



# Senate

General Assembly

**File No. 852**

January Session, 2019

Substitute Senate Bill No. 3

*Senate, April 30, 2019*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

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

1 Section 1. Section 46a-54 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 The commission shall have the following powers and duties:

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

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

10 (3) To employ legal staff and commission legal counsel as necessary  
11 to perform the duties and responsibilities under section 46a-55, as  
12 amended by this act. One commission legal counsel shall serve as

13 supervising attorney. Each commission legal counsel shall be admitted  
14 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, as amended by this act, and to adopt regulations, in  
39 accordance with the provisions of chapter 54, for the procedure for the  
40 issuance of interrogatories and compliance with interrogatory  
41 requests;

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

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

52 (14) To require the posting, by any respondent or other person  
53 subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-  
54 81e, of such notices of statutory provisions as it deems desirable;

55 (15) [(A)] To require an employer having three or more employees  
56 to (A) post in a prominent and accessible location information  
57 concerning the illegality of sexual harassment and remedies available  
58 to victims of sexual harassment, (B) provide, not later than three  
59 months after the employee's start date with the employer, a copy of the  
60 information concerning the illegality of sexual harassment and  
61 remedies available to victims of sexual harassment to each employee  
62 by electronic mail with a subject line that includes the words "Sexual  
63 Harassment Policy" or words of similar import, if (i) the employer has  
64 provided an electronic mail account to the employee, or (ii) the  
65 employee has provided the employer with an electronic mail address,  
66 provided if an employer has not provided an electronic mail account to  
67 the employee, the employer shall post the information concerning the  
68 illegality of sexual harassment and remedies available to victims of  
69 sexual harassment on the employer's Internet web site, if the employer  
70 maintains such an Internet web site. An employer may comply with  
71 the requirements of this subparagraph, by providing an employee with  
72 the link to the commission's Internet web site concerning the illegality  
73 of sexual harassment and the remedies available to victims of sexual  
74 harassment by electronic mail, text message or in writing; and [(B) to

75 require an employer having fifty or more employees to] (C) provide  
76 two hours of training and education to all [supervisory] employees  
77 within one year of October 1, [1992, and to all new supervisory  
78 employees within six months of their assumption of a supervisory  
79 position] 2019, provided any employer who has provided such  
80 training and education to any such employees after October 1, [1991]  
81 2018, shall not be required to provide such training and education a  
82 second time. An employer having (i) three or more employees, shall  
83 provide such training and education to an employee hired on or after  
84 October 1, 2019, not later than six months after the date of his or her  
85 hire, provided the commission has developed and made available such  
86 training and education materials in accordance with the provisions of  
87 subdivision (8) of subsection (a) of section 46a-56, as amended by this  
88 act; or (ii) less than three employees shall provide such training and  
89 education to all supervisory employees within one year of October 1,  
90 2019, and to all new supervisory employees within six months of their  
91 assumption of a supervisory position, provided any employer who has  
92 provided such training and education to any such supervisory  
93 employees after October 1, 2018, shall not be required to provide such  
94 training and education a second time. Any supervisory employee  
95 hired on or after October 1, 2019, by an employer having less than  
96 three employees, shall receive such training and education not later  
97 than six months after the date of his or her hire, provided the  
98 commission has developed and made available such training and  
99 education materials in accordance with the provisions of subdivision  
100 (8) of subsection (a) of section 46a-56, as amended by this act. Such  
101 training and education shall include information concerning the  
102 federal and state statutory provisions concerning sexual harassment  
103 and remedies available to victims of sexual harassment. An employer  
104 who is required to provide training under this subdivision shall  
105 provide periodic supplemental training that updates all supervisory  
106 and nonsupervisory employees on the content of such training and  
107 education not less than every ten years. As used in this subdivision,  
108 "sexual harassment" has the same meaning as provided in subdivision  
109 (8) of subsection (b) of section 46a-60, as amended by this act, and

110 "employer" includes the General Assembly;

111 (16) To require each state agency that employs one or more  
112 employees to (A) provide a minimum of three hours of diversity  
113 training and education (i) to all supervisory and nonsupervisory  
114 employees, not later than July 1, 2002, with priority for such training to  
115 supervisory employees, and (ii) to all newly hired supervisory and  
116 nonsupervisory employees, not later than six months after their  
117 assumption of a position with a state agency, with priority for such  
118 training to supervisory employees. Such training and education shall  
119 include information concerning the federal and state statutory  
120 provisions concerning discrimination and hate crimes directed at  
121 protected classes and remedies available to victims of discrimination  
122 and hate crimes, standards for working with and serving persons from  
123 diverse populations and strategies for addressing differences that may  
124 arise from diverse work environments; and (B) submit an annual  
125 report to the Commission on Human Rights and Opportunities  
126 concerning the status of the diversity training and education required  
127 under subparagraph (A) of this subdivision. The information in such  
128 annual reports shall be reviewed by the commission for the purpose of  
129 submitting an annual summary report to the General Assembly.  
130 Notwithstanding the provisions of this section, if a state agency has  
131 provided such diversity training and education to any of its employees  
132 prior to October 1, 1999, such state agency shall not be required to  
133 provide such training and education a second time to such employees.  
134 The requirements of this subdivision shall be accomplished within  
135 available appropriations. As used in this subdivision, "employee" shall  
136 include any part-time employee who works more than twenty hours  
137 per week;

138 (17) To require each agency to submit information demonstrating its  
139 compliance with subdivision (16) of this section as part of its  
140 affirmative action plan and to receive and investigate complaints  
141 concerning the failure of a state agency to comply with the  
142 requirements of subdivision (16) of this section; and

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

146 Sec. 2. Subdivision (8) of section 46a-51 of the general statutes is  
147 repealed and the following is substituted in lieu thereof (*Effective*  
148 *October 1, 2019*):

149 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-  
150 60a, 4a-60g, 31-40y, subdivisions (13) to (17), inclusive, of section 46a-  
151 54, as amended by this act, 46a-58, 46a-59, 46a-60, as amended by this  
152 act, 46a-64, 46a-64c, 46a-66, 46a-68, as amended by this act, 46a-68c to  
153 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive, subsection (a) of  
154 section 46a-80 or sections 46a-81b to 46a-81o, inclusive;

155 Sec. 3. Subsection (a) of section 46a-56 of the general statutes is  
156 repealed and the following is substituted in lieu thereof (*Effective July*  
157 *1, 2019*):

158 (a) The commission shall:

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

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

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

167 (4) From time to time, but not less than once a year, report to the  
168 Governor as provided in section 4-60, making recommendations for  
169 the removal of such injustices as it may find to exist and such other  
170 recommendations as it deems advisable and describing the  
171 investigations, proceedings and hearings it has conducted and their  
172 outcome, the decisions it has rendered and the other work it has

173 performed;

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

177 (6) Compile data concerning state contracts with female and  
178 minority business enterprises and submit a report annually to the  
179 General Assembly concerning the employment of such business  
180 enterprises as contractors and subcontractors;

181 (7) Develop and include on the commission's Internet web site a link  
182 concerning the illegality of sexual harassment, as defined in section  
183 46a-60, as amended by this act, and the remedies available to victims of  
184 sexual harassment; and

185 (8) Develop and make available to employers an online training and  
186 education video or other interactive method of training and education  
187 that fulfills the requirements prescribed in subdivision (15) of section  
188 46a-54, as amended by this act.

189 Sec. 4. Subdivision (8) of subsection (b) of section 46a-60 of the  
190 general statutes is repealed and the following is substituted in lieu  
191 thereof (*Effective October 1, 2019*):

192 (8) For an employer, by the employer or the employer's agent, for an  
193 employment agency, by itself or its agent, or for any labor  
194 organization, by itself or its agent, to harass any employee, person  
195 seeking employment or member on the basis of sex or gender identity  
196 or expression. ["Sexual harassment" shall, for the purposes of this  
197 subdivision, be defined as] If an employer takes immediate corrective  
198 action in response to an employee's claim of sexual harassment, such  
199 corrective action shall not modify the conditions of employment of the  
200 employee making the claim of sexual harassment unless such  
201 employee agrees, in writing, to any modification in the conditions of  
202 employment. "Corrective action" taken by an employer, includes, but is  
203 not limited to, employee relocation, assigning an employee to a

204 different work schedule or other substantive changes to an employee's  
205 terms and conditions of employment. As used in this subdivision,  
206 "sexual harassment" means any unwelcome sexual advances or  
207 requests for sexual favors or any conduct of a sexual nature when (A)  
208 submission to such conduct is made either explicitly or implicitly a  
209 term or condition of an individual's employment, (B) submission to or  
210 rejection of such conduct by an individual is used as the basis for  
211 employment decisions affecting such individual, or (C) such conduct  
212 has the purpose or effect of substantially interfering with an  
213 individual's work performance or creating an intimidating, hostile or  
214 offensive working environment;

215 Sec. 5. Subparagraph (A) of subdivision (4) of subsection (b) of  
216 section 46a-68 of the general statutes is repealed and the following is  
217 substituted in lieu thereof (*Effective October 1, 2019*):

218 (4) (A) Each person designated by a state agency, department, board  
219 or commission as an equal employment opportunity officer shall (i) be  
220 responsible for mitigating any discriminatory conduct within the  
221 agency, department, board or commission, (ii) investigate all  
222 complaints of discrimination made against the state agency,  
223 department, board or commission, except if any such complaint has  
224 been filed with the Commission on Human Rights and Opportunities  
225 or the Equal Employment Opportunity Commission, the state agency,  
226 department, board or commission may rely upon the process of the  
227 applicable commission, as applicable, in lieu of such investigation, and  
228 (iii) report all findings and recommendations upon the conclusion of  
229 an investigation to the commissioner or director of the state agency,  
230 department, board or commission for proper action. A person  
231 designated as an equal employment opportunity officer shall not  
232 disclose to any other person, other than personnel charged with  
233 investigating such complaint or to the commission upon request,  
234 witness statements or documents received or compiled in conjunction  
235 with the investigation of a complaint of discriminatory conduct within  
236 the agency, department, board or commission.



