



# Senate

General Assembly

**File No. 604**

February Session, 2018

Substitute Senate Bill No. 132

*Senate, April 19, 2018*

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT COMBATting SEXUAL HARASSMENT AND SEXUAL ASSAULT.**

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

1 Section 1. Section 46a-54 of the 2018 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective October 1, 2018*):

4 The commission shall have the following powers and duties:

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

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

11 (3) To employ legal staff and commission legal counsel as necessary

12 to perform the duties and responsibilities under section 46a-55. One  
13 commission legal counsel shall serve as supervising attorney. Each  
14 commission legal counsel shall be admitted to practice law in this state;

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

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

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

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

25 (8) To receive, initiate as provided in section 46a-82, as amended by  
26 this act, investigate and mediate discriminatory practice complaints;

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

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

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

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

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

51 (14) To require the posting, by any respondent or other person  
52 subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-  
53 81e, of such notices of statutory provisions as it deems desirable;

54 (15) (A) To require an employer having three or more employees to  
55 (i) post in a prominent and accessible location information concerning  
56 the illegality of sexual harassment and remedies available to victims of  
57 sexual harassment, and (ii) provide, not later than three months after  
58 the employee's start date with the employer, a copy of the information  
59 concerning the illegality of sexual harassment and remedies available  
60 to victims of sexual harassment to each employee by electronic mail  
61 with a subject line that includes the words "Sexual Harassment Policy"  
62 or words of similar import, if (I) the employer has provided an  
63 electronic mail account to the employee, or (II) the employee has  
64 provided the employer with an electronic mail address, provided if an  
65 employer has not provided an electronic mail account to the employee,  
66 the employer shall post the information concerning the illegality of  
67 sexual harassment and remedies available to victims of sexual  
68 harassment on the employer's Internet web site, if the employer  
69 maintains such an Internet web site; and (B) to require an employer  
70 having [fifty] three or more employees to provide two hours of  
71 training and education to all [supervisory] employees within one year  
72 of [October 1, 1992, and to all new supervisory employees within six  
73 months of their assumption of a supervisory position] October 1, 2018,

74 provided any employer who has provided such training and education  
75 to any such employees after October 1, [1991] 2017, shall not be  
76 required to provide such training and education a second time. Any  
77 employee hired by an employer on or after October 1, 2018, shall  
78 receive such training and education not later than six months after the  
79 date of his or her hire. Such training and education shall include  
80 information concerning the federal and state statutory provisions  
81 concerning sexual harassment and remedies available to victims of  
82 sexual harassment, including, but not limited to, the remedies  
83 available from the commission pursuant to the provisions of this  
84 chapter. As used in this subdivision, "sexual harassment" has the same  
85 meaning as provided in subdivision (8) of subsection (b) of section 46a-  
86 60, as amended by this act, and "employer" includes the General  
87 Assembly;

88 (16) To require each state agency that employs one or more  
89 employees to (A) provide a minimum of three hours of diversity  
90 training and education (i) to all supervisory and nonsupervisory  
91 employees, not later than July 1, 2002, with priority for such training to  
92 supervisory employees, and (ii) to all newly hired supervisory and  
93 nonsupervisory employees, not later than six months after their  
94 assumption of a position with a state agency, with priority for such  
95 training to supervisory employees. Such training and education shall  
96 include information concerning the federal and state statutory  
97 provisions concerning discrimination and hate crimes directed at  
98 protected classes and remedies available to victims of discrimination  
99 and hate crimes, standards for working with and serving persons from  
100 diverse populations and strategies for addressing differences that may  
101 arise from diverse work environments; and (B) submit an annual  
102 report to the Commission on Human Rights and Opportunities  
103 concerning the status of the diversity training and education required  
104 under subparagraph (A) of this subdivision. The information in such  
105 annual reports shall be reviewed by the commission for the purpose of  
106 submitting an annual summary report to the General Assembly.  
107 Notwithstanding the provisions of this section, if a state agency has  
108 provided such diversity training and education to any of its employees

109 prior to October 1, 1999, such state agency shall not be required to  
110 provide such training and education a second time to such employees.  
111 The requirements of this subdivision shall be accomplished within  
112 available appropriations. As used in this subdivision, "employee" shall  
113 include any part-time employee who works more than twenty hours  
114 per week;

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

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

123 (19) To ensure compliance with the provisions of this chapter,  
124 including, but not limited to, the authority to petition the superior  
125 court for the judicial district of Hartford for the enforcement of any  
126 order issued, or fine imposed, by the commission, and for other  
127 appropriate relief.

128 Sec. 2. Subdivision (8) of subsection (b) of section 46a-60 of the 2018  
129 supplement to the general statutes is repealed and the following is  
130 substituted in lieu thereof (*Effective October 1, 2018*):

131 (8) (A) For an employer, by the employer or the employer's agent,  
132 for an employment agency, by itself or its agent, or for any labor  
133 organization, by itself or its agent, to harass any employee, person  
134 seeking employment or member on the basis of sex or gender identity  
135 or expression. "Sexual harassment" shall, for the purposes of this  
136 subdivision, be defined as any unwelcome sexual advances or requests  
137 for sexual favors or any conduct of a sexual nature when [(A)] (i)  
138 submission to such conduct is made either explicitly or implicitly a  
139 term or condition of an individual's employment, [(B)] (ii) submission  
140 to or rejection of such conduct by an individual is used as the basis for

141 employment decisions affecting such individual, or [(C)] (iii) such  
142 conduct has the purpose or effect of substantially interfering with an  
143 individual's work performance or creating an intimidating, hostile or  
144 offensive working environment;

