of persons in occupations, including police work and fire-fighting, in which age is a bona fide occupational qualification; (D) the operation of any bona fide apprenticeship system or plan; or (E) the observance of the terms of a bona fide seniority system or any bona fide employee benefit plan for retirement, pensions or insurance which is not adopted for the purpose of evading said provisions, except that no such plan may excuse the failure to hire any individual and no such system or plan may require or permit the termination of employment on the basis of age. No such plan which covers less than twenty employees may reduce the group hospital, surgical or medical insurance coverage provided under the plan to any employee who has reached the age of sixty-five and is eligible for Medicare benefits or any employee's spouse who has reached age sixty-five and is eligible for Medicare benefits except to the extent such coverage is provided by Medicare. The terms of any such plan which covers twenty or more employees shall entitle any employee who has attained the age of sixty-five and any employee's spouse who has attained the age of sixty-five to group hospital, surgical or medical insurance coverage under the same conditions as any covered employee or spouse who is under the age of sixty-five.

(2) No employee retirement or pension plan may exclude any employee from membership in such plan or cease or reduce the employee's benefit accruals or allocations under such plan on the basis of age. The provisions of this subdivision shall be applicable to plan years beginning on or after January 1, 1988, except that for any collectively bargained plan this subdivision shall be applicable on the earlier of (A) January 1, 1990, or (B) the later of (i) the expiration date of the collective bargaining agreement, or (ii) January 1, 1988.

(3) The provisions of this section concerning age shall not prohibit

Substitute House Bill No. 6668

an employer from requiring medical examinations for employees for the purpose of determining such employees' physical qualification for continued employment.

(4) Any employee who continues employment beyond the normal retirement age in the applicable retirement or pension plan shall give notice of intent to retire, in writing, to such employee's employer not less than thirty days prior to the date of such retirement.

(d) (1) An employer shall provide written notice of the right to be free from discrimination in relation to pregnancy, childbirth and related conditions, including the right to a reasonable accommodation to the known limitations related to pregnancy pursuant to subdivision (7) of subsection (b) of this section to: (A) New employees at the commencement of employment; (B) existing employees within one hundred twenty days after the effective date of this section; and (C) any employee who notifies the employer of her pregnancy within ten days of such notification. An employer may comply with the provisions of this section by displaying a poster in a conspicuous place, accessible to employees, at the employer's place of business that contains the information required by this section in both English and Spanish. The Labor Commissioner may adopt regulations, in accordance with chapter 54, to establish additional requirements concerning the means by which employers shall provide such notice.

(2) The Commission on Human Rights and Opportunities shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employees, employment agencies and persons seeking employment about their rights and responsibilities under this section.

Sec. 2. Subsection (b) of section 5-248a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

Substitute House Bill No. 6668

(b) The leave of absence benefits granted by this section shall be in addition to any other paid leave benefits and benefits provided under subdivision (7) of subsection [(a)] (b) of section 46a-60, as amended by this act, which are otherwise available to the employee.

Sec. 3. Section 46a-54 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

The commission shall have the following powers and duties:

(1) To establish and maintain such offices as the commission may deem necessary;

(2) To organize the commission into a division of affirmative action monitoring and contract compliance, a division of discriminatory practice complaints and such other divisions, bureaus or units as may be necessary for the efficient conduct of business of the commission;

(3) To employ legal staff and commission legal counsel as necessary to perform the duties and responsibilities under section 46a-55. One commission legal counsel shall serve as supervising attorney. Each commission legal counsel shall be admitted to practice law in this state;

(4) To appoint such investigators and other employees and agents as it deems necessary, fix their compensation within the limitations provided by law and prescribe their duties;

(5) To adopt, publish, amend and rescind regulations consistent with and to effectuate the provisions of this chapter;

(6) To establish rules of practice to govern, expedite and effectuate the procedures set forth in this chapter;

(7) To recommend policies and make recommendations to agencies and officers of the state and local subdivisions of government to effectuate the policies of this chapter;

Substitute House Bill No. 6668

(8) To receive, initiate as provided in section 46a-82, investigate and mediate discriminatory practice complaints;

(9) By itself or with or by hearing officers or human rights referees, to hold hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and require the production for examination of any books and papers relating to any matter under investigation or in question;

(10) To make rules as to the procedure for the issuance of subpoenas by individual commissioners, hearing officers and human rights referees;