237 Sec. 6. Subsection (f) of section 46a-82 of the general statutes is  
238 repealed and the following is substituted in lieu thereof (*Effective*  
239 *October 1, 2019*):

240 (f) Any complaint filed pursuant to this section [~~must~~] shall be filed  
241 within one hundred and eighty days after the alleged act of  
242 discrimination, except that any complaint by a person (1) claiming to  
243 be aggrieved by a violation of subsection (a) of section 46a-80 [~~must~~]  
244 that occurred on or before October 1, 2019, shall be filed within thirty  
245 days of the alleged act of discrimination, and (2) claiming to be  
246 aggrieved by a violation of section 46a-60, as amended by this act,  
247 sections 46a-70 to 46a-78, inclusive, or section 46a-80 or 46a-81c, that  
248 occurred on or after October 1, 2019, shall be filed not later than three  
249 hundred days after the date of the alleged act of discrimination.

250 Sec. 7. Subsection (b) of section 46a-86 of the general statutes is  
251 repealed and the following is substituted in lieu thereof (*Effective*  
252 *October 1, 2019*):

253 (b) In addition to any other action taken under this section, upon a  
254 finding of a discriminatory employment practice, the presiding officer  
255 [may order the hiring or reinstatement of any individual, with or  
256 without back pay, or] shall (1) issue an order to eliminate the  
257 discriminatory employment practice complained of and to make the  
258 complainant whole, including restoration to membership in any  
259 respondent labor organization, and (2) (A) determine the amount of  
260 damages suffered by the complainant, including the actual costs  
261 incurred by the complainant as a result of the discriminatory  
262 employment practice, and (B) allow reasonable attorney's fees and  
263 costs. The amount of attorney's fees allowed shall not be contingent  
264 upon the amount of damages requested by or awarded to the  
265 complainant. Liability for back pay shall not accrue from a date more  
266 than two years prior to the filing or issuance of the complaint. Interim  
267 earnings, including unemployment compensation and welfare  
268 assistance or amounts which could have been earned with reasonable  
269 diligence on the part of the person to whom back pay is awarded shall

270 be deducted from the amount of back pay to which such person is  
271 otherwise entitled. The amount of any deduction for interim  
272 unemployment compensation or welfare assistance shall be paid by  
273 the respondent to the commission which shall transfer such amount to  
274 the appropriate state or local agency.

275 Sec. 8. Subsection (a) of section 46a-89 of the general statutes is  
276 repealed and the following is substituted in lieu thereof (*Effective*  
277 *October 1, 2019*):

278 (a) (1) Whenever a complaint filed pursuant to section 46a-82, as  
279 amended by this act, alleges a [violation of section 46a-60 or 46a-81c]  
280 discriminatory employment practice, and the executive director  
281 believes that [equitable relief is required to prevent irreparable harm to  
282 the complainant] (A) a court order is necessary to preserve an  
283 employment opportunity for the complainant until the commission is  
284 able to issue a final decision, or (B) for a discriminatory employment  
285 practice, occurring on or after October 1, 2019, that punitive damages  
286 or a civil penalty would be appropriate, the commission may bring a  
287 petition in the superior court for the judicial district of Hartford, the  
288 judicial district in which the discriminatory employment practice  
289 which is the subject of the complaint occurred or the judicial district in  
290 which the respondent resides [, provided this] for such order or relief.  
291 This subdivision shall not apply to complaints against employers with  
292 less than [fifty] three employees.

293 (2) The petition [shall seek appropriate temporary injunctive relief  
294 against the respondent pending final disposition of the complaint  
295 pursuant to the procedures set forth in this chapter. The injunctive  
296 relief may include an order temporarily restraining] brought by the  
297 commission may seek (A) an order barring the respondent from doing  
298 any act that would render ineffectual any order a presiding officer may  
299 render with respect to the complaint, or (B) the award of punitive  
300 damages payable to the complainant, not to exceed fifty thousand  
301 dollars, or a civil penalty payable to the commission, not to exceed ten  
302 thousand dollars, or both, or (C) both of the remedies provided in

303 subparagraphs (A) and (B) of this subdivision. In fashioning an order  
304 barring the respondent from taking any action that would render  
305 ineffectual any order a presiding officer may render, the availability of  
306 money damages shall not be an adequate remedy for the loss of an  
307 employment opportunity. Where the respondent demonstrates that the  
308 inability to fill a position immediately would cause undue hardship,  
309 the court may permit the respondent to fill the position until a final  
310 determination by the commission or court upon appeal of the  
311 commission's final determination.

312 (3) Upon service on the respondent of notice pursuant to section  
313 46a-89a, the respondent shall be [temporarily restrained] barred from  
314 taking any action that would render ineffectual the [temporary  
315 injunctive] relief requested in the petition. [, provided nothing]  
316 Nothing in this section shall be construed to prevent the respondent  
317 from having any employment duties [enjoined under this section and  
318 section 46a-89a, from being] carried out by another employee and the  
319 notice shall so provide.

320 Sec. 9. Section 46a-83a of the general statutes is repealed and the  
321 following is substituted in lieu thereof (*Effective October 1, 2019*):

322 [If] On or after October 1, 2019, if a complaint is dismissed for  
323 failure to accept full relief pursuant to subsection (m) of section 46a-83,  
324 and the complainant does not request reconsideration of such  
325 dismissal as provided in subsection (h) of section 46a-83, the executive  
326 director shall issue a release of jurisdiction and the complainant may,  
327 [within ninety days] two years after the date of receipt of the release  
328 from the commission, bring an action in accordance with sections 46a-  
329 100 and 46a-102 to 46a-104, inclusive, as amended by this act.

330 Sec. 10. Section 46a-97 of the general statutes is repealed and the  
331 following is substituted in lieu thereof (*Effective October 1, 2019*):

332 (a) Any employer, employment agency or labor organization which  
333 fails to post such notices of statutory provisions as the commission  
334 may require pursuant to subsection (13) of section 46a-54, as amended

335 by this act, shall be [subject to a fine of] fined not more than [two  
336 hundred fifty] one thousand dollars.

337 (b) Any person who fails to post such notices of statutory provisions  
338 as the commission may require pursuant to subsection (14) of section  
339 46a-54, as amended by this act, shall be fined not more than [two  
340 hundred fifty] one thousand dollars.

341 (c) Any employer who fails to provide the training and education  
342 concerning the illegality of sexual harassment and the remedies  
343 available to victims of sexual harassment, as required pursuant to  
344 subdivision (15) of section 46a-54, as amended by this act, shall be  
345 fined not more than one thousand dollars.

346 Sec. 11. Subsection (e) of section 46a-101 of the general statutes is  
347 repealed and the following is substituted in lieu thereof (*Effective*  
348 *October 1, 2019*):

349 (e) [Any] On and after October 1, 2019, any action brought by the  
350 complainant in accordance with section 46a-100 shall be brought not  
351 later than [ninety days] two years after the date of the receipt of the  
352 release from the commission.

353 Sec. 12. Section 46a-102 of the general statutes is repealed and the  
354 following is substituted in lieu thereof (*Effective October 1, 2019*):

355 [Any] On and after October 1, 2019, any action brought in  
356 accordance with section 46a-100 shall be brought [within two years of  
357 the date of filing of the complaint with the commission, except that an  
358 action may be brought within six months of October 1, 1991, with  
359 respect to an alleged violation provided a complaint concerning such  
360 violation has been pending with the commission for more than one  
361 year as of October 1, 1991, unless the complaint has been scheduled for  
362 a hearing] not later than two years after the date of release from the  
363 commission.