145 (B) If a judge or the commission finds that an employer has engaged  
146 in a demonstrated pattern of sexual harassment, it shall not be a  
147 defense to a subsequent complaint of sexual harassment, filed in  
148 accordance with section 46a-82, that (i) the claim of sexual harassment  
149 was properly investigated, immediate corrective action was taken and  
150 no act of sexual harassment subsequently occurred, (ii) the claim of  
151 sexual harassment was not reported to the employer prior to the filing  
152 of a complaint with the commission, (iii) an employer has a policy of  
153 prohibiting sexual harassment or recently trained its employees on  
154 sexual harassment in accordance with subdivision (15) of section 46a-  
155 54, as amended by this act, or (iv) the sexual harassment was not  
156 severe or pervasive. Such defenses may be introduced by a respondent  
157 on the question of damages; and

158 (C) If an employer takes immediate corrective action in response to  
159 an employee's claim of sexual harassment, such corrective action shall  
160 not modify the conditions of employment of the employee making the  
161 claim of sexual harassment unless such employee agrees, in writing, to  
162 any modification in the conditions of employment. Corrective action  
163 taken by an employer, may include, but need not be limited to,  
164 employee relocation, assigning an employee to a different work  
165 schedule or other substantive changes to an employee's terms and  
166 conditions of employment;

167 Sec. 3. Subsection (f) of section 46a-82 of the general statutes is  
168 repealed and the following is substituted in lieu thereof (*Effective*  
169 *October 1, 2018*):

170 (f) (1) Any complaint filed pursuant to this section [must] alleging a  
171 discriminatory practice that occurred prior to October 1, 2018, shall be  
172 filed within one hundred and eighty days after the alleged act of  
173 discrimination, except that any complaint by a person claiming to be

174 aggrieved by a violation of subsection (a) of section 46a-80 must be  
175 filed within thirty days of the alleged act of discrimination.

176 (2) Any complaint alleging a discriminatory practice that occurred  
177 on or after October 1, 2018, shall be filed not later than three years after  
178 the date of the alleged act of discrimination.

179 Sec. 4. Subsection (b) of section 46a-86 of the general statutes is  
180 repealed and the following is substituted in lieu thereof (*Effective*  
181 *October 1, 2018*):

182 (b) In addition to any other action taken under this section, upon a  
183 finding of a discriminatory employment practice, the presiding officer  
184 (1) may order the hiring, promotion or reinstatement of any individual,  
185 with or without back pay, or restoration to membership in any  
186 respondent labor organization, and (2) shall (A) determine the amount  
187 of damages suffered by the complainant, including the actual costs  
188 incurred by the complainant as a result of the discriminatory practice  
189 and reason, and (B) allow reasonable attorney's fees and costs. The  
190 amount of attorney's fees allowed shall not be contingent upon the  
191 amount of damages requested by or awarded to the complainant.  
192 Liability for back pay shall not accrue from a date more than two years  
193 prior to the filing or issuance of the complaint. Interim earnings,  
194 including unemployment compensation and welfare assistance or  
195 amounts which could have been earned with reasonable diligence on  
196 the part of the person to whom back pay is awarded shall be deducted  
197 from the amount of back pay to which such person is otherwise  
198 entitled. The amount of any deduction for interim unemployment  
199 compensation or welfare assistance shall be paid by the respondent to  
200 the commission which shall transfer such amount to the appropriate  
201 state or local agency.

202 Sec. 5. Subsection (a) of section 46a-89 of the general statutes is  
203 repealed and the following is substituted in lieu thereof (*Effective*  
204 *October 1, 2018*):

205 (a) (1) Whenever a complaint filed pursuant to section 46a-82, as

206 amended by this act, alleges a violation of section 46a-60 or 46a-81c,  
207 and the executive director believes that equitable relief is required to  
208 prevent irreparable harm to the complainant or, for an alleged  
209 violation of section 46a-60, as amended by this act, or 46a-81c that  
210 occurred on or after October 1, 2018, that the imposition of punitive  
211 damages or a civil penalty would be appropriate, the commission may  
212 bring a petition in the superior court for the judicial district of  
213 Hartford, the judicial district in which the discriminatory practice  
214 which is the subject of the complaint occurred or the judicial district in  
215 which the respondent resides, provided this subdivision shall not  
216 apply to complaints against employers with less than [fifty] three  
217 employees.

218 (2) The petition [shall] brought by the commission may seek (A)  
219 appropriate temporary injunctive relief against the respondent  
220 pending final disposition of the complaint pursuant to the procedures  
221 set forth in this chapter. The injunctive relief may include an order  
222 temporarily restraining the respondent from doing any act that would  
223 render ineffectual any order a presiding officer may render with  
224 respect to the complaint, (B) the award of punitive damages payable to  
225 the complainant, not to exceed fifty thousand dollars, or (C) both of the  
226 remedies provided in subparagraphs (A) and (B) of this subdivision.

227 (3) Upon service on the respondent of notice pursuant to section  
228 46a-89a, the respondent shall be temporarily restrained from taking  
229 any action that would render ineffectual the temporary injunctive  
230 relief requested in the petition, provided nothing in this section shall  
231 be construed to prevent the respondent from having any employment  
232 duties enjoined under this section and section 46a-89a, from being  
233 carried out by another employee and the notice shall so provide.

