



General Assembly

Amendment

February Session, 2018

LCO No. 5170



Offered by:

SEN. FASANO, 34th Dist.

SEN. WITKOS, 8th Dist.

To: Subst. Senate Bill No. 132

File No. 604

Cal. No. 355

(As Amended)

"AN ACT COMBATTING SEXUAL HARASSMENT AND SEXUAL ASSAULT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subdivision (15) of section 46a-54 of the 2018 supplement
4 to the general statutes is repealed and the following is substituted in
5 lieu thereof (*Effective October 1, 2018*):

6 (15) (A) To require an employer having three or more employees to
7 (i) post in a prominent and accessible location information concerning
8 the illegality of sexual harassment and remedies available to victims of
9 sexual harassment, and (ii) provide to each employee, not later than
10 three months after the employee's start date with the employer, the
11 link to the commission's Internet web site concerning the illegality of
12 sexual harassment and the remedies available to victims of sexual

13 harassment by electronic mail or text message, if (I) the employer has
14 provided an electronic mail account or cellular mobile telephone to the
15 employee, or (II) the employee has provided the employer with his or
16 her electronic mail address or cellular mobile telephone number,
17 provided if the employer is unable to provide the link by electronic
18 mail or text message, the employer shall provide a written copy of said
19 link to the commission's Internet web site; and (B) to require an
20 employer having [fifty] (i) twenty-five or more employees to provide
21 [two hours of] training and education to all supervisory employees
22 within one year of [October 1, 1992, and to all new supervisory
23 employees within six months of their assumption of a supervisory
24 position] October 1, 2018, provided any employer who has provided
25 such training and education to any such employees after October 1,
26 [1991] 2017, shall not be required to provide such training and
27 education a second time. Any supervisory employee hired by an
28 employer on or after October 1, 2018, shall receive such training and
29 education not later than six months after the date of his or her hire,
30 provided the commission has developed and made available such
31 training and education materials in accordance with the provisions of
32 subdivision (8) of subsection (a) of section 46a-56, as amended by this
33 act. In addition to the training provided to supervisory employees, an
34 employer having twenty-five or more employees shall provide training
35 to all other employees concerning the illegality of sexual harassment;
36 or (ii) less than twenty-five employees to provide training and
37 education to all supervisory employees within one year of October 1,
38 2018, and to all new supervisory employees within six months of their
39 assumption of a supervisory position, provided any employer who has
40 provided such training and education to any such supervisory
41 employees after October 1, 2017, shall not be required to provide such
42 training and education a second time. Any supervisory employee
43 hired by an employer on or after October 1, 2018, shall receive such
44 training and education not later than six months after the date of his or
45 her hire, provided the commission has developed and made available
46 such training and education materials in accordance with the
47 provisions of subdivision (8) of subsection (a) of section 46a-56, as

48 amended by this act. Such training and education shall include
49 information concerning the federal and state statutory provisions
50 concerning sexual harassment and remedies available to victims of
51 sexual harassment. As used in this subdivision, "sexual harassment"
52 has the same meaning as provided in subdivision (8) of subsection (b)
53 of section 46a-60, and "employer" includes the General Assembly;

54 Sec. 2. Subsection (a) of section 46a-56 of the general statutes is
55 repealed and the following is substituted in lieu thereof (*Effective from*
56 *passage*):

57 (a) The commission shall:

58 (1) Investigate the possibilities of affording equal opportunity of
59 profitable employment to all persons, with particular reference to job
60 training and placement;

61 (2) Compile facts concerning discrimination in employment,
62 violations of civil liberties and other related matters;

63 (3) Investigate and proceed in all cases of discriminatory practices as
64 provided in this chapter and noncompliance with the provisions of
65 section 4a-60 or 4a-60a or sections 46a-68c to 46a-68f, inclusive;

66 (4) From time to time, but not less than once a year, report to the
67 Governor as provided in section 4-60, making recommendations for
68 the removal of such injustices as it may find to exist and such other
69 recommendations as it deems advisable and describing the
70 investigations, proceedings and hearings it has conducted and their
71 outcome, the decisions it has rendered and the other work it has
72 performed;

73 (5) Monitor state contracts to determine whether they are in
74 compliance with sections 4a-60 and 4a-60a, and those provisions of the
75 general statutes which prohibit discrimination; [and]

76 (6) Compile data concerning state contracts with female and
77 minority business enterprises and submit a report annually to the

78 General Assembly concerning the employment of such business
79 enterprises as contractors and subcontractors;

80 (7) Develop and include on the commission's Internet web site a link
81 concerning the illegality of sexual harassment, as defined in section
82 46a-60, as amended by this act, and the remedies available to victims of
83 sexual harassment; and

84 (8) Develop and make available to employers an online training and
85 education video or other interactive method of training and education
86 that fulfills the requirements prescribed in subdivision (15) of section
87 46a-54, as amended by this act.