364 Sec. 13. Section 46a-104 of the general statutes is repealed and the  
365 following is substituted in lieu thereof (*Effective October 1, 2019*):

366 The court may grant a complainant in an action brought in  
367 accordance with section 46a-100 such legal and equitable relief which it  
368 deems appropriate including, but not limited to, temporary or  
369 permanent injunctive relief, punitive damages, attorney's fees and  
370 court costs. The amount of attorney's fees allowed shall not be  
371 contingent upon the amount of damages requested by or awarded to  
372 the complainant.

373 Sec. 14. (NEW) (*Effective October 1, 2019*) (a) As used in this section,  
374 "employer" has the same meaning as provided in section 31-58 of the  
375 general statutes, and "employee" means any individual employed or  
376 permitted to work by an employer.

377 (b) If an employee employed in a bona fide executive,  
378 administrative or professional capacity, as defined in the regulations of  
379 the federal Fair Labor Standards Act, is absent from his or her  
380 employment as a result of a disciplinary suspension for violating a  
381 written workplace conduct rule prohibiting harassment or workplace  
382 violence, the employer may deduct from the wages of such employee  
383 an amount equal to the wages that would have been paid for the  
384 number of days such employee is absent.

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

388 Sec. 15. (NEW) (*Effective July 1, 2019*) (a) As used in this section:

389 (1) "Administrator" has the same meaning as provided in section 10-  
390 144e of the general statutes;

391 (2) "Complaint" means a written communication alleging that an  
392 administrator has committed one or more acts of sexual harassment,  
393 that is filed by, or on behalf of, a school employee with (A) the  
394 superintendent of schools, (B) a person designated by the  
395 superintendent of schools to accept such complaint, (C) the  
396 Commission on Human Rights and Opportunities, or (D) a court;

397 (3) "Sexual harassment" has the same meaning as provided in  
398 subdivision (8) of subsection (b) of section 46a-60 of the general  
399 statutes, as amended by this act; and

400 (4) "School employee" has the same meaning as provided in  
401 subdivision (13) of section 53a-65 of the general statutes.

402 (b) Upon the filing of a complaint of sexual harassment by a school  
403 employee against an administrator, the superintendent of schools shall  
404 immediately suspend such administrator and conduct an investigation  
405 of the allegations contained in such complaint.

406 Sec. 16. Section 46a-55 of the general statutes is amended by adding  
407 subsection (c) as follows (*Effective October 1, 2019*):

408 (NEW) (c) The executive director, through the supervising attorney,  
409 may, within available appropriations, assign a commission legal  
410 counsel to bring a civil action concerning an alleged discriminatory  
411 practice, in accordance with this subsection, in lieu of an  
412 administrative hearing pursuant to section 46a-84, as amended by this  
413 act, when the executive director determines that a civil action is in the  
414 public interest and if the parties to the administrative hearing mutually  
415 agree, in writing, to the bringing of such civil action by commission  
416 legal counsel. The commission legal counsel shall bring such a civil  
417 action in the Superior Court not later than ninety days following the  
418 date the commission legal counsel notifies the parties of the executive  
419 director's determination. Such civil action may be served by certified  
420 mail and shall not be subject to the provisions of section 46a-100, 46a-  
421 101, as amended by this act, or 46a-102, as amended by this act. The  
422 jurisdiction of the Superior Court in an action brought under this  
423 subsection shall be limited to such claims, counterclaims, defenses or  
424 the like that could be presented at an administrative hearing before the  
425 commission, had the complaint remained with the commission for  
426 disposition. A complainant may intervene as a matter of right without  
427 permission of the court or the parties. The civil action shall be tried to  
428 the court without a jury. If the commission legal counsel determines  
429 that the interests of the state will not be adversely affected, the

430 complainant or attorney for the complainant shall present all or part of  
431 the case in support of the complaint. The court may grant any relief  
432 available under section 46a-104, as amended by this act. Where the  
433 Superior Court finds that a respondent has committed a discriminatory  
434 practice, the court shall grant the commission its fees and costs and  
435 award the commission a civil penalty, not exceeding ten thousand  
436 dollars, which shall be payable to the commission and used by the  
437 commission to advance the public interest in eliminating  
438 discrimination.

439 Sec. 17. Section 46a-84 of the general statutes is repealed and the  
440 following is substituted in lieu thereof (*Effective October 1, 2019*):

441 (a) If the investigator fails to eliminate a discriminatory practice  
442 complained of pursuant to subsection (a) or (b) of section 46a-82 within  
443 fifty days of a finding of reasonable cause, the investigator shall,  
444 within ten days, certify the complaint and the results of the  
445 investigation to the executive director of the commission and to the  
446 Attorney General. The investigator's conclusion that conciliation has  
447 failed shall be conclusive on the issue.

448 (b) Upon (1) certification of a complaint filed pursuant to subsection  
449 (a) or (b) of section 46a-82, (2) the filing of a complaint pursuant to  
450 subsection (c) of said section, or (3) a decision to hear a complaint,  
451 which is made pursuant to subsection (e) of section 46a-83, the Chief  
452 Human Rights Referee shall appoint a human rights referee to act as a  
453 presiding officer to hear the complaint. The chief referee shall also  
454 appoint an individual authorized by subsection (e) of this section or a  
455 referee, other than the referee appointed to hear the complaint, to  
456 conduct settlement negotiations. The chief referee shall serve in the  
457 name of the commission a copy of the complaint, as the same may  
458 have been amended, requiring the respondent to answer the charges of  
459 the complaint, together with a written notice requiring the respondent  
460 to appear at a hearing or settlement conference at a date and time  
461 specified in the notice. A hearing on a complaint filed pursuant to  
462 subsection (a) or (b) of section 46a-82 shall be commenced by

463 convening a hearing conference not later than forty-five days after the  
464 certification of the complaint. Such hearing shall be a de novo hearing  
465 on the merits of the complaint and not an appeal of the commission's  
466 processing of the complaint prior to its certification. A hearing on a  
467 complaint filed pursuant to subsection (c) of section 46a-82 shall be  
468 commenced by convening a hearing conference not later than twenty  
469 days after the date of notice of such complaint. Hearings shall proceed  
470 with reasonable dispatch and be concluded in accordance with the  
471 provisions of section 4-180.

472 (c) The place of any hearing, hearing conference or settlement  
473 conference shall be the commission's administrative office in Hartford,  
474 unless all parties mutually agree to an alternate location.

475 (d) The case in support of the complaint shall be presented at the  
476 hearing by the Attorney General, who shall be counsel for the  
477 commission, or by a commission legal counsel as provided in section  
478 46a-55, as amended by this act. If the Attorney General or the  
479 commission legal counsel determines that a material mistake of law or  
480 fact has been made in the finding of reasonable cause on a complaint  
481 filed pursuant to subsection (a) or (b) of section 46a-82, or the  
482 commission legal counsel determines that a complaint to be heard  
483 pursuant to subsection (e) of section 46a-83, should be further  
484 investigated, the Attorney General or the commission legal counsel  
485 may withdraw the certification of the complaint or the decision to hear  
486 the complaint and remand the file to the investigator for further action.  
487 The investigator shall complete any required action not later than  
488 ninety days after receipt of such file. The complainant may be  
489 represented by an attorney of the complainant's own choice. If the  
490 Attorney General or the commission legal counsel determines that the  
491 interests of the state will not be adversely affected, the complainant or  
492 the attorney for the complainant shall present all or part of the case in  
493 support of the complaint. No commissioner may participate in the  
494 deliberations of the presiding officer in the case.

495 (e) A human rights referee or attorney who volunteers service



496 pursuant to subdivision (18) of section 46a-54, as amended by this act,  
497 may supervise settlement endeavors. In employment discrimination  
498 cases only, the complainant and respondent, with the permission of the  
499 chief referee, may engage in alternate dispute resolution endeavors for  
500 not more than three months. The cost of such alternate dispute  
501 resolution endeavors shall be borne by the complainant or the  
502 respondent, or both, and not by the commission. Any endeavors or  
503 negotiations for conciliation, settlement or alternate dispute resolution  
504 shall not be received in evidence.

505 (f) The respondent shall file a written answer to the complaint under  
506 oath and appear at the hearing in person or otherwise, with or without  
507 counsel, and submit testimony and be fully heard. If the respondent  
508 fails to file a written answer not later than fifteen days after the date of  
509 service of the complaint, or fails to appear at the hearing, hearing  
510 conference or settlement conference after notice in accordance with  
511 section 4-177, the presiding officer or a referee or an attorney who  
512 volunteers services pursuant to subsection (e) of this section may enter  
513 an order of default and order such relief as is necessary to eliminate  
514 the discriminatory practice and make the complainant whole, except  
515 that if the default was entered by an attorney who volunteers services  
516 pursuant to subsection (e) of this section, the chief referee shall appoint  
517 a referee to act as a presiding officer to award relief. The commission  
518 or the complainant may petition the Superior Court for enforcement of  
519 any such order for relief pursuant to section 46a-95.