234 Sec. 6. Section 46a-83a of the general statutes is repealed and the  
235 following is substituted in lieu thereof (*Effective October 1, 2018*):

236 [If] On or after October 1, 2018, if a complaint is dismissed for  
237 failure to accept full relief pursuant to subsection (m) of section 46a-83,  
238 and the complainant does not request reconsideration of such



239 dismissal as provided in subsection (h) of section 46a-83, the executive  
240 director shall issue a release of jurisdiction and the complainant may,  
241 [within ninety days] not later than two years after the date of receipt of  
242 the release from the commission, bring an action in accordance with  
243 sections 46a-100 and 46a-102 to 46a-104, inclusive, as amended by this  
244 act.

245 Sec. 7. Section 46a-97 of the general statutes is repealed and the  
246 following is substituted in lieu thereof (*Effective October 1, 2018*):

247 (a) Any employer, employment agency or labor organization which  
248 fails to post such notices of statutory provisions as the commission  
249 may require pursuant to subsection (13) of section 46a-54, as amended  
250 by this act, shall be [subject to a fine of] fined not more than [two  
251 hundred fifty] one thousand dollars.

252 (b) Any person who fails to post such notices of statutory provisions  
253 as the commission may require pursuant to subsection (14) of section  
254 46a-54, as amended by this act, shall be fined not more than [two  
255 hundred fifty] one thousand dollars.

256 (c) Any employer who fails to provide information concerning the  
257 illegality of sexual harassment and the remedies available to victims of  
258 sexual harassment, as the commission may require pursuant to  
259 subdivision (15) of section 46a-54, as amended by this act, shall be  
260 fined not more than one thousand dollars.

261 Sec. 8. Subsection (e) of section 46a-101 of the general statutes is  
262 repealed and the following is substituted in lieu thereof (*Effective*  
263 *October 1, 2018*):

264 (e) [Any] On or after October 1, 2018, any action brought by the  
265 complainant in accordance with section 46a-100 shall be brought not  
266 later than [ninety days] two years after the date of the receipt of the  
267 release from the commission.

268 Sec. 9. Section 46a-102 of the general statutes is repealed and the  
269 following is substituted in lieu thereof (*Effective October 1, 2018*):

270 [Any] On and after October 1, 2018, any action brought in  
271 accordance with section 46a-100 shall be brought [within] not later  
272 than two years [of the date of filing of the complaint with] after the  
273 date of the release from the commission. [, except that an action may be  
274 brought within six months of October 1, 1991, with respect to an  
275 alleged violation provided a complaint concerning such violation has  
276 been pending with the commission for more than one year as of  
277 October 1, 1991, unless the complaint has been scheduled for a  
278 hearing.]

279 Sec. 10. Section 46a-104 of the general statutes is repealed and the  
280 following is substituted in lieu thereof (*Effective October 1, 2018*):

281 The court may grant a complainant in an action brought in  
282 accordance with section 46a-100 such legal and equitable relief which it  
283 deems appropriate including, but not limited to, temporary or  
284 permanent injunctive relief, punitive damages, attorney's fees and  
285 court costs. The amount of attorney's fees allowed shall not be  
286 contingent upon the amount of damages requested by or awarded to  
287 the complainant.

288 Sec. 11. Subsection (b) of section 17a-101 of the 2018 supplement to  
289 the general statutes is repealed and the following is substituted in lieu  
290 thereof (*Effective October 1, 2018*):

291 (b) The following persons shall be mandated reporters: (1) Any  
292 physician or surgeon licensed under the provisions of chapter 370, (2)  
293 any resident physician or intern in any hospital in this state, whether  
294 or not so licensed, (3) any registered nurse, (4) any licensed practical  
295 nurse, (5) any medical examiner, (6) any dentist, (7) any dental  
296 hygienist, (8) any psychologist, (9) any school employee, as defined in  
297 section 53a-65, (10) any social worker, (11) any person who holds or is  
298 issued a coaching permit by the State Board of Education, is a coach of  
299 intramural or interscholastic athletics and is eighteen years of age or  
300 older, (12) any individual who is employed as a coach or director of  
301 youth athletics and is eighteen years of age or older, (13) any  
302 individual who is employed as a coach or director of a private youth

303 sports organization, league or team and is eighteen years of age or  
304 older, (14) any paid administrator, faculty, staff, athletic director,  
305 athletic coach or athletic trainer employed by a public or private  
306 institution of higher education who is eighteen years of age or older,  
307 excluding student employees, (15) any police officer, (16) any juvenile  
308 or adult probation officer, (17) any juvenile or adult parole officer, (18)  
309 any member of the clergy, (19) any pharmacist, (20) any physical  
310 therapist, (21) any optometrist, (22) any chiropractor, (23) any  
311 podiatrist, (24) any mental health professional, (25) any physician  
312 assistant, (26) any person who is a licensed or certified emergency  
313 medical services provider, (27) any person who is a licensed or  
314 certified alcohol and drug counselor, (28) any person who is a licensed  
315 marital and family therapist, (29) any person who is a sexual assault  
316 counselor or a domestic violence counselor, as defined in section 52-  
317 146k, (30) any person who is a licensed professional counselor, (31) any  
318 person who is a licensed foster parent, (32) any person paid to care for  
319 a child in any public or private facility, child care center, group child  
320 care home or family child care home licensed by the state, (33) any  
321 employee of the Department of Children and Families, (34) any  
322 employee of the Department of Public Health, (35) any employee of the  
323 Office of Early Childhood who is responsible for the licensing of child  
324 care centers, group child care homes, family child care homes or youth  
325 camps, (36) any paid youth camp director or assistant director, (37) the  
326 Child Advocate and any employee of the Office of the Child Advocate,  
327 [and] (38) any family relations counselor, family relations counselor  
328 trainee or family services supervisor employed by the Judicial  
329 Department, (39) any person who is a licensed behavior analyst or  
330 board certified assistant behavior analyst, and (40) any person who is  
331 employed by an entity described in subdivisions (7) to (11), inclusive,  
332 of subsection (b) of section 19a-77, who is eighteen years of age or  
333 older.