88 Sec. 3. Subdivision (8) of subsection (b) of section 46a-60 of the 2018
89 supplement to the general statutes is repealed and the following is
90 substituted in lieu thereof (*Effective October 1, 2018*):

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

105 (B) Notwithstanding a judge or the commission finding that a
106 demonstrated pattern of sexual harassment has occurred in an
107 employer's workplace, it shall be an affirmative defense to a complaint
108 of sexual harassment, filed in accordance with section 46a-82, that (i)
109 the claim of sexual harassment was properly investigated, immediate

110 corrective action was taken and no act of sexual harassment
111 subsequently occurred against the complainant, (ii) the claim of sexual
112 harassment was not reported to the employer prior to the filing of a
113 complaint with the commission, (iii) an employer has a policy of
114 prohibiting sexual harassment or recently trained its employees on
115 sexual harassment in accordance with subdivision (15) of section 46a-
116 54, as amended by this act, or (iv) the sexual harassment was not
117 severe or pervasive. Such affirmative defenses may be raised in the
118 respondent's written answer to the complaint; and

119 (C) If an employer takes immediate corrective action in response to
120 an employee's claim of sexual harassment, such corrective action shall
121 not modify the conditions of employment of the employee making the
122 claim of sexual harassment unless (1) such employee agrees, in
123 writing, to any modification in the conditions of employment, or (2)
124 the employer takes such corrective action to mitigate sexual
125 harassment throughout the employer's workplace. Corrective action
126 taken by an employer, may include, but need not be limited to,
127 employee relocation, assigning an employee to a different work
128 schedule or other substantive changes to an employee's terms and
129 conditions of employment;

130 Sec. 4. Subsection (f) of section 46a-82 of the general statutes is
131 repealed and the following is substituted in lieu thereof (*Effective*
132 *October 1, 2018*):

133 (f) (1) Any complaint filed pursuant to this section [must] shall be
134 filed within one hundred and eighty days after the alleged act of
135 discrimination, except that any complaint by a person (1) claiming to
136 be aggrieved by a violation of subsection (a) of section 46a-80 [must]
137 shall be filed within thirty days of the alleged act of discrimination,
138 and (2) claiming to be aggrieved by a violation of subdivision (8) of
139 subsection (b) of section 46a-60, as amended by this act, that occurred
140 on or after October 1, 2018, shall be filed not later than one year after
141 the date of the alleged act of discrimination.

142 Sec. 5. Subsection (b) of section 46a-86 of the general statutes is
143 repealed and the following is substituted in lieu thereof (*Effective*
144 *October 1, 2018*):

145 (b) In addition to any other action taken under this section, upon a
146 finding of a discriminatory employment practice, the presiding officer
147 (1) may order the hiring or reinstatement of any individual, with or
148 without back pay, or restoration to membership in any respondent
149 labor organization, and (2) if there has been a finding of a violation of
150 subdivision (8) of subsection (b) of section 46a-60, as amended by this
151 act, shall (A) determine the amount of damages suffered by the
152 complainant, including the actual costs incurred by the complainant as
153 a result of the discriminatory practice and reason, and (B) allow
154 reasonable attorney's fees and costs. The amount of attorney's fees
155 allowed shall not be based upon the amount of damages requested by
156 or awarded to the complainant. Liability for back pay shall not accrue
157 from a date more than two years prior to the filing or issuance of the
158 complaint. Interim earnings, including unemployment compensation
159 and welfare assistance or amounts which could have been earned with
160 reasonable diligence on the part of the person to whom back pay is
161 awarded shall be deducted from the amount of back pay to which such
162 person is otherwise entitled. The amount of any deduction for interim
163 unemployment compensation or welfare assistance shall be paid by
164 the respondent to the commission which shall transfer such amount to
165 the appropriate state or local agency.

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

168 [If] On or after October 1, 2018, if a complaint is dismissed for
169 failure to accept full relief pursuant to subsection (m) of section 46a-83,
170 and the complainant does not request reconsideration of such
171 dismissal as provided in subsection (h) of section 46a-83, the executive
172 director shall issue a release of jurisdiction and the complainant may,
173 within ninety days of receipt of the release from the commission, bring
174 an action in accordance with sections 46a-100 and 46a-102 to 46a-104,

175 inclusive, as amended by this act, except that if the complaint concerns
176 a violation of subdivision (8) of subsection (b) of section 46a-60, as
177 amended by this act, the complainant may bring such action not later
178 than one year after the date of the release from the commission.

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

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

186 (b) Any person who fails to post such notices of statutory provisions
187 as the commission may require pursuant to subsection (14) of section
188 46a-54, as amended by this act, shall be fined not more than two
189 hundred fifty dollars.