520 (g) The presiding officer conducting any hearing shall permit  
521 reasonable amendment to any complaint or answer and the testimony  
522 taken at the hearing shall be under oath and be transcribed at the  
523 request of any party.

524 (h) The complainant, the respondent and the commission shall be  
525 afforded the opportunity to inspect and copy relevant and material  
526 records, papers and documents not in the possession of such party,  
527 except as otherwise provided by applicable state or federal law. The  
528 presiding officer may order a party to produce such records, papers

529 and documents, and if a party fails to comply with such order within  
530 thirty days of the date of such order, the presiding officer may issue a  
531 nonmonetary order that the presiding officer deems just and  
532 appropriate, including, but not limited to, an order (1) finding that the  
533 matters that are the subject of the order are established in accordance  
534 with the claim of the party requesting such order, (2) prohibiting the  
535 party who has failed to comply with such order from introducing  
536 designated matters into evidence, (3) limiting the participation of the  
537 noncomplying party with regard to issues or facts relating to the order,  
538 and (4) drawing an adverse inference against the noncomplying party.

539 (i) When the executive director of the commission has determined  
540 that there are available appropriations and otherwise approves a  
541 request, the Chief Human Rights Referee may appoint any magistrate,  
542 who is on the list of available magistrates maintained by the Chief  
543 Court Administrator, to act as a presiding officer at any proceeding  
544 conducted pursuant to this section, subsection (l) of section 46a-83,  
545 subsection (c) or (d) of section 46a-56, as amended by this act, or  
546 subsection (e) of section 4-61dd. Any magistrate so appointed shall  
547 have the same powers and duties as a human rights referee appointed  
548 pursuant to section 46a-57 and be compensated in accordance with the  
549 provisions of section 51-193r from such funds as may be available to  
550 the commission. The Chief Human Rights Referee may request the  
551 appointment of a magistrate whenever the total number of complaints  
552 pending in the commission's office of public hearings exceeds one  
553 hundred.

554 Sec. 18. (NEW) (*Effective October 1, 2019*) (a) As used in this section:  
555 (1) "Sexual misconduct" means any act that is prohibited by section  
556 53a-70, 53a-70a, 53a-70b, 53a-70c, 53a-71, 53a-72a, as amended by this  
557 act, 53a-72b or 53a-73a of the general statutes, as amended by this act,  
558 and any act that constitutes sexual harassment, as defined in  
559 subdivision (8) of subsection (b) of section 46a-60 of the general  
560 statutes, as amended by this act; and (2) "victim" includes an alleged  
561 victim.

562 (b) The following evidence is not admissible in a civil proceeding  
563 involving alleged sexual misconduct: (1) Evidence offered to prove  
564 that a victim engaged in other sexual behavior; or (2) evidence offered  
565 to prove a victim's sexual predisposition.

566 (c) Notwithstanding the provisions of subsection (b) of this section,  
567 the court may admit the evidence in a civil case if the probative value  
568 of such evidence substantially outweighs the danger of (1) harm to any  
569 victim; and (2) unfair prejudice to any party. The court may admit  
570 evidence of a victim's reputation only if the victim has placed the  
571 victim's reputation in controversy.

572 (d) If a party intends to offer evidence under subsection (c) of this  
573 section, the party shall: (1) File a motion that specifically describes the  
574 evidence and states the purpose for which it is to be offered; (2) file  
575 such motion not later than fourteen days before the date on which the  
576 case is to be heard, unless the court, for good cause shown, prescribes a  
577 different time for the filing of such motion; (3) serve the motion on all  
578 parties in accordance with the rules of the court; and (4) notify the  
579 victim or, when appropriate, the victim's guardian or representative.

580 (e) Before admitting evidence pursuant to subsection (c) of this  
581 section, the court shall conduct an in camera hearing and give the  
582 parties and the victim the right to attend such hearing and be heard.  
583 Unless the court orders otherwise, the motion, related materials and  
584 the record of the hearing shall be sealed and remain sealed.

585 Sec. 19. Section 52-577d of the general statutes is repealed and the  
586 following is substituted in lieu thereof (*Effective October 1, 2019, and*  
587 *applicable to any cause of action arising from an incident committed on or*  
588 *after said date*):

589 Notwithstanding the provisions of section 52-577, no action to  
590 recover damages for personal injury to a [minor] person under twenty-  
591 one years of age, including emotional distress, caused by sexual abuse,  
592 sexual exploitation or sexual assault may be brought by such person  
593 later than [thirty years from the date such person attains the age of

594 majority] thirty-five years from the date that such person attains the  
595 age of twenty-one.

596 Sec. 20. (NEW) (*Effective October 1, 2019, and applicable to any cause of*  
597 *action arising from an incident committed on or after said date*)  
598 Notwithstanding the provisions of section 52-577 of the general  
599 statutes, no action to recover damages for personal injury to a person  
600 twenty-one years of age or older, including emotional distress, caused  
601 by sexual abuse, sexual exploitation or sexual assault may be brought  
602 by such person later than five years from the date of the act  
603 complained of.

604 Sec. 21. Section 53a-72a of the general statutes is repealed and the  
605 following is substituted in lieu thereof (*Effective October 1, 2019*):

606 (a) A person is guilty of sexual assault in the third degree when  
607 such person (1) compels another person to submit to sexual contact (A)  
608 by the use of force against such other person or a third person, or (B)  
609 by the threat of use of force against such other person or against a third  
610 person, which reasonably causes such other person to fear physical  
611 injury to himself or herself or a third person, or (2) subjects another  
612 person to sexual contact and such other person is mentally  
613 incapacitated to the extent that such other person is unable to consent  
614 to such sexual contact, or [(2)] (3) engages in sexual intercourse with  
615 another person whom the actor knows to be related to him or her  
616 within any of the degrees of kindred specified in section 46b-21.

617 (b) Sexual assault in the third degree is a class D felony or, if the  
618 victim of the offense is under sixteen years of age, a class C felony.

619 Sec. 22. Section 53a-73a of the general statutes is repealed and the  
620 following is substituted in lieu thereof (*Effective October 1, 2019*):

621 (a) A person is guilty of sexual assault in the fourth degree when: (1)  
622 Such person subjects another person to sexual contact who is (A) under  
623 thirteen years of age and the actor is more than two years older than  
624 such other person, or (B) thirteen years of age or older but under

625 fifteen years of age and the actor is more than three years older than  
626 such other person, or (C) [mentally incapacitated or] impaired because  
627 of mental disability or disease to the extent that such other person is  
628 unable to consent to such sexual contact, or (D) physically helpless, or  
629 (E) less than eighteen years old and the actor is such other person's  
630 guardian or otherwise responsible for the general supervision of such  
631 other person's welfare, or (F) in custody of law or detained in a  
632 hospital or other institution and the actor has supervisory or  
633 disciplinary authority over such other person; or (2) such person  
634 subjects another person to sexual contact without such other person's  
635 consent; or (3) such person engages in sexual contact with an animal or  
636 dead body; or (4) such person is a psychotherapist and subjects  
637 another person to sexual contact who is (A) a patient of the actor and  
638 the sexual contact occurs during the psychotherapy session, or (B) a  
639 patient or former patient of the actor and such patient or former  
640 patient is emotionally dependent upon the actor, or (C) a patient or  
641 former patient of the actor and the sexual contact occurs by means of  
642 therapeutic deception; or (5) such person subjects another person to  
643 sexual contact and accomplishes the sexual contact by means of false  
644 representation that the sexual contact is for a bona fide medical  
645 purpose by a health care professional; or (6) such person is a school  
646 employee and subjects another person to sexual contact who is a  
647 student enrolled in a school in which the actor works or a school under  
648 the jurisdiction of the local or regional board of education which  
649 employs the actor; or (7) such person is a coach in an athletic activity or  
650 a person who provides intensive, ongoing instruction and subjects  
651 another person to sexual contact who is a recipient of coaching or  
652 instruction from the actor and (A) is a secondary school student and  
653 receives such coaching or instruction in a secondary school setting, or  
654 (B) is under eighteen years of age; or (8) such person subjects another  
655 person to sexual contact and (A) the actor is twenty years of age or  
656 older and stands in a position of power, authority or supervision over  
657 such other person by virtue of the actor's professional, legal,  
658 occupational or volunteer status and such other person's participation  
659 in a program or activity, and (B) such other person is under eighteen

660 years of age; or (9) such person subjects another person to sexual  
661 contact who is placed or receiving services under the direction of the  
662 Commissioner of Developmental Services in any public or private  
663 facility or program and the actor has supervisory or disciplinary  
664 authority over such other person.

665 (b) Sexual assault in the fourth degree is a class A misdemeanor or,  
666 if the victim of the offense is under sixteen years of age, a class D  
667 felony.