334 Sec. 12. (NEW) (*Effective July 1, 2018*) (a) As used in this section:

335 (1) "Administrator" has the same meaning as provided in subsection  
336 (a) of section 10-144e of the general statutes;

337 (2) "Sexual harassment" has the same meaning as provided in  
338 subdivision (8) of subsection (b) of section 46a-60 of the general  
339 statutes, as amended by this act; and

340 (3) "School employee" has the same meaning as provided in  
341 subdivision (13) of section 53a-65 of the general statutes.

342 (b) Upon the filing of a complaint of sexual harassment by a school  
343 employee against an administrator, the superintendent of schools shall  
344 immediately suspend such administrator and conduct an investigation  
345 of the allegations contained in such complaint. Such suspension shall  
346 be with pay and shall not result in the diminution or termination of  
347 benefits to such administrator.

348 Sec. 13. (NEW) (*Effective October 1, 2018*) (a) As used in this section,  
349 "employer" has the same meaning as provided in section 31-58 of the  
350 general statutes, and "employee" means any individual employed or  
351 permitted to work by an employer.

352 (b) If an employee employed in a bona fide executive,  
353 administrative or professional capacity, as defined in the regulations of  
354 the federal Fair Labor Standards Act, is absent from his or her  
355 employment as a result of a disciplinary suspension for violating a  
356 written workplace conduct rule prohibiting harassment or workplace  
357 violence, the employer may deduct from the wages of such employee  
358 an amount equal to the wages that would have been paid for the  
359 number of days such employee is absent.

360 (c) The Labor Commissioner may adopt regulations, in accordance  
361 with the provisions of chapter 54 of the general statutes, to implement  
362 the provisions of this section.

363 Sec. 14. Subsection (d) of section 54-211 of the 2018 supplement to  
364 the general statutes is repealed and the following is substituted in lieu  
365 thereof (*Effective October 1, 2018*):

366 (d) (1) No compensation shall be in an amount in excess of fifteen  
367 thousand dollars for personal injury except that: (A) Compensation to

368 or for the benefit of a sexual assault victim or the dependents of a  
369 homicide victim shall be in an amount not to exceed twenty-five  
370 thousand dollars; (B) the claims of the dependents of a deceased  
371 victim, as provided in section 54-208, shall be considered derivative of  
372 the claim of such victim and the total compensation paid for all claims  
373 arising from the death of such victim shall not exceed a maximum of  
374 twenty-five thousand dollars; and (C) in cases of emotional harm only,  
375 compensation for medical and mental health care shall be in an  
376 amount not to exceed five thousand dollars.

377 (2) Notwithstanding the provisions of subdivision (1) of this  
378 subsection, the Office of Victim Services or a victim compensation  
379 commissioner may award additional compensation in an amount not  
380 to exceed five thousand dollars above the maximum amounts set forth  
381 in said subdivision to a personal injury victim, who is a minor at the  
382 time the application for compensation or restitution services is filed,  
383 when such victim has additional medical needs or mental health  
384 counseling needs.

385 (3) Notwithstanding the provisions of subdivision (1) of this  
386 subsection, the Office of Victim Services or a victim compensation  
387 commissioner may, for good cause shown and upon a finding of  
388 compelling equitable circumstances, award compensation in an  
389 amount in excess of the maximum amounts set forth in said  
390 subdivision.

391 Sec. 15. Section 54-193 of the general statutes is repealed and the  
392 following is substituted in lieu thereof (*Effective October 1, 2018, and*  
393 *applicable to any offense committed on or after October 1, 2018, and to any*  
394 *offense committed prior to October 1, 2018, for which the statute of*  
395 *limitations in effect at the time of the commission of the offense had not yet*  
396 *expired as of October 1, 2018*):

397 (a) There shall be no limitation of time within which a person may  
398 be prosecuted for (1) a capital felony under the provisions of section  
399 53a-54b in effect prior to April 25, 2012, a class A felony or a violation  
400 of section 53a-54d or 53a-169, a class B felony violation of section 53a-

401 70 or 53a-70a, a class D felony violation of section 53a-73a, or a  
402 violation of section 53a-70b, 53a-71, 53a-72a or 53a-72b, (2) a violation  
403 of section 53a-165aa or 53a-166 in which such person renders criminal  
404 assistance to another person who has committed an offense set forth in  
405 subdivision (1) of this subsection, (3) a violation of section 53a-156  
406 committed during a proceeding that results in the conviction of  
407 another person subsequently determined to be actually innocent of the  
408 offense or offenses of which such other person was convicted, or (4) a  
409 motor vehicle violation or offense that resulted in the death of another  
410 person and involved a violation of subsection (a) of section 14-224.

411 (b) No person may be prosecuted for any offense, other than an  
412 offense set forth in subsection (a) of this section, for which the  
413 punishment is or may be imprisonment in excess of one year, except  
414 within five years next after the offense has been committed.

415 (c) [No] (1) Except as provided in subdivision (2) of this subsection,  
416 no person may be prosecuted for any offense, other than an offense set  
417 forth in subsection (a) or (b) of this section, except within one year next  
418 after the offense has been committed.

419 (2) No person may be prosecuted for a class A misdemeanor  
420 violation of section 53a-73a, except within ten years next after the  
421 offense has been committed.

