



General Assembly

January Session, 2017

Committee Bill No. 6668

LCO No. 4983



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING PREGNANT WOMEN IN THE WORKPLACE.

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

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 Section 46a-60 of the general statutes is repealed and the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

3 (a) As used in this section:

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

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

12 (3) "Undue hardship" means an action requiring significant
13 difficulty or expense when considered in light of factors such as (A) the
14 nature and cost of the accommodation; (B) the overall financial

15 resources of the employer; (C) the overall size of the business of the
16 employer with respect to the number of employees, and the number,
17 type and location of its facilities; and (D) the effect on expenses and
18 resources or the impact otherwise of such accommodation upon the
19 operation of the employer.

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

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

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

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

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

49 (4) For any person, employer, labor organization or employment
50 agency to discharge, expel or otherwise discriminate against any
51 person because such person has opposed any discriminatory
52 employment practice or because such person has filed a complaint or
53 testified or assisted in any proceeding under section 46a-82, 46a-83 or
54 46a-84;

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

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

67 (7) (A) For an employer, by the employer or the employer's agent:
68 [(A)] (i) To terminate a woman's employment because of her
69 pregnancy; [(B)] (ii) to refuse to grant to that employee a reasonable
70 leave of absence for disability resulting from her pregnancy; [(C)] (iii)
71 to deny to that employee, who is disabled as a result of pregnancy, any
72 compensation to which she is entitled as a result of the accumulation of
73 disability or leave benefits accrued pursuant to plans maintained by
74 the employer; [(D)] (iv) to fail or refuse to reinstate the employee to her
75 original job or to an equivalent position with equivalent pay and
76 accumulated seniority, retirement, fringe benefits and other service
77 credits upon her signifying her intent to return unless, in the case of a
78 private employer, the employer's circumstances have so changed as to

79 make it impossible or unreasonable to do so; [(E) to fail or refuse to
80 make a reasonable effort to transfer a pregnant employee to any
81 suitable temporary position which may be available in any case in
82 which an employee gives written notice of her pregnancy to her
83 employer and the employer or pregnant employee reasonably believes
84 that continued employment in the position held by the pregnant
85 employee may cause injury to the employee or fetus] (v) to limit,
86 segregate or classify the employee in a way that would deprive her of
87 employment opportunities due to her pregnancy; [(F) to fail or refuse
88 to inform the pregnant employee that a transfer pursuant to
89 subparagraph (E) of this subdivision may be appealed under the
90 provisions of this chapter; or (G)] (vi) to discriminate against an
91 employee or person seeking employment on the basis of her
92 pregnancy in the terms or conditions of her employment; (vii) to fail or
93 refuse to [inform employees of the employer, by any reasonable
94 means, that they must give written notice of their pregnancy in order
95 to be eligible for transfer to a temporary position;] make a reasonable
96 accommodation for an employee or person seeking employment due
97 to her pregnancy, unless the employer can demonstrate that such
98 accommodation would impose an undue hardship on such employer;
99 (viii) to deny employment opportunities to an employee or person
100 seeking employment if such denial is due to the employee's request for
101 a reasonable accommodation due to her pregnancy; (ix) to force an
102 employee or person seeking employment affected by pregnancy to
103 accept a reasonable accommodation if such employee or person
104 seeking employment (I) does not have a known limitation related to
105 her pregnancy, or (II) does not require a reasonable accommodation to
106 perform the essential duties related to her employment; (x) to require
107 an employee to take a leave of absence if a reasonable accommodation
108 can be provided in lieu of such leave; and (xi) to retaliate against an
109 employee in the terms, conditions or privileges of her employment
110 based upon such employee's request for a reasonable accommodation;

111 (B) For purposes of subparagraph (A)(vii) of this subdivision, it
112 shall be a rebuttable presumption that if the employer provides or

113 would be required to provide a similar accommodation to another
114 employee or employees such accommodation does not impose an
115 undue hardship on the employer.

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

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

144 (10) For an employer, by the employer or the employer's agent, after

145 informing an employee, pursuant to subdivision (9) of this subsection,
146 of a workplace exposure to substances which may cause birth defects
147 or constitute a hazard to an employee's reproductive system or to a
148 fetus, to fail or refuse, upon the employee's request, to take reasonable
149 measures to protect the employee from the exposure or hazard
150 identified, or to fail or refuse to inform the employee that the measures
151 taken may be the subject of a complaint filed under the provisions of
152 this chapter. Nothing in this subdivision is intended to prohibit an
153 employer from taking reasonable measures to protect an employee
154 from exposure to such substances. For the purpose of this subdivision,
155 "reasonable measures" shall be those measures which are consistent
156 with business necessity and are least disruptive of the terms and
157 conditions of the employee's employment;

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

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

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

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

207 (3) The provisions of this section concerning age shall not prohibit
208 an employer from requiring medical examinations for employees for
209 the purpose of determining such employees' physical qualification for
210 continued employment.