668 Sec. 23. Section 54-193 of the general statutes is repealed and the  
669 following is substituted in lieu thereof (*Effective October 1, 2019, and*  
670 *applicable to any offense committed on or after October 1, 2019, and to any*  
671 *offense committed prior to October 1, 2019, for which the statute of*  
672 *limitations in effect at the time of the commission of the offense had not yet*  
673 *expired as of October 1, 2019*):

674 (a) There shall be no limitation of time within which a person may  
675 be prosecuted for (1) a capital felony under the provisions of section  
676 53a-54b in effect prior to April 25, 2012, a class A felony or a violation  
677 of subdivision (2) of subsection (a) of section 53-21, section 53a-54d or  
678 53a-169, a class B felony violation of section 53a-70 or 53a-70a, a class C  
679 felony violation of section 53a-71 or 53a-72b or a violation of section  
680 53a-70b or 53a-86, (2) a violation of section 53a-165aa or 53a-166 in  
681 which such person renders criminal assistance to another person who  
682 has committed an offense set forth in subdivision (1) of this subsection,  
683 (3) a violation of section 53a-156 committed during a proceeding that  
684 results in the conviction of another person subsequently determined to  
685 be actually innocent of the offense or offenses of which such other  
686 person was convicted, or (4) a motor vehicle violation or offense that  
687 resulted in the death of another person and involved a violation of  
688 subsection (a) of section 14-224.

689 (b) No person may be prosecuted for a class D felony offense of  
690 section 53a-72a, as amended by this act, except within twenty-five  
691 years next after the offense has been committed.

692        [(b)] (c) No person may be prosecuted for any offense, other than an  
693 offense set forth in subsection (a) or (b) of this section, for which the  
694 punishment is or may be imprisonment in excess of one year, except  
695 within five years next after the offense has been committed.

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

699        [(d)] (e) If the person against whom an indictment, information or  
700 complaint for any of said offenses is brought has fled from and resided  
701 out of this state during the period so limited, it may be brought against  
702 such person at any time within such period, during which such person  
703 resides in this state, after the commission of the offense.

704        [(e)] (f) When any suit, indictment, information or complaint for any  
705 crime may be brought within any other time than is limited by this  
706 section, it shall be brought within such time.

707        Sec. 24. Section 54-193a of the general statutes is repealed and the  
708 following is substituted in lieu thereof (*Effective October 1, 2019, and*  
709 *applicable to any offense committed on or after October 1, 2019, and to any*  
710 *offense committed prior to October 1, 2019, for which the statute of*  
711 *limitations in effect at the time of the commission of the offense had not yet*  
712 *expired as of October 1, 2019*):

713        (a) Notwithstanding the provisions of section 54-193, as amended  
714 by this act, [no person may be prosecuted for any offense, except a  
715 class A felony,] there shall be no limitation of time within which a  
716 person may be prosecuted for any offense involving sexual abuse,  
717 sexual exploitation or sexual assault of a minor. [except within thirty  
718 years from the date the victim attains the age of majority or within five  
719 years from the date the victim notifies any police officer or state's  
720 attorney acting in such police officer's or state's attorney's official  
721 capacity of the commission of the offense, whichever is earlier,  
722 provided if the prosecution is for a violation of subdivision (1) of  
723 subsection (a) of section 53a-71, the victim notified such police officer

724 or state's attorney not later than five years after the commission of the  
725 offense.]

726 (b) Except as provided in subsection (a) of section 54-193, as  
727 amended by this act, no person may be prosecuted for any offense  
728 involving sexual abuse, sexual exploitation or sexual assault of a victim  
729 who was at the time of the offense, eighteen, nineteen or twenty years  
730 of age, except within thirty-five years next after the offense.

731 Sec. 25. Subdivision (2) of section 54-250 of the general statutes is  
732 repealed and the following is substituted in lieu thereof (*Effective*  
733 *October 1, 2019*):

734 (2) "Criminal offense against a victim who is a minor" means (A) a  
735 violation of subdivision (2) of section 53-21 of the general statutes in  
736 effect prior to October 1, 2000, subdivision (2) of subsection (a) of  
737 section 53-21, subdivision (2) of subsection (a) of section 53a-70,  
738 subdivision (1), (4), (8) or (10) or subparagraph (B) of subdivision (9) of  
739 subsection (a) of section 53a-71, subdivision [(2)] (3) of subsection (a) of  
740 section 53a-72a, as amended by this act, subdivision (2) of subsection  
741 (a) of section 53a-86, subdivision (2) of subsection (a) of section 53a-87,  
742 section 53a-90a, 53a-196a, 53a-196b, 53a-196c, 53a-196d, 53a-196e or  
743 53a-196f, (B) a violation of subparagraph (A) of subdivision (9) of  
744 subsection (a) of section 53a-71 or section 53a-92, 53a-92a, 53a-94, 53a-  
745 94a, 53a-95, 53a-96 or 53a-186, provided the court makes a finding that,  
746 at the time of the offense, the victim was under eighteen years of age,  
747 (C) a violation of any of the offenses specified in subparagraph (A) or  
748 (B) of this subdivision for which a person is criminally liable under  
749 section 53a-8, 53a-48 or 53a-49, or (D) a violation of any predecessor  
750 statute to any offense specified in subparagraph (A), (B) or (C) of this  
751 subdivision the essential elements of which are substantially the same  
752 as said offense.

753 Sec. 26. Subsection (c) of section 12-660 of the general statutes is  
754 repealed and the following is substituted in lieu thereof (*Effective*  
755 *October 1, 2019*):



756 (c) Notwithstanding the provisions of subsection [(b)] (c) of section  
 757 54-193, as amended by this act, a person may be prosecuted for a  
 758 violation of any provision of this chapter more than five years after  
 759 such violation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	46a-54
Sec. 2	<i>October 1, 2019</i>	46a-51(8)
Sec. 3	<i>July 1, 2019</i>	46a-56(a)
Sec. 4	<i>October 1, 2019</i>	46a-60(b)(8)
Sec. 5	<i>October 1, 2019</i>	46a-68(b)(4)(A)
Sec. 6	<i>October 1, 2019</i>	46a-82(f)
Sec. 7	<i>October 1, 2019</i>	46a-86(b)
Sec. 8	<i>October 1, 2019</i>	46a-89(a)
Sec. 9	<i>October 1, 2019</i>	46a-83a
Sec. 10	<i>October 1, 2019</i>	46a-97
Sec. 11	<i>October 1, 2019</i>	46a-101(e)
Sec. 12	<i>October 1, 2019</i>	46a-102
Sec. 13	<i>October 1, 2019</i>	46a-104
Sec. 14	<i>October 1, 2019</i>	New section
Sec. 15	<i>July 1, 2019</i>	New section
Sec. 16	<i>October 1, 2019</i>	46a-55
Sec. 17	<i>October 1, 2019</i>	46a-84
Sec. 18	<i>October 1, 2019</i>	New section
Sec. 19	<i>October 1, 2019, and applicable to any cause of action arising from an incident committed on or after said date</i>	52-577d
Sec. 20	<i>October 1, 2019, and applicable</i>	New section
Sec. 21	<i>October 1, 2019</i>	53a-72a
Sec. 22	<i>October 1, 2019</i>	53a-73a

Sec. 23	<i>October 1, 2019, and applicable to any offense committed on or after October 1, 2019, and to any offense committed prior to October 1, 2019, 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, 2019</i>	54-193
Sec. 24	<i>October 1, 2019, and applicable to any offense committed on or after October 1, 2019, and to any offense committed prior to October 1, 2019, 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, 2019</i>	54-193a
Sec. 25	<i>October 1, 2019</i>	54-250(2)
Sec. 26	<i>October 1, 2019</i>	12-660(c)

**Statement of Legislative Commissioners:**

In Section 1, provisions of section 46a-54(15)(C) were redrafted for clarity; in Section 3, the effective date was changed to July 1, 2019, for consistency with the provisions of Section 1; in Section 4, the provisions were reorganized for conformity with standard drafting conventions; in Section 7 and 8(a), "discriminatory practice" was changed to "discriminatory employment practice" for consistency; and in Section 16(c), "bring a civil action" was changed to "bring a civil action concerning an alleged discriminatory practice" 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 20 \$	FY 21 \$
Human Rights & Opportunities, Com.	GF - Cost	281,534	335,642
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	102,783	126,718
Human Rights & Opportunities, Com.	GF - Potential Revenue Gain	Up to \$50,000	Up to \$50,000
Pub. Defender Serv. Com.	GF - Cost	See Below	See Below
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Various State Agencies	All Funds - Potential Cost	See Below	See Below

Note: GF=General Fund; All Funds=All Funds

**Municipal Impact:**

Municipalities	Effect	FY 20 \$	FY 21 \$
Various Municipalities	STATE MANDATE <sup>2</sup> - Potential Cost	See Below	See Below

**Explanation**

<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 41.19% of payroll in FY 20 and FY 21.

<sup>2</sup> State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

In order to handle the bill's provisions, CHRO will need to hire three Human Rights Attorney 1's and two Human Rights Trainees at a cost of \$249,534 in FY 20 and \$307,642 in FY 21. In addition, they will require Other Expense funding of \$32,000 in FY 20 and \$28,000 in FY 21.