422 (d) If the person against whom an indictment, information or  
423 complaint for any of said offenses is brought has fled from and resided  
424 out of this state during the period so limited, it may be brought against  
425 such person at any time within such period, during which such person  
426 resides in this state, after the commission of the offense.

427 (e) When any suit, indictment, information or complaint for any  
428 crime may be brought within any other time than is limited by this  
429 section, it shall be brought within such time.

430 Sec. 16. Section 54-193a of the general statutes is repealed and the  
431 following is substituted in lieu thereof (*Effective October 1, 2018, and*

432 applicable to any offense committed on or after October 1, 2018, and to any  
 433 offense committed prior to October 1, 2018, for which the statute of  
 434 limitations in effect at the time of the commission of the offense had not yet  
 435 expired as of October 1, 2018):

436 Notwithstanding the provisions of section 54-193, as amended by  
 437 this act, [no person may be prosecuted for any offense, except a class A  
 438 felony,] there shall be no limitation of time within which a person may  
 439 be prosecuted for an offense involving sexual abuse, sexual  
 440 exploitation or sexual assault of a minor. [except within thirty years  
 441 from the date the victim attains the age of majority or within five years  
 442 from the date the victim notifies any police officer or state's attorney  
 443 acting in such police officer's or state's attorney's official capacity of the  
 444 commission of the offense, whichever is earlier, provided if the  
 445 prosecution is for a violation of subdivision (1) of subsection (a) of  
 446 section 53a-71, the victim notified such police officer or state's attorney  
 447 not later than five years after the commission of the offense.]

448 Sec. 17. Section 54-193b of the general statutes is repealed. (*Effective*  
 449 *October 1, 2018*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	46a-54
Sec. 2	<i>October 1, 2018</i>	46a-60(b)(8)
Sec. 3	<i>October 1, 2018</i>	46a-82(f)
Sec. 4	<i>October 1, 2018</i>	46a-86(b)
Sec. 5	<i>October 1, 2018</i>	46a-89(a)
Sec. 6	<i>October 1, 2018</i>	46a-83a
Sec. 7	<i>October 1, 2018</i>	46a-97
Sec. 8	<i>October 1, 2018</i>	46a-101(e)
Sec. 9	<i>October 1, 2018</i>	46a-102
Sec. 10	<i>October 1, 2018</i>	46a-104
Sec. 11	<i>October 1, 2018</i>	17a-101(b)
Sec. 12	<i>July 1, 2018</i>	New section
Sec. 13	<i>October 1, 2018</i>	New section
Sec. 14	<i>October 1, 2018</i>	54-211(d)

Sec. 15	<i>October 1, 2018, and applicable to any offense committed on or after October 1, 2018, and to any offense committed prior to October 1, 2018, for which the statute of limitations in effect at the time of the commission of the offense had not yet expired as of October 1, 2018</i>	54-193
Sec. 16	<i>October 1, 2018, and applicable to any offense committed on or after October 1, 2018, and to any offense committed prior to October 1, 2018, for which the statute of limitations in effect at the time of the commission of the offense had not yet expired as of October 1, 2018</i>	54-193a
Sec. 17	<i>October 1, 2018</i>	Repealer section

**Statement of Legislative Commissioners:**

In Section 12(b), "benefits to such employee" was changed to "benefits to such administrator" for clarity.

**JUD**      *Joint Favorable Subst.*



The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Human Rights & Opportunities, Com.	GF - Potential Cost	105,090	140,120
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Potential Cost	38,179	50,906
Human Rights & Opportunities, Com.	GF - Cost	125,642	167,522
State Comptroller - Fringe Benefits	GF - Cost	45,646	60,861
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	See Below	See Below
Judicial Dept.	CICF - Cost	Up to 2.7 million	Up to 2.7 million

Note: GF=General Fund; CICF=Criminal Injuries Compensation Fund

**Municipal Impact:** None

**Explanation**

The bill makes changes concerning sexual harassment and sexual assault, discrimination complaints filed with the Commission on Human Rights and Opportunities (CHRO), and various other changes.

**Section 1** lowers the employee threshold and expands the types of employees who require sexual harassment training. While employers can hire private firms to conduct training, CHRO provides free training. To the extent there is a significant increase in the number of requests for training, CHRO may need to have two additional training

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.33% of payroll in FY 19 and FY 20.

staff, a potential cost of \$143,269 in FY 19 (partial year) and \$191,026 in FY 20 (annualized), including fringe benefits.

**Section 2** restricts employers found to engage in a pattern of sexual harassment from raising certain defenses for subsequent sexual harassment complaints. Limiting these defenses is anticipated to increase number of complaints CHRO receives, requiring an additional attorney at a cost of approximately \$71,635 in FY 19 (partial year) and \$95,513 in FY 20 (annualized), including fringe benefits.

**Section 3** extends the time for filing a discriminatory complaint with CHRO from 30-180 days to three years. CHRO dismisses numerous complaints due to lack of timeliness and the extension of the deadline is anticipated to increase the number of cases processed and retained.<sup>2</sup> This would require the addition of two Human Rights Investigator Trainees resulting in a cost of \$99,652 in FY 19 (partial year) and \$132,870 in FY 20 (annualized), including fringe benefits.

**Section 14** increases, from \$15,000 to \$25,000, the maximum compensation available to an eligible sexual assault victim from the Office of Victim Services. There are currently approximately 270 victims each year that receive compensation (most do not receive the full amount of \$15,000). If all victims qualified for the new maximum compensation of \$25,000, the bill would result in a cost of \$2.7 million to the Criminal Injuries Compensation Fund. It should be noted that the Criminal Injuries Compensation Fund, which receives revenue from various court fees and defendant fines, cannot support this cost with the existing revenue structure. Currently, annual revenues to the fund total approximately \$3.2 million while expenditures total approximately \$2.8 million.