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

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

198 (e) Any action brought by the complainant in accordance with
199 section 46a-100 shall be brought not later than ninety days after the
200 date of the receipt of the release from the commission, except that an
201 action brought by the complainant in accordance with section 46a-100,
202 that concerns an alleged violation of subdivision (8) of subsection (b) of
203 section 46a-60, as amended by this act, that occurred on or after
204 October 1, 2018, shall be brought not later than one year after the date
205 of release from the commission.

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

208 [Any] On and after October 1, 2018, any action brought in
209 accordance with section 46a-100 shall be brought within two years of
210 the date of filing of the complaint with the commission, except that an
211 action [may be brought within six months of October 1, 1991, with
212 respect to an alleged violation provided a complaint concerning such
213 violation has been pending with the commission for more than one
214 year as of October 1, 1991, unless the complaint has been scheduled for
215 a hearing] alleging a violation of subdivision (8) of subsection (b) of
216 section 46a-60, as amended by this act, that occurred on or after
217 October 1, 2018, shall be brought not later than one year after the date
218 of release from the commission, or two years from the date of filing the
219 complaint, whichever is longer.

220 Sec. 10. Subsection (b) of section 17a-101 of the 2018 supplement to
221 the general statutes is repealed and the following is substituted in lieu
222 thereof (*Effective October 1, 2018*):

223 (b) The following persons shall be mandated reporters: (1) Any
224 physician or surgeon licensed under the provisions of chapter 370, (2)
225 any resident physician or intern in any hospital in this state, whether
226 or not so licensed, (3) any registered nurse, (4) any licensed practical
227 nurse, (5) any medical examiner, (6) any dentist, (7) any dental
228 hygienist, (8) any psychologist, (9) any school employee, as defined in
229 section 53a-65, (10) any social worker, (11) any person who holds or is
230 issued a coaching permit by the State Board of Education, is a coach of
231 intramural or interscholastic athletics and is eighteen years of age or
232 older, (12) any individual who is employed as a coach or director of
233 youth athletics and is eighteen years of age or older, (13) any
234 individual who is employed as a coach or director of a private youth
235 sports organization, league or team and is eighteen years of age or
236 older, (14) any paid administrator, faculty, staff, athletic director,
237 athletic coach or athletic trainer employed by a public or private
238 institution of higher education who is eighteen years of age or older,

239 excluding student employees, (15) any police officer, (16) any juvenile
240 or adult probation officer, (17) any juvenile or adult parole officer, (18)
241 any member of the clergy, (19) any pharmacist, (20) any physical
242 therapist, (21) any optometrist, (22) any chiropractor, (23) any
243 podiatrist, (24) any mental health professional, (25) any physician
244 assistant, (26) any person who is a licensed or certified emergency
245 medical services provider, (27) any person who is a licensed or
246 certified alcohol and drug counselor, (28) any person who is a licensed
247 marital and family therapist, (29) any person who is a sexual assault
248 counselor or a domestic violence counselor, as defined in section 52-
249 146k, (30) any person who is a licensed professional counselor, (31) any
250 person who is a licensed foster parent, (32) any person paid to care for
251 a child in any public or private facility, child care center, group child
252 care home or family child care home licensed by the state, (33) any
253 employee of the Department of Children and Families, (34) any
254 employee of the Department of Public Health, (35) any employee of the
255 Office of Early Childhood who is responsible for the licensing of child
256 care centers, group child care homes, family child care homes or youth
257 camps, (36) any paid youth camp director or assistant director, (37) the
258 Child Advocate and any employee of the Office of the Child Advocate,
259 [and] (38) any family relations counselor, family relations counselor
260 trainee or family services supervisor employed by the Judicial
261 Department, (39) any person who is a licensed behavior analyst or
262 board certified assistant behavior analyst, and (40) any person who is
263 employed by an entity described in subdivisions (7) to (11), inclusive,
264 of subsection (b) of section 19a-77, who is eighteen years of age or
265 older.

266 Sec. 11. (NEW) (*Effective July 1, 2018*) (a) As used in this section:

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

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

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

274 (b) Upon the filing of a complaint of sexual harassment by a school
275 employee against an administrator, the superintendent of schools shall
276 immediately suspend such administrator and conduct an investigation
277 of the allegations contained in such complaint. Such suspension shall
278 be with pay and shall not result in the diminution or termination of
279 benefits to such administrator.

280 (c) Upon the filing of a complaint of sexual harassment by a school
281 employee or administrator against the superintendent of schools, the
282 local or regional board of education, or in the case of vocational-
283 technical schools, the Commissioner of Education, shall immediately
284 suspend such superintendent and conduct an investigation of the
285 allegations contained in such complaint. Such suspension shall be with
286 pay and shall not result in the diminution or termination of benefits to
287 such superintendent of schools.