**Sections 1, 3, and 10** expand requirements for employers on training employees regarding sexual harassment laws and providing related information, as well as require CHRO to make related training materials available.

The bill expands requirements for employers with more than three employees to train them on sexual harassment laws. No impact is anticipated to other state agencies or municipalities as CHRO is required to make available such training to employers under the bill. To the extent that an essential state or municipal employee's shift needs to be covered during training, there may be a potential cost to cover the work responsibilities of the employee. For example, the replacement cost of a State Police Trooper would be at least \$30/hour or possibly higher if overtime was used to cover the employee's shift.

The bill requires CHRO to develop and make available to employers an online training and education video or other interactive method that fulfills the bill's training requirements. It further requires CHRO to develop and include on its website a link about the illegality of sexual harassment and the remedies available to victims.

CHRO will need to hire one Human Rights Attorney 1 and one Human Rights Trainee at a cost of \$118,791 in FY 20 and FY 21, and associated fringe benefit costs of \$48,930 each year. The Attorney 1 will be responsible for developing and maintaining the training materials to ensure they comply with law, as well as responding to law

related employer questions. The Human Rights Trainee will assist with the preparation of training materials, the development of the training module, and providing live responses to questions during training. CHRO will require one-time funding of \$4,000 in FY 20 in order to purchase equipment, such as a video editing computer and webcam/microphone to implement the interactive training. In addition, they will need \$3,000 in each fiscal year for webinar and other software related subscriptions.

**Section 10** of the bill also subjects employers to a fine of up to \$1,000 if they fail to provide the training and education as required. This section also increases the maximum fine to employers, from \$250 to \$1,000, for failure to post certain notices about nondiscrimination law. As the bill is written, it is not anticipated CHRO will have the authority to enforce these provisions as they would need access to the employer's premises to make determinations. No impact is anticipated as a result of this section.

**Section 2** of the bill expands the definition of "discriminatory practice" in the CHRO statutes, adding new violations under this definition and allowing individuals aggrieved by such violations to file a complaint with CHRO. No fiscal impact is anticipated as CHRO has the expertise to handle additional complaints as a result of this provision.

**Sec. 6** extends the time for filing certain complaints alleging discrimination that occurred on or after October 1, 2019, to 300 days. Current law allows a discriminatory practice complaint to be filed with CHRO within 180 days of the alleged discrimination or 30 days for complaints alleging discrimination based on denial of state employment or occupational licensure due to criminal history.

It is anticipated that extending such deadline would result in up to 100 additional complaints filed each year. In order to process the additional complaints, CHRO will require one additional Human Rights Trainee at a cost of \$33,737 in FY 20 (partial year) and \$48,731 in FY 21 (full year), with associated fringe benefit costs of \$13,896 and

\$20,072, respectively.

**Section 8** allows CHRO to file certain court petitions in cases involving employers with at least three employees, rather than 50 employees as under current law. CHRO will require the addition of one Human Rights Attorney 1 at a cost of \$48,503 in FY 20 (partial year) and \$70,060 in FY 21 (full year), and associated fringe benefit costs of \$19,978 and \$28,858, respectively.

In addition, this section of the bill allows CHRO to seek a civil penalty of up to \$10,000, payable to CHRO for such cases. It is anticipated that this provision will generate up to \$25,000 per year.

**Sections 9, 11 and 12** allow a complainant to file a court case within two years after being released from CHRO jurisdiction. Current law allows a complainant released from CHRO jurisdiction to bring a court case against the respondent within two years after filing the complaint with CHRO, and no later than 90 days after receiving the release of jurisdiction.

It is anticipated that the extension of the deadline to file a court case after being released from CHRO's jurisdiction will require the addition of one Human Rights Attorney 1 at a cost of \$48,503 in FY 20 (partial year) and \$70,060 in FY 21 (full year), and associate fringe benefit costs of \$19,978 and \$28,858, respectively. The Human Rights Attorney 1 will be responsible for intervening in cases where complaints are released and a civil action may be commenced in court, as well as processing and litigation of additional complaints.

**Section 14** allows employers to deduct the pay of certain employees under enumerated circumstances and allows the Labor Commissioner to adopt related regulations. This does not result in any fiscal impact as current regulations limit employers' ability to withhold such employees' pay under these circumstances.

**Section 15** makes procedural changes after an employee files a sexual harassment complaint against a school administrator, and does

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not result in a fiscal impact to local and regional boards of education.

**Section 16** allows the CHRO executive director, through the supervising attorney and within available appropriations, to assign CHRO legal counsel to bring a civil action concerning an alleged discriminatory practice instead of a case proceeding to an administrative hearing under certain circumstances. Under the bill, if the court finds the respondent committed a discriminatory practice, the respondent must pay CHRO its fees and costs in addition to a civil penalty of up to \$10,000. It is anticipated CHRO will generate up to approximately \$25,000 in civil penalties a year.

**Sec. 17** creates a process for magistrates to also preside over CHRO hearings under certain circumstances. It allows the chief human rights referee to request such an appointment when there are more than 100 CHRO complaints pending for public hearings. The CHRO executive director can approve the request if it is determined the appointment would be within available appropriations. Currently, CHRO does not have the funding to utilize this provision and would require approximately \$25,000 per year in order to pay the magistrate stipend.

**Sections 18, 19, & 20** make changes to civil proceedings and do not result in a fiscal impact.

**Section 21, 22, & 25** increase the penalty for sexual assault in the third degree when the victim is mentally incapacitated and unable to consent and results in a potential cost for incarceration or probation supervision and a potential revenue gain from fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800<sup>3</sup> while the average marginal cost for supervision in the

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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.

community is less than \$700<sup>4</sup> each year.

**Sections 23 & 24** eliminate the statute of limitation for specified felony sexual assault crimes from five years to 10 years and results in a potential cost to the Division of Public Defenders. While the majority of new cases would be assigned to state public defenders, any cases that present a conflict of interest would be assigned to outside counsel, at a cost of approximately \$7,000 per case. In addition, any cases that require offender evaluation or expert witnesses would result in a cost of approximately \$3,000 per case.

To the extent that additional offenders are convicted due to the elimination of the statute of limitation, the bill results in a potential cost to the Department of Correction and Judicial Department for incarceration and probation supervision. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800<sup>5</sup> while the average marginal cost for supervision in the community is less than \$700<sup>6</sup> each year. In addition, the increased convictions may result in revenue from fines.

**Sections 4, 5, 7, 13 and 26** have no fiscal impact.

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

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation, webinar and software subscriptions, magistrate stipends, and the number of cases.

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<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.

<sup>5</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>6</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 3****AN ACT COMBATTING SEXUAL ASSAULT AND SEXUAL HARASSMENT.**

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### §§ 23, 24, & 26 — STATUTE OF LIMITATIONS FOR SEXUAL ASSAULT AND RELATED CRIMES

Eliminates or extends the statute of limitations for various sexual assault crimes and eliminates the statute of limitations for 1<sup>st</sup> degree promoting prostitution

## BACKGROUND

### **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 (§ 1);
2. extends the time to file a CHRO complaint alleging employer discrimination, including sexual harassment (§ 6);
3. allows (a) CHRO to seek punitive damages against employers in certain situations and (b) courts to order punitive damages in these cases and in other cases after release from CHRO jurisdiction (§§ 8 & 13);

4. extends the time to file a civil lawsuit related to sexual abuse or related conduct (§§ 19 & 20); and
5. eliminates the criminal statute of limitations for various felony sexual assault crimes and related crimes (§§ 23 & 24).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2019, except as otherwise noted below.

### **§§ 1, 3, & 10 — SEXUAL HARASSMENT TRAINING AND INFORMATION REQUIREMENTS FOR EMPLOYERS**

*Expands requirements for employers on training employees regarding sexual harassment laws and providing related information, and requires CHRO to make related training materials available*

#### **Training (§§ 1 & 3)**

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 expands this requirement to cover (1) employers of any size and (2) non-supervisory employees for employers with at least three employees.

The bill requires the new training to occur within one year of October 1, 2019, except that any employer who provided the bill's training after October 1, 2018, is not required to provide it a second time.

The bill requires CHRO to develop and make available to employers an online training and education video or other interactive method that fulfills the bill's training requirements. As long as CHRO does so, the bill's required training must take place within six months of the hiring date, starting October 1, 2019, for (1) all new hires by employers with at least three employees and (2) all new supervisory hires by smaller employers.

Under the bill, the employers required to provide this training must,

at least every ten years, provide supplemental training to update employees on the content of the training and education.

**Information (§§ 1 & 3)**

Existing law gives CHRO the power to require that employers with three or more employees post in a prominent and accessible place a notice stating that sexual harassment is illegal and the remedies available to victims. The bill requires these 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 requires CHRO to develop and include on its website a link about the illegality of sexual harassment and the remedies available to victims. An employer can comply with the requirement above by providing employees with this link by email, text message, or in writing.