**Section 15** eliminates the statute of limitations for certain felony sexual assault crimes and extends the statute of limitations from one year to 10 years for a specified sexual assault crime. To the extent that

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<sup>2</sup> Between FY 15 and FY 16 the CHRO dismissed approximately 93 cases for failure to state a claim due to timeliness.

this change results in more offenders being prosecuted and convicted, this bill results in a potential cost for incarceration or probation supervision in the community. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,900<sup>3</sup> while the average marginal cost for supervision in the community is less than \$700<sup>4</sup> each year.

In FY 17, there was over 812 charges for the offenses listed, with 368 receiving a guilty charge or plea bargain. As of January 2018, there are approximately 704 persons incarcerated for the offenses listed and approximately 522 on probation.

**Sections 4-13 and Sections 16-17** have no fiscal impact.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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<sup>3</sup> Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

<sup>4</sup> Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

**OLR Bill Analysis****sSB 132****AN ACT COMBATTING SEXUAL HARASSMENT AND SEXUAL ASSAULT.**

## TABLE OF CONTENTS:

[SUMMARY](#)[§§ 1 & 7 — SEXUAL HARASSMENT TRAINING AND INFORMATION REQUIREMENTS FOR EMPLOYERS](#)

Expands requirements for employers, including on training employees regarding sexual harassment laws

[§ 1 — CHRO PETITIONS TO COURT](#)

Specifies CHRO's authority to apply to court to enforce orders or fines

[§ 2 — ALLOWABLE DEFENSES IN EMPLOYER SEXUAL HARASSMENT CASES](#)

Restricts employers found to have engaged in a pattern of sexual harassment from raising certain defenses, except as to the amount of damages, and allows employers to modify the conditions of an alleged victim's employment only if the person consents

[§ 3 — CHRO COMPLAINT FILING DEADLINE](#)

Gives individuals up to three years to file a discriminatory practice complaint with CHRO

[§ 4 — REMEDIES FOR DISCRIMINATORY EMPLOYMENT PRACTICES](#)

Expands the authority of a CHRO presiding officer after finding a discriminatory employment practice, including ordering promotion and attorney's fees

[§ 5 — PUNITIVE DAMAGES OR EQUITABLE RELIEF IN EMPLOYMENT DISCRIMINATION CASES](#)

Allows CHRO to seek punitive damages against employers and to seek injunctive relief against a broader range of employers

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### §§ 6 & 8-10 — COURT CASE AFTER RELEASE FROM CHRO JURISDICTION

Gives a complainant more time to bring a court case after being released from CHRO jurisdiction and allows courts to award punitive damages in such cases

### § 7 — PENALTY FOR FAILURE TO POST CERTAIN NOTICES

Increases the fine for failing to post certain notices about anti-discrimination laws

### § 11 — MANDATED REPORTERS OF CHILD ABUSE

Adds to the list of mandated reporters of child abuse or neglect

### § 12 — SCHOOL ADMINISTRATOR SUSPENSIONS

Requires school superintendents, after an employee files a sexual harassment complaint against an administrator, to immediately suspend the administrator with pay and conduct an investigation

### § 13 — WAGE DEDUCTIONS FOR CERTAIN SUSPENSIONS

Allows employers to deduct pay for executive, administrative, or professional employees who miss work due to disciplinary suspensions

### § 14 — VICTIM COMPENSATION

Increases the amount of compensation a sexual assault victim may receive for personal injuries

### §§ 15-17 — ELIMINATING THE STATUTE OF LIMITATIONS FOR SEXUAL ASSAULT

Eliminates the statute of limitations for all felony sexual assault crimes and all other crimes involving sexual abuse, sexual exploitation, or sexual assault of a minor and extends the statute of limitations for a misdemeanor sexual assault crime

### BACKGROUND

Information on bills related to § 1 and §§ 15-17

### **SUMMARY**

This bill makes various changes concerning sexual harassment, sexual assault, discrimination complaints filed with the Commission on Human Rights and Opportunities (CHRO), and related matters. For example, it:

1. expands requirements for employers to train employees on sexual harassment laws;
2. allows (a) CHRO to seek punitive damages against employers and (b) courts to order punitive damages in cases after release from CHRO jurisdiction; and
3. eliminates the criminal statute of limitations for all felony sexual assault crimes.

EFFECTIVE DATE: October 1, 2018, except as otherwise noted below.

## **§§ 1 & 7 — SEXUAL HARASSMENT TRAINING AND INFORMATION REQUIREMENTS FOR EMPLOYERS**

*Expands requirements for employers, including on training employees regarding sexual harassment laws*

### ***Training***

Under current law, CHRO can require employers with at least 50 employees to provide their supervisory employees with two hours of training on federal and state sexual harassment laws and remedies available to victims. The bill (1) lowers the employer threshold to those with at least three employees and (2) requires that training also be provided to nonsupervisory employees. It specifies that the training must cover the remedies available from CHRO.

The bill requires the new training to take place by October 1, 2019, except that any employer who provided the bill's training after October 1, 2017 is not required to provide the training a second time. The training must take place within six months for employees hired on or after October 1, 2018.

### ***Information***

Existing law gives CHRO the power to require that employers with three or more employees post in a prominent and accessible place a notice that sexual harassment is illegal and of the remedies available to victims. The bill requires such employers to also send a copy of this

information to employees by email, within three months of their hire, if the (1) employer has provided an email account to the employee or (2) employee has provided the employer with an email address. The email's subject line must include "Sexual Harassment Policy" or something similar.