288 Sec. 12. (NEW) (*Effective October 1, 2018*) (a) As used in this section,
289 "employer" has the same meaning as provided in section 31-58 of the
290 general statutes, and "employee" means any individual employed or
291 permitted to work by an employer.

292 (b) If an employee employed in a bona fide executive,
293 administrative or professional capacity, as defined in the regulations of
294 the federal Fair Labor Standards Act, is absent from his or her
295 employment as a result of a disciplinary suspension for violating a
296 written workplace conduct rule prohibiting harassment or workplace
297 violence, the employer may deduct from the wages of such employee
298 an amount equal to the wages that would have been paid for the
299 number of days such employee is absent.

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

303 Sec. 13. Section 54-193 of the general statutes is repealed and the
304 following is substituted in lieu thereof (*Effective October 1, 2018, and*
305 *applicable to any offense committed on or after October 1, 2018, and to any*
306 *offense committed prior to October 1, 2018, for which the statute of*
307 *limitations in effect at the time of the commission of the offense had not yet*
308 *expired as of October 1, 2018*):

309 (a) There shall be no limitation of time within which a person may
310 be prosecuted for (1) a capital felony under the provisions of section
311 53a-54b in effect prior to April 25, 2012, a class A felony or a violation
312 of section 53a-54d or 53a-169, a class B felony violation of section 53a-
313 70 or 53a-70a, (2) a violation of section 53a-165aa or 53a-166 in which
314 such person renders criminal assistance to another person who has
315 committed an offense set forth in subdivision (1) of this subsection, (3)
316 a violation of section 53a-156 committed during a proceeding that
317 results in the conviction of another person subsequently determined to
318 be actually innocent of the offense or offenses of which such other
319 person was convicted, or (4) a motor vehicle violation or offense that
320 resulted in the death of another person and involved a violation of
321 subsection (a) of section 14-224.

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

326 (c) No person may be prosecuted for any offense, other than an
327 offense set forth in subsection (a) or (b) of this section, except within
328 one year next after the offense has been committed.

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

334 (e) When any suit, indictment, information or complaint for any

335 crime may be brought within any other time than is limited by this
336 section, it shall be brought within such time.

337 Sec. 14. Section 54-193a of the general statutes is repealed and the
338 following is substituted in lieu thereof (*Effective October 1, 2018, and*
339 *applicable to any offense committed on or after October 1, 2018, and to any*
340 *offense committed prior to October 1, 2018, for which the statute of*
341 *limitations in effect at the time of the commission of the offense had not yet*
342 *expired as of October 1, 2018*):

343 Notwithstanding the provisions of section 54-193, as amended by
344 this act, no person may be prosecuted for any offense, except a class A
345 felony or a class B felony violation of section 53a-70 or 53a-70a,
346 involving sexual abuse, sexual exploitation or sexual assault of a
347 minor, except within thirty years from the date the victim attains the
348 age of majority or within five years from the date the victim notifies
349 any police officer or state's attorney acting in such police officer's or
350 state's attorney's official capacity of the commission of the offense,
351 whichever is earlier, provided if the prosecution is for a violation of
352 subdivision (1) of subsection (a) of section 53a-71, the victim notified
353 such police officer or state's attorney not later than five years after the
354 commission of the offense.

355 Sec. 15. Section 54-193b of the general statutes is repealed and the
356 following is substituted in lieu thereof (*Effective October 1, 2018, and*
357 *applicable to any offense committed on or after October 1, 2018, and to any*
358 *offense committed prior to October 1, 2018, for which the statute of*
359 *limitations in effect at the time of the commission of the offense had not yet*
360 *expired as of October 1, 2018*):

361 Notwithstanding the provisions of sections 54-193, as amended by
362 this act, and 54-193a, as amended by this act, there shall be no
363 limitation of time within which a person may be prosecuted for a
364 violation of section [53a-70, 53a-70a,] 53a-70b, 53a-71, 53a-72a or 53a-
365 72b, provided (1) the victim notified any police officer or state's
366 attorney acting in such police officer's or state's attorney's official

367 capacity of the commission of the offense not later than five years after
 368 the commission of the offense, and (2) the identity of the person who
 369 allegedly committed the offense has been established through a DNA
 370 (deoxyribonucleic acid) profile comparison using evidence collected at
 371 the time of the commission of the offense."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	46a-54(15)
Sec. 2	<i>from passage</i>	46a-56(a)
Sec. 3	<i>October 1, 2018</i>	46a-60(b)(8)
Sec. 4	<i>October 1, 2018</i>	46a-82(f)
Sec. 5	<i>October 1, 2018</i>	46a-86(b)
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>	17a-101(b)
Sec. 11	<i>July 1, 2018</i>	New section
Sec. 12	<i>October 1, 2018</i>	New section
Sec. 13	<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. 14	<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. 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>	54-193b