



House of Representatives

File No. 911

General Assembly

January Session, 2019

(Reprint of File No. 826)

Substitute House Bill No. 7222
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 17, 2019

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

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

1 Section 1. (NEW) (*Effective October 1, 2019*) (a) The Attorney General
2 may investigate the facts and circumstances concerning any alleged
3 violation of section 53a-181j, 53a-181k or 53a-181l of the general
4 statutes, and in connection with such investigation, issue subpoenas
5 and written interrogatories in the same manner and to the same extent
6 as is provided in section 35-42 of the general statutes. No information
7 obtained pursuant to the provisions of this subsection may be used in a
8 criminal proceeding.

9 (b) If the Attorney General finds that a person has committed an act
10 that constitutes a violation of section 53a-181j, 53a-181k or 53a-181l of
11 the general statutes, the Attorney General may bring a civil action in
12 the superior court for the judicial district in which such act occurred in
13 the name of the state against such person.

14 (c) In any such action, the Attorney General may obtain, for the

15 benefit of a person adversely affected by a violation of section 53a-181j,
16 53a-181k or 53a-181l of the general statutes, any relief to which such
17 person may be entitled by law, including treble damages; a civil
18 penalty not to exceed two thousand five hundred dollars per,
19 violation, provided such violation has been established by clear and
20 convincing evidence; and declaratory, injunctive or equitable relief that
21 the Attorney General determines is necessary to vindicate the public's
22 interests. Any civil penalty that is received pursuant to this subsection
23 shall be deposited in the General Fund.

24 (d) Nothing in this section shall limit the right of a person adversely
25 affected by a violation of section 53a-181j, 53a-181k or 53a-181l of the
26 general statutes to bring an action under section 52-571c of the general
27 statutes or any other law that may entitle such person to relief, except
28 that the Attorney General shall not bring an action under the
29 provisions of this section during the pendency of a matter involving
30 the same parties and the same alleged facts and circumstances before
31 the Commission on Human Rights and Opportunities.

32 Sec. 2. (NEW) (*Effective October 1, 2019*) (a) The Attorney General
33 may investigate, intervene in or bring a civil or administrative action in
34 the name of the state, seeking injunctive or declaratory relief, damages,
35 and any other relief that may be available under law, whenever any
36 person is or has engaged in a practice or pattern of conduct that:

37 (1) Subjects, or causes to be subjected, other persons to the
38 deprivation of any rights, privileges or immunities secured by the
39 constitutions or laws of this state or the United States; or

40 (2) Interferes, or attempts to interfere, by threats, intimidation or
41 coercion, with the exercise or enjoyment by other persons of any rights,
42 privileges or immunities secured by the constitutions or laws of this
43 state or the United States.

44 (b) In conducting any investigation under this section, the Attorney
45 General may issue subpoenas and interrogatories, and otherwise
46 gather information, in the same manner and to the same extent as is

47 provided in section 35-42 of the general statutes. No information
48 obtained pursuant to the provisions of this subsection may be used in a
49 criminal proceeding.

50 (c) If the Attorney General prevails in a civil action brought
51 pursuant to this section, the court shall order the distribution of any
52 award of damages to the injured person. In a matter involving the
53 interference or attempted interference with any right protected by the
54 constitutions of this state or the United States, the court may also
55 award civil penalties against each defendant in an amount not
56 exceeding two thousand five hundred dollars for each violation,
57 provided such violation has been established by clear and convincing
58 evidence. Any civil penalty that is received pursuant to this subsection
59 shall be deposited in the General Fund.

60 (d) In lieu of bringing a civil action under this section, the Attorney
61 General may accept an assurance of the discontinuance of any
62 allegedly unlawful or unconstitutional practice from any person
63 engaged in such practice. Thereafter, any evidence of a violation of
64 such assurance shall constitute prima facie proof of violation of the
65 applicable law or right in any action commenced by the Attorney
66 General.

67 (e) Nothing in this section shall limit the right of a person adversely
68 affected by a violation of chapter 814c of the general statutes to file a
69 complaint with the Commission on Human Rights and Opportunities.

70 (f) Nothing in this section shall limit the jurisdiction of the
71 Commission on Human Rights and Opportunities under chapter 814c
72 of the general statutes.

73 (g) The Attorney General shall not bring an action under the
74 provisions of this section during the pendency of a matter involving
75 the same parties and the same alleged facts and circumstances before
76 the Commission on Human Rights and Opportunities.

77 (h) Nothing in this section shall permit the Attorney General to

78 bring an action that would otherwise be barred under the applicable
79 statute of limitations or repose.

80 (i) The Attorney General shall post on the Attorney General's
81 Internet web site information on the proper filing of a complaint with
82 the Commission on Human Rights and Opportunities. The Attorney
83 General may, as appropriate, refer cases to the Commission on Human
84 Rights and Opportunities.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	New section
Sec. 2	<i>October 1, 2019</i>	New section

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 20 \$	FY 21 \$
Attorney General	GF - Potential Revenue Gain	At least 100,000	At least 100,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the authority of the Office of the Attorney General (AG) by specifically allowing the agency to: (1) investigate allegations of hate crimes and civil rights violations; (2) initiate legal proceedings in the state's name.

This could result in a revenue gain to the state anticipated to be at least \$100,000 annually. The amount of any revenue gain depends on: (1) the number of new hate crimes and civil rights violations brought to court under the AG's newly specified authority.¹ Any revenue gain also depends on the amount of monetary damages awarded when the state prevails when these cases are brought to civil court.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to: (1) the number of new hate crimes and civil rights violations brought to court and (2) the amount of monetary damages awarded.

¹ In 2017, there were 122 hate crimes reported in Connecticut (Source: CT Post, 2018, FBI: Conn. Law enforcement reported 122 hate crimes in 2017.)

House "A" replaces the underlying bill with the provisions and impact described above.

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)