Under the bill, if an employer has not provided email accounts to employees, it must post the information on its website, if it has one.

The bill subjects employers to a fine of up to \$1,000 if they fail to provide the information as required.

### **§ 1 — CHRO PETITIONS TO COURT**

*Specifies CHRO's authority to apply to court to enforce orders or fines*

The bill specifies that CHRO has the authority to ensure compliance with the laws over which it has jurisdiction, including the authority to petition the Hartford Superior Court to enforce orders or fines or for other appropriate relief. Existing law authorizes CHRO to petition the court for specified purposes.

### **§ 2 — ALLOWABLE DEFENSES IN EMPLOYER SEXUAL HARASSMENT CASES**

*Restricts employers found to have engaged in a pattern of sexual harassment from raising certain defenses, except as to the amount of damages, and allows employers to modify the conditions of an alleged victim's employment only if the person consents*

Under the bill, if a judge or CHRO finds that an employer has engaged in a demonstrated pattern of sexual harassment, it is not a defense to a subsequent sexual harassment complaint filed with CHRO that:

1. the claim was properly investigated, the employer took immediate corrective action, and no subsequent acts of sexual harassment occurred;
2. the claim was not reported to the employer before the employee filed the complaint;
3. the employer has a policy prohibiting sexual harassment or

recently trained its employees on sexual harassment in accordance with the bill's requirements; or

4. the harassment was not severe or pervasive.

The bill allows the respondent (the employer) to introduce these defenses on the issue of damages.

It prohibits an employer, when taking immediate corrective action in response to an employee's claim of sexual harassment, from modifying the employee's conditions of employment unless he or she agrees, in writing, to the modification. This includes actions such as (1) relocating the employee, (2) assigning the employee to a different work schedule, or (3) making other substantive changes to the terms and conditions of employment.

### **§ 3 — CHRO COMPLAINT FILING DEADLINE**

*Gives individuals up to three years to file a discriminatory practice complaint with CHRO*

The bill extends the time for filing a discriminatory practice complaint with CHRO, until three years after the date of the alleged discriminatory act. The change applies to such acts that allegedly occurred on or after October 1, 2018.

Under current law, such a complaint must be filed within (1) 180 days of the alleged discrimination or (2) 30 days for complaints alleging discrimination based on denial of state employment or occupational licensure due to criminal history.

### **§ 4 — REMEDIES FOR DISCRIMINATORY EMPLOYMENT PRACTICES**

*Expands the authority of a CHRO presiding officer after finding a discriminatory employment practice, including ordering promotion and attorney's fees*

Under current law, after a finding of a discriminatory employment practice, a CHRO hearing officer may order that the complainant be hired or reinstated, with or without back pay, or that his or her membership in any respondent labor organization be restored. The bill adds promotion as a possible order.



It also requires the officer to (1) determine the amount of damages, including the complainant's actual costs as a result of the discrimination and (2) allow reasonable attorney's fees and costs. The amount of attorney's fees cannot be contingent upon the amount of damages requested by or awarded to the complainant.

## **§ 5 — PUNITIVE DAMAGES OR EQUITABLE RELIEF IN EMPLOYMENT DISCRIMINATION CASES**

*Allows CHRO to seek punitive damages against employers and to seek injunctive relief against a broader range of employers*

Under current law, if the CHRO executive director believes that equitable relief is needed to prevent irreparable harm to the complainant in an employment discrimination case, CHRO may apply to court to seek appropriate injunctive relief.

The bill extends this provision in two ways. First, it allows CHRO to seek this relief in cases involving employers with at least three employees, rather than 50 as under current law. It also allows CHRO, if the executive director deems it appropriate, to apply to court for punitive damages of up to \$50,000. Under the bill, CHRO may seek either injunctive relief, punitive damages, or both.

## **§§ 6 & 8-10 — COURT CASE AFTER RELEASE FROM CHRO JURISDICTION**

*Gives a complainant more time to bring a court case after being released from CHRO jurisdiction and allows courts to award punitive damages in such cases*

Under current law, a complainant released from CHRO jurisdiction may bring a court case against the respondent within two years after filing the complaint with CHRO, but no later than 90 days after receiving the release of jurisdiction. The bill instead allows such an individual to file a court case within two years after being released from CHRO jurisdiction.

The bill also allows courts to award punitive damages in such cases. In a 2016 case, the state Supreme Court ruled that the current statute does not authorize courts to award punitive damages (*Tomick v. United Parcel Service, Inc.*, 324 Conn. 470 (2016)).

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**§ 7 — PENALTY FOR FAILURE TO POST CERTAIN NOTICES**

*Increases the fine for failing to post certain notices about anti-discrimination laws*

By law, CHRO can require employers, employment agencies, or labor organizations, or complaint respondents or other people subject to the public accommodations or housing discrimination laws, to post notices describing any laws as CHRO directs. The bill increases the maximum fine for failure to post such notices as required, from \$250 to \$1,000.

**§ 11 — MANDATED REPORTERS OF CHILD ABUSE**

*Adds to the list of mandated reporters of child abuse or neglect*

The bill adds licensed behavior analysts and board-certified assistant behavior analysts to the list of mandated reporters of suspected child abuse and neglect.