**Penalty (§ 10)**

The bill subjects employers to a fine of up to \$1,000 if they fail to provide the training and education as required. As explained below, the bill additionally classifies this inaction as a discriminatory practice.

EFFECTIVE DATE: October 1, 2019, except July 1, 2019, for the provisions requiring CHRO to post information on its website and make training materials available.

**§ 2 — DISCRIMINATORY PRACTICE DEFINITION**

*Expands the definition of "discriminatory practice" in the CHRO statutes to include, among other things, an employer's failure to provide sexual harassment training or post certain notices as required*

The bill expands the definition of "discriminatory practice" in the CHRO statutes to include violations of the following requirements for:

1. 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;
2. employers to provide training and information to employees (as specified above) about sexual harassment and available remedies; and
3. state agencies to provide diversity training and education to employees, annually report on the training, and submit information demonstrating compliance as part of their affirmative action plans.

By adding these violations to the definition of discriminatory practice, the bill allows individuals aggrieved by any such violation, or CHRO itself, to file a complaint with CHRO alleging discrimination.

#### **§ 4 — CORRECTIVE ACTION IN EMPLOYER SEXUAL HARASSMENT CASES**

*Allows employers to modify the conditions of an alleged harassment victim's employment only with that person's consent*

The bill prohibits an employer, when taking immediate corrective action in response to an employee's sexual harassment claim, from modifying the claimant'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 him or her to a different work schedule, or (3) making other substantive changes to the terms and conditions of employment.

#### **§ 5 — EQUAL EMPLOYMENT OPPORTUNITY OFFICERS**

*Limits the disclosure of investigation-related documents by state entities' equal employment opportunity officers*

By law, each state agency, department, board, or commission must designate an equal employment opportunity officer. Among other things, they are responsible for investigating discrimination complaints made against the applicable entity, with certain exceptions.

The bill prohibits these officers from disclosing witness statements or documents received or compiled in conjunction with such an investigation, to anyone other than (1) personnel charged with the investigation or (2) CHRO upon request.

## **§ 6 — COMPLAINT FILING DEADLINE**

*Gives a claimant more time to file a complaint with CHRO alleging employment discrimination or various types of discrimination by state agencies*

Under current law, a discriminatory practice complaint with CHRO may 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.

The bill extends, to 300 days, the time for filing complaints alleging discrimination that allegedly occurred on or after October 1, 2019, in any of the following areas:

1. employment (including sexual harassment);
2. equal employment in state agencies and the Judicial Branch;
3. state agency practices (including permitting certain types of discrimination, such as in housing or public accommodations);
4. state agency job placement services or state licensing;
5. state agency educational and vocational guidance and apprenticeship programs;
6. allocation of state benefits;
7. state agency cooperation with CHRO;
8. required state agency annual reporting to the governor on nondiscrimination efforts; and
9. denial of state employment or occupational licensure due to criminal history.

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**§ 7 — REMEDIES FOR DISCRIMINATORY EMPLOYMENT PRACTICES**

*Requires the CHRO presiding officer, among other things, to issue an order that makes the complainant whole and award attorney's fees after finding a discriminatory employment practice*

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 instead requires the officer to:

1. issue an order eliminating the discriminatory practice and making the complainant whole, including restoring labor organization membership;
2. determine the amount of damages, including the complainant's actual costs as a result of the discrimination; and
3. 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.

**§ 8 — COURT PETITIONS FOR PUNITIVE DAMAGES, PENALTIES, OR OTHER ORDERS IN EMPLOYMENT DISCRIMINATION COMPLAINTS**

*Expands the range of orders that CHRO may seek through court petitions against employers in certain situations, and expands this law to include 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 matter, CHRO may apply to court to seek appropriate injunctive relief.

The bill extends this provision by allowing CHRO to file such a court petition in complaints involving employers with at least three employees, rather than 50 as under current law. And rather than the current standard of preventing irreparable harm, it allows such a



petition if CHRO believes that:

1. a court order is needed to preserve an employment opportunity for the complainant until CHRO issues its final decision on the complaint, or
2. for discriminatory employment practices occurring on or after October 1, 2019, punitive damages or a civil penalty would be appropriate.

Under the bill, CHRO may seek:

1. a civil penalty of up to \$10,000, payable to CHRO;
2. punitive damages of up to \$50,000, payable to the complainant;
3. as under current law, an order barring the respondent from doing any act that would negate any order the presiding officer may issue on the complaint; or
4. any combination of these.

The bill specifies that, if the court issues an order barring the respondent from doing certain acts as set forth above, the availability of money damages is not an adequate remedy for the loss of an employment opportunity.

Under the bill, the court may allow the respondent employer to fill a position until CHRO issues its final determination or the court issues its final decision upon appeal of that determination. This applies only if the respondent demonstrates that the inability to fill a position immediately would cause undue hardship.

### **§§ 9, 11, & 12 — LAWSUIT FILING DEADLINE**

*Gives claimants more time to file a court case after being released from CHRO's jurisdiction*

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, and no later than 90 days after

receiving the release of jurisdiction. The bill instead allows a complainant to file a court case within two years after being released from CHRO jurisdiction.

### **§ 10 — PENALTY FOR FAILURE TO POST CERTAIN NOTICES**

*Increases the fine for employers and certain others for failing to post notices about nondiscrimination 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 a failure to comply, from \$250 to \$1,000.

### **§ 13 — PUNITIVE DAMAGES IN COURT AFTER RELEASE FROM CHRO JURISDICTION**

*Allows courts to award punitive damages in discrimination cases after release from CHRO jurisdiction*

The bill allows courts to award punitive damages in discrimination cases that were released from CHRO jurisdiction. In 2016, 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)).

Under existing law for these cases, courts may award the legal and equitable relief they deem appropriate, including injunctive relief, attorney's fees, and court costs.

### **§ 14 — 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 when they are suspended from work for violating written workplace rules that prohibit harassment or workplace violence. It also allows the labor commissioner to adopt implementing regulations. Current regulations limit employers' ability to withhold such employees' pay under these circumstances (Conn. Agencies Reg., § 31-60-14 et seq.).

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

### **§ 15 — SCHOOL ADMINISTRATOR SUSPENSIONS**

*Requires school superintendents, after an employee files a sexual harassment complaint against an administrator, to immediately suspend the administrator 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 investigate the allegations.

The bill defines “complaint” for this purpose as a written communication alleging that an administrator committed sexual harassment, and that a school employee files, or someone files on the employee’s behalf, with (1) the superintendent, (2) someone the superintendent designates to accept such a complaint, (3) CHRO, or (4) a court.

The bill does not (1) specify whether the suspension is with or without pay or (2) establish procedures for these investigations or a timeframe for their completion.

EFFECTIVE DATE: July 1, 2019

### **§ 16 — CHRO CIVIL ACTIONS IN THE PUBLIC INTEREST**

*Allows CHRO’s executive director, within available appropriations, to assign CHRO legal counsel to bring a civil action, instead of an administrative hearing, in certain cases when doing so would be in the public interest and the parties agree to the case proceeding to court*

Under existing law, certain cases within CHRO’s jurisdiction proceed to an administrative hearing phase (e.g., if the investigator finds reasonable cause to believe that discrimination occurred and the parties cannot reach a settlement). The bill allows the CHRO executive director, through the supervising attorney and within available appropriations, to assign CHRO legal counsel to bring a civil action concerning an alleged discriminatory practice, instead of a case

proceeding to an administrative hearing, if she determines that:

1. this would be in the public interest and
2. the parties mutually agree, in writing, to the case proceeding in this way.

The legal counsel must bring the case in Superior Court within 90 days after notifying the parties of the executive director's determination. The action may be served by certified mail. The bill exempts these cases from certain conditions that apply to civil actions brought after CHRO has released a case from its jurisdiction (such as specific provisions on venue and the statute of limitations).

The bill limits the court's jurisdiction to the claims, counterclaims, defenses, or other matters that could be presented at a CHRO administrative hearing, had the complaint remained with CHRO. It allows the complainant to intervene as a matter of right without permission from the court, CHRO, or the other party. The case must be tried without a jury.

Under the bill, the complainant or his or her attorney must present all or part of the case in support of the complaint if CHRO legal counsel determines that this will not adversely affect the state's interest.

The bill allows a court to grant the same relief that would be available in a civil action after a case was released from CHRO jurisdiction. If the court finds that the respondent committed a discriminatory practice, the bill requires the court to order the respondent to pay CHRO its fees and costs, in addition to a civil penalty of up to \$10,000. CHRO must use the funds from the penalty to advance the public interest in eliminating discrimination.

