



General Assembly

**Substitute Bill No. 6668**

January Session, 2017

\* \_\_\_\_\_HB06668LAB\_\_\_\_031017\_\_\_\_\_\*

***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 Section 46a-60 of the general statutes is repealed and the  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) For an employer, by the employer or the employer's agent: (A)  
68 To terminate a woman's employment because of her pregnancy; (B) to  
69 refuse to grant to that employee a reasonable leave of absence for  
70 disability resulting from her pregnancy; (C) to deny to that employee,  
71 who is disabled as a result of pregnancy, any compensation to which  
72 she is entitled as a result of the accumulation of disability or leave  
73 benefits accrued pursuant to plans maintained by the employer; (D) to  
74 fail or refuse to reinstate the employee to her original job or to an  
75 equivalent position with equivalent pay and accumulated seniority,  
76 retirement, fringe benefits and other service credits upon her  
77 signifying her intent to return unless, in the case of a private employer,  
78 the employer's circumstances have so changed as to make it impossible  
79 or unreasonable to do so; [(E) to fail or refuse to make a reasonable  
80 effort to transfer a pregnant employee to any suitable temporary  
81 position which may be available in any case in which an employee  
82 gives written notice of her pregnancy to her employer and the

83 employer or pregnant employee reasonably believes that continued  
84 employment in the position held by the pregnant employee may cause  
85 injury to the employee or fetus; (F) to fail or refuse to inform the  
86 pregnant employee that a transfer pursuant to subparagraph (E) of this  
87 subdivision may be appealed under the provisions of this chapter; or]  
88 (E) to limit, segregate or classify the employee in a way that would  
89 deprive her of employment opportunities due to her pregnancy; (F) to  
90 discriminate against an employee or person seeking employment on  
91 the basis of her pregnancy in the terms or conditions of her  
92 employment; (G) to fail or refuse to [inform employees of the  
93 employer, by any reasonable means, that they must give written notice  
94 of their pregnancy in order to be eligible for transfer to a temporary  
95 position;] make a reasonable accommodation for an employee or  
96 person seeking employment due to her pregnancy, unless the  
97 employer can demonstrate that such accommodation would impose an  
98 undue hardship on such employer; (H) to deny employment  
99 opportunities to an employee or person seeking employment if such  
100 denial is due to the employee's request for a reasonable  
101 accommodation due to her pregnancy; (I) to force an employee or  
102 person seeking employment affected by pregnancy to accept a  
103 reasonable accommodation if such employee or person seeking  
104 employment (i) does not have a known limitation related to her  
105 pregnancy, or (ii) does not require a reasonable accommodation to  
106 perform the essential duties related to her employment; (J) 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 (K) 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 (8) For an employer, by the employer or the employer's agent, for an  
112 employment agency, by itself or its agent, or for any labor  
113 organization, by itself or its agent, to harass any employee, person  
114 seeking employment or member on the basis of sex or gender identity  
115 or expression. "Sexual harassment" shall, for the purposes of this  
116 [section] subdivision, be defined as any unwelcome sexual advances or

117 requests for sexual favors or any conduct of a sexual nature when (A)  
118 submission to such conduct is made either explicitly or implicitly a  
119 term or condition of an individual's employment, (B) submission to or  
120 rejection of such conduct by an individual is used as the basis for  
121 employment decisions affecting such individual, or (C) such conduct  
122 has the purpose or effect of substantially interfering with an  
123 individual's work performance or creating an intimidating, hostile or  
124 offensive working environment;

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

139 (10) For an employer, by the employer or the employer's agent, after  
140 informing an employee, pursuant to subdivision (9) of this subsection,  
141 of a workplace exposure to substances which may cause birth defects  
142 or constitute a hazard to an employee's reproductive system or to a  
143 fetus, to fail or refuse, upon the employee's request, to take reasonable  
144 measures to protect the employee from the exposure or hazard  
145 identified, or to fail or refuse to inform the employee that the measures  
146 taken may be the subject of a complaint filed under the provisions of  
147 this chapter. Nothing in this subdivision is intended to prohibit an  
148 employer from taking reasonable measures to protect an employee  
149 from exposure to such substances. For the purpose of this subdivision,

150 "reasonable measures" shall be those measures which are consistent  
151 with business necessity and are least disruptive of the terms and  
152 conditions of the employee's employment;

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

162 [(b)] (c) (1) The provisions of this section concerning age shall not  
163 apply to: (A) The termination of employment of any person with a  
164 contract of unlimited tenure at an independent institution of higher  
165 education who is mandatorily retired, on or before July 1, 1993, after  
166 having attained the age of seventy; (B) the termination of employment  
167 of any person who has attained the age of sixty-five and who, for the  
168 two years immediately preceding such termination, is employed in a  
169 bona fide executive or a high policy-making position, if such person is  
170 entitled to an immediate nonforfeitable annual retirement benefit  
171 under a pension, profit-sharing, savings or deferred compensation  
172 plan, or any combination of such plans, from such person's employer,  
173 which equals, in aggregate, at least forty-four thousand dollars; (C) the  
174 termination of employment of persons in occupations, including police  
175 work and fire-fighting, in which age is a bona fide occupational  
176 qualification; (D) the operation of any bona fide apprenticeship system  
177 or plan; or (E) the observance of the terms of a bona fide seniority  
178 system or any bona fide employee benefit plan for retirement, pensions  
179 or insurance which is not adopted for the purpose of evading said  
180 provisions, except that no such plan may excuse the failure to hire any  
181 individual and no such system or plan may require or permit the  
182 termination of employment on the basis of age. No such plan which