It also adds to the mandated reporter list anyone age 18 or older who is employed by certain programs that are exempt, by law, from child care center licensing requirements. This applies to programs administered by:

1. a nationally chartered boys' and girls' club that are exclusively for school-age children;
2. a religious institution that provides religion educational activities exclusively for children whose parents or guardians are members;
3. Solar Youth, Inc., a New Haven-based nonprofit youth development and environmental education organization;
4. organizations under contract with the Department of Social Services that promote the reduction of teenage pregnancy and serve children ages 10 to 19; and
5. the Cardinal Shehan Center, a Bridgeport-based nonprofit organization exclusively for school-age children.

As mandated reporters, they must make such a report when, in the

ordinary course of their employment or profession, they have reasonable cause to believe or suspect that a child under age 18 has been abused, neglected, or placed in imminent risk of serious harm (CGS § 17a-101a). A mandated reporter who fails to report may be subject to criminal penalties.

## **§ 12 — SCHOOL ADMINISTRATOR SUSPENSIONS**

*Requires school superintendents, after an employee files a sexual harassment complaint against an administrator, to immediately suspend the administrator with pay and conduct an investigation*

Under the bill, if a school employee files a sexual harassment complaint against an administrator, the school superintendent must immediately suspend the administrator and conduct an investigation of the allegations. The suspension must be with pay and must not affect the administrator's employee benefits. The bill does not establish procedures for such investigations or a timeframe for their completion.

EFFECTIVE DATE: July 1, 2018

## **§ 13 — WAGE DEDUCTIONS FOR CERTAIN SUSPENSIONS**

*Allows employers to deduct pay for executive, administrative, or professional employees who miss work due to disciplinary suspensions*

The bill allows employers to deduct the pay of certain executive, administrative, or professional employees for periods during which they were suspended from work for violating written workplace rules that prohibit harassment or workplace violence. It also allows the labor commissioner to adopt regulations implementing this provision. Current regulations limit employers' ability to withhold such employees' pay under these circumstances (Conn Agencies Reg., § 31-60-14).

These provisions apply to (1) private sector employers as well as the state and local government employers and (2) individuals employed in a bona fide executive, administrative, or professional capacity as defined in regulations of the federal Fair Labor Standards Act.

## **§ 14 — VICTIM COMPENSATION**

*Increases the amount of compensation a sexual assault victim may receive for personal injuries*

By law, certain crime victims are eligible for compensation from the Office of Victim Services (OVS). For personal injuries, current law generally limits compensation to a maximum of \$15,000, except there is a \$25,000 limit for a dependent of a homicide victim. The bill raises the limit for sexual assault victims to \$25,000. Under existing law, unchanged by the bill, OVS or a victim compensation commissioner may, under certain circumstances, award additional amounts above these limits.

### **§§ 15-17 — ELIMINATING THE STATUTE OF LIMITATIONS FOR SEXUAL ASSAULT**

*Eliminates the statute of limitations for all felony sexual assault crimes and all other crimes involving sexual abuse, sexual exploitation, or sexual assault of a minor and extends the statute of limitations for a misdemeanor sexual assault crime*

The bill eliminates the criminal statute of limitations for all felony sexual assault crimes and all other crimes involving sexual abuse, sexual exploitation, or sexual assault of a minor. It also increases, from one year to 10 years, the statute of limitations for 4<sup>th</sup> degree sexual assault when the victim is age 16 or older (this is a class A misdemeanor).

Under current law for sexual assault crimes:

1. there is no statute of limitations for (a) those crimes that are class A felonies or (b) certain crimes involving DNA evidence;
2. in other cases involving minors, there is an extended statute of limitations; and
3. in cases not covered by (1) or (2), the statute of limitations is generally five years.

EFFECTIVE DATE: October 1, 2018, and the bill applies to (1) offenses committed on or after that date and (2) offenses committed before then if the statute of limitations in effect when the offense was committed has not expired as of October 1, 2018.

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**Eliminating Statute of Limitations**

The bill eliminates the statute of limitations for the following crimes:

1. 1<sup>st</sup> degree sexual assault and 1<sup>st</sup> degree aggravated sexual assault, in cases where either crime is a class B felony (there is already no limitation on prosecuting other cases of these crimes);
2. sexual assault in a spousal or cohabiting relationship;
3. 2<sup>nd</sup> degree sexual assault;
4. 3<sup>rd</sup> degree sexual assault and 3<sup>rd</sup> degree sexual assault with a firearm; and
5. 4<sup>th</sup> degree sexual assault in cases where the crime is a class D felony.

The bill correspondingly repeals a law providing that there is no statute of limitations for certain sexual assault crimes if the (1) victim reports the crime to the police or a prosecutor within five years of the date it is committed and (2) alleged offender's identity is established through DNA evidence collected at the time of the offense. Under the bill, all of the crimes covered by this law have no statute of limitations.

The bill also eliminates the statute of limitations in any offense involving sexual abuse, sexual exploitation, or sexual assault of a minor. Under current law, except for certain crimes with no limitation period already (i.e., class A felonies or cases with DNA evidence), the statute of limitations is generally up to (1) the victim's 48th birthday or (2) five years from the date the victim notifies the police or a prosecutor of the crime, whichever is earlier.

**BACKGROUND**

*Information on bills related to § 1 and §§ 15-17*

**Related Bills**

sHB 5043, reported favorably by the Labor and Public Employees and Appropriations committees, expands requirements for employers

to provide training and information on sexual harassment laws.

The Judiciary Committee favorably reported three other bills concerning the statute of limitations for sexual assault:

1. sSB 5246 contains identical provisions to this bill on the statute of limitations for sexual assault crimes.
2. SB 237 creates a task force to study the statute of limitations for the prosecution of sexual assault crimes.
3. SB 238 extends the criminal statute of limitations for certain sexual assault crimes from five years to 10 years.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 25    Nay 16    (04/03/2018)