## **§ 17 — DOCUMENT INSPECTION AND CONSEQUENCES OF NONCOMPLIANCE**

*Allows the presiding officer at CHRO administrative hearings to impose nonmonetary penalties on parties that do not comply with orders to produce relevant and material documents*

Under the bill, CHRO and each party to a CHRO administrative hearing must have the opportunity to inspect and copy relevant and material records, papers, and other documents not in the party's possession, unless another state or federal law prohibits it. The bill allows the presiding officer to (1) order a party to produce these documents and (2) issue a nonmonetary order against a party who fails to comply within 30 days.

The nonmonetary order must be deemed just and appropriate by the officer and may do the following:

1. find that the matters that are the subject of the order are established as set forth in the other party's claim,
2. prohibit the noncomplying party from introducing designated matters into evidence,
3. limit that party's participation as to issues or facts relating to the order, and
4. draw an adverse inference against that party.

## § 17 — MAGISTRATES

*Under certain conditions, allows the chief human rights referee to appoint a magistrate to preside over a CHRO proceeding if there is a backlog of more than 100 cases*

Under existing law, the chief human rights referee must appoint human rights referees to preside over CHRO hearings. She must also appoint another referee or a volunteer attorney to conduct settlement negotiations.

The bill creates a process for magistrates to also preside over CHRO hearings under certain circumstances. It allows the chief human rights referee to request such an appointment when there are more than 100 CHRO complaints pending for public hearings. The CHRO executive director can approve the request if she determines the appointment would be within available appropriations.

If approved, the chief human rights referee must select the

magistrate from the chief court administrator's list of available magistrates. Any such magistrate has the same powers and duties as a human rights referee appointed under law and must be compensated at the rate set by existing law (i.e., \$200 per day), from CHRO funds as available.

The bill allows magistrates to be appointed as presiding officers for proceedings on the following matters:

1. discriminatory practice complaints (CGS § 46a-84);
2. determining remedies following a default order against a respondent (CGS § 46a-83(l));
3. complaints brought by CHRO against a contractor or subcontractor for noncompliance with nondiscrimination laws or required contract provisions (e.g., affirmative action requirements) (CGS § 46a-56(c));
4. complaints brought by CHRO against a contractor, subcontractor, service provider, or supplier for fraud related to qualifying as a minority business enterprise in relation to certain state, municipal, and quasi-public agency contracts (CGS § 46a-56(d)); or
5. whistleblower complaints for alleged retaliation against employees of state or quasi-public agencies, large state contractors, or appointing authorities (CGS § 4-61dd(e)).

## **§ 18 — EVIDENCE IN CIVIL SEXUAL MISCONDUCT CASES**

*Limits when evidence of the victim's sexual history may be admitted in civil proceedings involving alleged sexual assault or sexual harassment*

The bill limits the circumstances in which evidence of a victim's or an alleged victim's ("victim") sexual history may be admitted in civil proceedings involving alleged sexual assault or sexual harassment. It generally prohibits offering evidence to prove (1) that a victim engaged in other sexual behavior or (2) the victim's sexual predisposition. But it allows the court to admit this evidence if the

probative value substantially outweighs the danger of (1) harm to any victim and (2) unfair prejudice to any party. It allows the court to admit evidence of a victim's reputation only if the victim has placed his or her reputation in controversy.

Under the bill, if a party intends to offer such evidence, the party must:

1. file a motion specifically describing the evidence and stating its purpose, at least 14 days before the hearing unless the court, for good cause shown, prescribes a different deadline;
2. serve the motion on all parties pursuant to court rules; and
3. notify the victim or, when appropriate, the victim's guardian or representative.

The bill requires the court, before admitting this evidence, to conduct an in camera (i.e., in chambers) hearing and give the parties and the victim the right to attend and be heard. Unless the court orders otherwise, the motion, related materials, and hearing record must be sealed and remain sealed.

## **§§ 19 & 20 — CIVIL STATUTE OF LIMITATIONS**

*Extends the time to file a civil case related to sexual abuse or related conduct*

Under current law, if a victim was a minor (under age 18) when sexual assault, sexual abuse, or sexual exploitation occurred, the victim has until his or her 48<sup>th</sup> birthday to file a personal injury lawsuit for damages, including emotional distress, caused by the conduct.

The bill extends this provision in two ways. First, it applies it to victims who were under age 21, rather than 18, at the time of the conduct. Second, it allows any such victim to file the lawsuit at any time before his or her 56<sup>th</sup> birthday.

The bill also extends, from three to five years, the general statute of limitations for a victim age 21 or older to file a personal injury lawsuit for damages, including emotional distress, caused by sexual assault,

sexual abuse, or sexual exploitation.

Under existing law, regardless of the victim's age, there is no limitation on bringing a personal injury lawsuit for damages caused by sexual assault when the offender has been convicted of 1<sup>st</sup> degree or 1<sup>st</sup> degree aggravated sexual assault for such conduct (CGS § 52-577e).

EFFECTIVE DATE: October 1, 2019, and applicable to any case arising from an incident committed on or after that date.

### **§§ 21, 22, & 25 — SEXUAL ASSAULT OF INCAPACITATED PERSON**

*Increases the penalty for subjecting someone to sexual contact if the victim is mentally incapacitated and cannot consent*

Under current law, it is 4<sup>th</sup> degree sexual assault to subject someone to sexual contact if the victim is mentally incapacitated to the extent that he or she cannot consent to the contact. The bill instead classifies this conduct as 3<sup>rd</sup> degree sexual assault, thus increasing the maximum prison term and criminal fine as shown in Table 1.

**Table 1: Penalties for 3<sup>rd</sup> and 4<sup>th</sup> Degree Sexual Assault**

<b>Victim Age</b>	<b>4<sup>th</sup> Degree Sexual Assault</b>	<b>3<sup>rd</sup> Degree Sexual Assault</b>
Under 16	Class D felony  (Up to five years in prison, a fine of up to \$5,000, or both)	Class C felony  (Up to 10 years in prison, a fine of up to \$10,000, or both)
16 or older	Class A misdemeanor  (Up to one year in prison, a fine of up to \$2,000, or both)	Class D felony  (Up to five years in prison, a fine of up to \$5,000, or both)

### **§§ 23, 24, & 26 — STATUTE OF LIMITATIONS FOR SEXUAL ASSAULT AND RELATED CRIMES**

*Eliminates or extends the statute of limitations for various sexual assault crimes and eliminates the statute of limitations for 1<sup>st</sup> degree promoting prostitution*

The bill eliminates the criminal statute of limitations for several sexual assault and related crimes, and extends it for certain others.

Under current law, there is generally a five-year statute of limitations for felonies, including several sexual assault crimes. But



there is:

1. no statute of limitations for (a) crimes that are class A felonies, including certain sexual assault crimes, or (b) certain sexual assault crimes involving DNA evidence (CGS § 54-193b) and
2. an extended statute of limitations in other cases involving sexual abuse, sexual exploitation, or sexual assault of minors (in most cases, until the earlier of the victim's 48<sup>th</sup> birthday or five years from the date the victim reports the crime) (CGS § 54-193b).

The bill eliminates the statute of limitations for the following:

1. any offense involving sexual abuse, sexual exploitation, or sexual assault of a minor;
2. 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, which are class A felonies);
3. sexual assault in a spousal or cohabiting relationship;
4. 2<sup>nd</sup> degree sexual assault or 3<sup>rd</sup> degree sexual assault with a firearm, in cases where either crime is a class C felony (i.e., the victim is aged 16 or older; if the victim is under age 16, there is also no statute of limitations under the provision above on any offense involving minors);
5. risk of injury to a minor involving intimate contact with a victim under age 16; and
6. 1<sup>st</sup> degree promoting prostitution.

The bill also extends the statute of limitations to 35 years for cases involving sexual abuse, sexual exploitation, or sexual assault of a victim aged 18 to 20, if the bill or existing law does not otherwise eliminate the statute of limitations. Lastly, the bill extends the statute of limitations to 25 years for 3<sup>rd</sup> degree sexual assault in cases where the crime is a class D felony and the victim is an adult. For these crimes, the current statute of limitations is five years unless they meet the exceptions described earlier (e.g., certain cases involving DNA

evidence).

EFFECTIVE DATE: October 1, 2019, and applicable 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, 2019.

## **BACKGROUND**

### ***Related Bills***

sSB 697, reported favorably by the Labor and Public Employees Committee, prohibits employers from entering into contracts with employees that contain a nondisclosure provision that prevents the employee from disclosing or discussing workplace sexual harassment or sexual assault.

sSB 913, reported favorably by the Judiciary Committee, extends the criminal statute of limitations for certain sexual assault crimes from five years to 10 years.

HB 5271, reported favorably by the Labor and Public Employees Committee, (1) increases from two to four hours the sexual harassment training that CHRO can require employers with 50 or more employees to offer their supervisory employees and (2) expands the training's scope.

sHB 7044, reported favorably by the Labor and Public Employees and Judiciary committees, contains various provisions on sexual harassment, including prohibiting employers from taking immediate corrective action that modifies the complainant's terms and conditions of employment without the complainant's express written agreement.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 26 Nay 14 (04/10/2019)