183 covers less than twenty employees may reduce the group hospital,  
184 surgical or medical insurance coverage provided under the plan to any  
185 employee who has reached the age of sixty-five and is eligible for  
186 Medicare benefits or any employee's spouse who has reached age  
187 sixty-five and is eligible for Medicare benefits except to the extent such  
188 coverage is provided by Medicare. The terms of any such plan which  
189 covers twenty or more employees shall entitle any employee who has  
190 attained the age of sixty-five and any employee's spouse who has  
191 attained the age of sixty-five to group hospital, surgical or medical  
192 insurance coverage under the same conditions as any covered  
193 employee or spouse who is under the age of sixty-five.

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

202 (3) The provisions of this section concerning age shall not prohibit  
203 an employer from requiring medical examinations for employees for  
204 the purpose of determining such employees' physical qualification for  
205 continued employment.

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

210 (d) (1) An employer shall provide written notice of the right to be  
211 free from discrimination in relation to pregnancy, childbirth and  
212 related conditions, including the right to a reasonable accommodation  
213 to the known limitations related to pregnancy pursuant to subdivision  
214 (7) of subsection (b) of this section to: (A) New employees at the

215 commencement of employment; (B) existing employees within one  
216 hundred twenty days after the effective date of this section; and (C)  
217 any employee who notifies the employer of her pregnancy within ten  
218 days of such notification. An employer may comply with the  
219 provisions of this section by displaying a poster in a conspicuous  
220 place, accessible to employees, at the employer's place of business that  
221 contains the information required by this section in both English and  
222 Spanish. The Labor Commissioner may adopt regulations, in  
223 accordance with chapter 54, to establish additional requirements  
224 concerning the means by which employers shall provide such notice.

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

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

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

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

239 The commission shall have the following powers and duties:

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

242 (2) To organize the commission into a division of affirmative action  
243 monitoring and contract compliance, a division of discriminatory  
244 practice complaints and such other divisions, bureaus or units as may



245 be necessary for the efficient conduct of business of the commission;

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

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

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

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

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

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

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

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

270 (11) To require written answers to interrogatories under oath  
271 relating to any complaint under investigation pursuant to this chapter  
272 alleging any discriminatory practice as defined in subdivision (8) of

273 section 46a-51, and to adopt regulations, in accordance with the  
274 provisions of chapter 54, for the procedure for the issuance of  
275 interrogatories and compliance with interrogatory requests;

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

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

286 (14) To require the posting, by any respondent or other person  
287 subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-  
288 81e, of such notices of statutory provisions as it deems desirable;

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

305 General Assembly;

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

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

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

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

343 The provisions of subsection (a) of section 4a-60, subsection (c) of  
 344 section 8-169s, section 8-265c, subsection (c) of section 8-294, section 8-  
 345 315, subsection (a) of section 10-15c, section 10-153, subsection (b) of  
 346 section 10a-6, subsection (a) of section 11-24b, sections 16-245r and 16-  
 347 247r, subsection (b) of section 28-15, section 31-22p, subsection (e) of  
 348 section 31-57e, sections 32-277, 38a-358 and 42-125a, subsection (c) of  
 349 section 42-125b, subsection (a) of section 46a-58, subsection (a) of  
 350 section 46a-59, subsection [(a)] (b) of section 46a-60, as amended by  
 351 this act, subsection (a) of section 46a-64, subsections (a) and (e) of  
 352 section 46a-64c, subsection (a) of section 46a-66, subsection (a) of  
 353 section 46a-70, subsection (a) of section 46a-71, subsection (b) of section  
 354 46a-72, subsection (a) of section 46a-73, subsection (a) of section 46a-75,  
 355 subsection (a) of section 46a-76, subsections (b) and (c) of section 52-  
 356 571d and section 53-37a that prohibit discrimination on the basis of  
 357 gender identity or expression shall not apply to a religious  
 358 corporation, entity, association, educational institution or society with  
 359 respect to the employment of individuals to perform work connected  
 360 with the carrying on by such corporation, entity, association,  
 361 educational institution or society of its activities, or with respect to  
 362 matters of discipline, faith, internal organization or ecclesiastical rule,  
 363 custom or law which are established by such corporation, entity,  
 364 association, educational institution or society.

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

Sec. 4	October 1, 2017	46a-81aa
--------	-----------------	----------

**LAB**      *Joint Favorable Subst.*