(11) To require written answers to interrogatories under oath relating to any complaint under investigation pursuant to this chapter alleging any discriminatory practice as defined in subdivision (8) of section 46a-51, and to adopt regulations, in accordance with the provisions of chapter 54, for the procedure for the issuance of interrogatories and compliance with interrogatory requests;

(12) To utilize such voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered and needed and with the cooperation of such agencies, (A) to study the problems of discrimination in all or specific fields of human relationships, and (B) to foster through education and community effort or otherwise good will among the groups and elements of the population of the state;

(13) To require the posting by an employer, employment agency or labor organization of such notices regarding statutory provisions as the commission shall provide;

(14) To require the posting, by any respondent or other person subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-81e, of such notices of statutory provisions as it deems desirable;

Substitute House Bill No. 6668

(15) (A) To require an employer having three or more employees to post in a prominent and accessible location information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment; and (B) to require an employer having fifty or more employees to provide two hours of training and education to all supervisory employees within one year of October 1, 1992, and to all new supervisory employees within six months of their assumption of a supervisory position, provided any employer who has provided such training and education to any such employees after October 1, 1991, shall not be required to provide such training and education a second time. Such training and education shall include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment. As used in this subdivision, "sexual harassment" has the same meaning as provided in subdivision (8) of subsection [(a)] (b) of section 46a-60, as amended by this act, and "employer" includes the General Assembly;

(16) To require each state agency that employs one or more employees to (A) provide a minimum of three hours of diversity training and education (i) to all supervisory and nonsupervisory employees, not later than July 1, 2002, with priority for such training to supervisory employees, and (ii) to all newly hired supervisory and nonsupervisory employees, not later than six months after their assumption of a position with a state agency, with priority for such training to supervisory employees. Such training and education shall include information concerning the federal and state statutory provisions concerning discrimination and hate crimes directed at protected classes and remedies available to victims of discrimination and hate crimes, standards for working with and serving persons from diverse populations and strategies for addressing differences that may arise from diverse work environments; and (B) submit an annual report to the Commission on Human Rights and Opportunities

Substitute House Bill No. 6668

concerning the status of the diversity training and education required under subparagraph (A) of this subdivision. The information in such annual reports shall be reviewed by the commission for the purpose of submitting an annual summary report to the General Assembly. Notwithstanding the provisions of this section, if a state agency has provided such diversity training and education to any of its employees prior to October 1, 1999, such state agency shall not be required to provide such training and education a second time to such employees. The requirements of this subdivision shall be accomplished within available appropriations. As used in this subdivision, "employee" shall include any part-time employee who works more than twenty hours per week;

(17) To require each agency to submit information demonstrating its compliance with subdivision (16) of this section as part of its affirmative action plan and to receive and investigate complaints concerning the failure of a state agency to comply with the requirements of subdivision (16) of this section; and

(18) To enter into contracts for and accept grants of private or federal funds and to accept gifts, donations or bequests, including donations of service by attorneys.

Sec. 4. Section 46a-81aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

The provisions of subsection (a) of section 4a-60, subsection (c) of section 8-169s, section 8-265c, subsection (c) of section 8-294, section 8-315, subsection (a) of section 10-15c, section 10-153, subsection (b) of section 10a-6, subsection (a) of section 11-24b, sections 16-245r and 16-247r, subsection (b) of section 28-15, section 31-22p, subsection (e) of section 31-57e, sections 32-277, 38a-358 and 42-125a, subsection (c) of section 42-125b, subsection (a) of section 46a-58, subsection (a) of section 46a-59, subsection [(a)] (b) of section 46a-60, as amended by

Substitute House Bill No. 6668

this act, subsection (a) of section 46a-64, subsections (a) and (e) of section 46a-64c, subsection (a) of section 46a-66, subsection (a) of section 46a-70, subsection (a) of section 46a-71, subsection (b) of section 46a-72, subsection (a) of section 46a-73, subsection (a) of section 46a-75, subsection (a) of section 46a-76, subsections (b) and (c) of section 52-571d and section 53-37a that prohibit discrimination on the basis of gender identity or expression shall not apply to a religious corporation, entity, association, educational institution or society with respect to the employment of individuals to perform work connected with the carrying on by such corporation, entity, association, educational institution or society of its activities, or with respect to matters of discipline, faith, internal organization or ecclesiastical rule, custom or law which are established by such corporation, entity, association, educational institution or society.

Approved July 6, 2017