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

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

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

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

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

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

244 The commission shall have the following powers and duties:

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

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

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

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

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

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

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

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

267 (9) By itself or with or by hearing officers or human rights referees,
268 to hold hearings, subpoena witnesses and compel their attendance,
269 administer oaths, take the testimony of any person under oath and

270 require the production for examination of any books and papers
271 relating to any matter under investigation or in question;

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

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

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

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

291 (14) To require the posting, by any respondent or other person
292 subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-
293 81e, of such notices of statutory provisions as it deems desirable;

294 (15) (A) To require an employer having three or more employees to
295 post in a prominent and accessible location information concerning the
296 illegality of sexual harassment and remedies available to victims of
297 sexual harassment; and (B) to require an employer having fifty or more
298 employees to provide two hours of training and education to all
299 supervisory employees within one year of October 1, 1992, and to all

300 new supervisory employees within six months of their assumption of a
301 supervisory position, provided any employer who has provided such
302 training and education to any such employees after October 1, 1991,
303 shall not be required to provide such training and education a second
304 time. Such training and education shall include information
305 concerning the federal and state statutory provisions concerning
306 sexual harassment and remedies available to victims of sexual
307 harassment. As used in this subdivision, "sexual harassment" has the
308 same meaning as provided in subdivision (8) of subsection [(a)] (b) of
309 section 46a-60, as amended by this act, and "employer" includes the
310 General Assembly;

311 (16) To require each state agency that employs one or more
312 employees to (A) provide a minimum of three hours of diversity
313 training and education (i) to all supervisory and nonsupervisory
314 employees, not later than July 1, 2002, with priority for such training to
315 supervisory employees, and (ii) to all newly hired supervisory and
316 nonsupervisory employees, not later than six months after their
317 assumption of a position with a state agency, with priority for such
318 training to supervisory employees. Such training and education shall
319 include information concerning the federal and state statutory
320 provisions concerning discrimination and hate crimes directed at
321 protected classes and remedies available to victims of discrimination
322 and hate crimes, standards for working with and serving persons from
323 diverse populations and strategies for addressing differences that may
324 arise from diverse work environments; and (B) submit an annual
325 report to the Commission on Human Rights and Opportunities
326 concerning the status of the diversity training and education required
327 under subparagraph (A) of this subdivision. The information in such
328 annual reports shall be reviewed by the commission for the purpose of
329 submitting an annual summary report to the General Assembly.
330 Notwithstanding the provisions of this section, if a state agency has
331 provided such diversity training and education to any of its employees
332 prior to October 1, 1999, such state agency shall not be required to
333 provide such training and education a second time to such employees.

334 The requirements of this subdivision shall be accomplished within
335 available appropriations. As used in this subdivision, "employee" shall
336 include any part-time employee who works more than twenty hours
337 per week;

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

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

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

348 The provisions of subsection (a) of section 4a-60, subsection (c) of
349 section 8-169s, section 8-265c, subsection (c) of section 8-294, section 8-
350 315, subsection (a) of section 10-15c, section 10-153, subsection (b) of
351 section 10a-6, subsection (a) of section 11-24b, sections 16-245r and 16-
352 247r, subsection (b) of section 28-15, section 31-22p, subsection (e) of
353 section 31-57e, sections 32-277, 38a-358 and 42-125a, subsection (c) of
354 section 42-125b, subsection (a) of section 46a-58, subsection (a) of
355 section 46a-59, subsection [(a)] (b) of section 46a-60, as amended by
356 this act, subsection (a) of section 46a-64, subsections (a) and (e) of
357 section 46a-64c, subsection (a) of section 46a-66, subsection (a) of
358 section 46a-70, subsection (a) of section 46a-71, subsection (b) of section
359 46a-72, subsection (a) of section 46a-73, subsection (a) of section 46a-75,
360 subsection (a) of section 46a-76, subsections (b) and (c) of section 52-
361 571d and section 53-37a that prohibit discrimination on the basis of
362 gender identity or expression shall not apply to a religious
363 corporation, entity, association, educational institution or society with
364 respect to the employment of individuals to perform work connected
365 with the carrying on by such corporation, entity, association,

366 educational institution or society of its activities, or with respect to
367 matters of discipline, faith, internal organization or ecclesiastical rule,
368 custom or law which are established by such corporation, entity,
369 association, educational institution or society.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2017	46a-60
Sec. 2	October 1, 2017	5-248a(b)
Sec. 3	October 1, 2017	46a-54
Sec. 4	October 1, 2017	46a-81aa

Statement of Purpose:

To improve workplace protections for pregnant women.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: REP. CONLEY, 40th Dist.; SEN. FLEXER, 29th Dist.
REP. LINEHAN, 103rd Dist.; REP. LUXENBERG, 12th Dist.
REP. MCCARTHY VAHEY, 133rd Dist.; REP. PORTER, 94th Dist.
REP. SIMMONS, 144th Dist.; REP. HADDAD, 54th Dist.
SEN. OSTEN, 19th Dist.; REP. GRESKO, 121st Dist.
REP. ARCE, 4th Dist.; REP. SANTIAGO, 130th Dist.
REP. REYES, 75th Dist.; REP. SOTO, 39th Dist.
REP. JOHNSON, 49th Dist.; REP. ELLIOTT, 88th Dist.
REP. PAOLILLO, 97th Dist.; REP. LEMAR, 96th Dist.
REP. DE LA CRUZ, 41st Dist.; REP. REED, 102nd Dist.
REP. ROSE, 118th Dist.; SEN. MOORE, 22nd Dist.

H.B. 6668