
OLR Bill Analysis

sHB 7222 (as amended by House "A")*

AN ACT CONCERNING THE DUTIES OF THE OFFICE OF THE ATTORNEY GENERAL.

SUMMARY

This bill expands the attorney general's authority by allowing him to:

1. investigate allegations of certain hate crimes and civil rights violations (see below), but any information obtained from such investigations must not be used in any criminal proceeding;
2. initiate related legal proceedings, with certain exceptions; and
3. seek relief for the affected person.

The bill prohibits the attorney general from bringing an action for a civil rights violation that would otherwise be barred under the applicable statute of limitations or repose.

The bill also establishes a maximum civil penalty of up to \$2,500 for each hate crime or civil rights violation that is established by clear and convincing evidence. All penalties received must be deposited in the General Fund.

Under the bill, the person affected by the hate crime or civil rights violation retains the right to bring civil action in court and to file a Commission on Human Rights and Opportunities (CHRO) complaint. The bill prohibits the attorney general from bringing an action concurrent with a case before CHRO that involves the same parties and alleged facts and circumstances.

The bill specifies that its civil rights provision does not limit CHRO's jurisdiction, and it authorizes the attorney general to refer cases to CHRO as appropriate. The bill also requires the attorney

general to post information on the office's website about properly filing a CHRO complaint.

Lastly, the bill also allows the attorney general to issue subpoenas and interrogatories consistent with how he investigates violations of the Connecticut Antitrust Act.

*House Amendment "A" strikes the underlying bill and replaces it with similar provisions. In doing so, it (1) prohibits the attorney general from bringing a case that is time barred or that would run concurrent with a case before CHRO; (2) prohibits the use of investigation information in criminal proceedings; (3) removes provisions that would (a) allow the court to award reasonable attorney's fees and costs and (b) exempt state officers and employees; (4) establishes a standard of proof for violations; (5) reduces the maximum civil penalty; and (6) requires amounts received for civil rights violations to also be deposited in the General Fund.

EFFECTIVE DATE: October 1, 2019

APPLICABLE HATE CRIMES AND CIVIL RIGHTS VIOLATIONS

The bill applies to allegations of:

1. 1st, 2nd, or 3rd degree intimidation based on bigotry or bias (commonly called hate crimes) (see BACKGROUND);
2. conduct that subjects someone, or causes him or her to be subject, to the deprivation of any rights, privileges, or immunities secured by the U.S. or state constitutions or laws; or
3. conduct that interferes, or attempts to interfere, by threats, intimidation, or coercion, with other individuals' exercise or enjoyment of any rights, privileges, or immunities secured by the U.S. or Connecticut constitutions or laws.

HATE CRIMES

Civil Action in the State's Name

Under the bill, if the attorney general finds that a person has

committed a hate crime, he may bring a civil action in the state's name against such person in the Superior Court for the judicial district where the act occurred.

Relief

The bill allows the attorney general to obtain any relief that the affected person may be entitled to by law. This includes treble damages; a civil penalty of up to \$2,500 per violation, provided the violation is established by clear and convincing evidence; and declaratory, injunctive, or equitable relief that the attorney general determines is necessary to vindicate the public's interests. Any civil penalty received must be deposited in the General Fund.

CIVIL RIGHTS VIOLATIONS

Civil or Administrative Action in the State's Name

The bill allows the attorney general to investigate, intervene in, or bring a civil or administrative action in the state's name seeking injunctive or declaratory relief, damages, and any other relief that may be available under law, whenever any person is engaged in conduct that violates another person's civil rights as described above.

Relief

Under the bill, if the attorney general prevails in such a civil action, the court must order the distribution of any award of damages to the injured person. In a case involving the interference or attempted interference with any right protected by the U.S. or state constitution, the court may also impose civil penalties against each defendant for up to \$2,500 per violation, provided the violation is established by clear and convincing evidence. Any civil penalty received must be deposited in the General Fund.

Assurance of Discontinuance

In lieu of bringing a civil action, the bill allows the attorney general to accept an assurance of the discontinuance of any allegedly unlawful or unconstitutional practice from anyone engaged in such practice. Under the bill, any evidence of a violation of such assurance constitutes prima facie proof of violation of the applicable law or right

in any action the attorney general commences.

BACKGROUND

Hate Crimes

The crimes of 1st, 2nd, and 3rd degree intimidation based on bigotry or bias address certain actions that intimidate or harass another person because of his or her actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 24 Nay 15 (04/08/2019)