



General Assembly

January Session, 2019

Committee Bill No. 3

LCO No. 6271



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

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 Section 46a-54 of the general statutes is repealed and the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. Any employee hired on or after October 1, 2019, by an
83 employer having (i) three or more employees, shall receive such
84 training and education not later than six months after the date of his or
85 her hire, provided the commission has developed and made available
86 such training and education materials in accordance with the
87 provisions of subdivision (8) of subsection (a) of section 46a-56, as
88 amended by this act; or (ii) less than three employees shall provide two
89 hours of training and education to all supervisory employees within
90 one year of October 1, 2019, and to all new supervisory employees
91 within six months of their assumption of a supervisory position,
92 provided any employer who has provided such training and education
93 to any such supervisory employees after October 1, 2018, shall not be
94 required to provide such training and education a second time. Any
95 supervisory employee hired on or after October 1, 2019, by an
96 employer having less than three employees, shall receive such training
97 and education not later than six months after the date of his or her hire,
98 provided the commission has developed and made available such
99 training and education materials in accordance with the provisions of
100 subdivision (8) of subsection (a) of section 46a-56, as amended by this
101 act. Such training and education shall include information concerning
102 the federal and state statutory provisions concerning sexual
103 harassment and remedies available to victims of sexual harassment.
104 An employer who is required to provide training under this
105 subdivision shall provide periodic supplemental training that updates
106 all supervisory and nonsupervisory employees on the content of such
107 training and education not less than every ten years. As used in this
108 subdivision, "sexual harassment" has the same meaning as provided in
109 subdivision (8) of subsection (b) of section 46a-60, as amended by this

110 act, and "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*
157 *October 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) (A) For an employer, by the employer or the employer's agent,
193 for an 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] As used in this subdivision, "sexual
198 harassment" means any unwelcome sexual advances or requests for
199 sexual favors or any conduct of a sexual nature when [(A)] (i)
200 submission to such conduct is made either explicitly or implicitly a
201 term or condition of an individual's employment, [(B)] (ii) submission

202 to or rejection of such conduct by an individual is used as the basis for
203 employment decisions affecting such individual, or [(C)] (iii) such
204 conduct has the purpose or effect of substantially interfering with an
205 individual's work performance or creating an intimidating, hostile or
206 offensive working environment;

207 (B) If an employer takes immediate corrective action in response to
208 an employee's claim of sexual harassment, such corrective action shall
209 not modify the conditions of employment of the employee making the
210 claim of sexual harassment unless such employee agrees, in writing, to
211 any modification in the conditions of employment. Corrective action
212 taken by an employer, may include, but need not be limited to,
213 employee relocation, assigning an employee to a different work
214 schedule or other substantive changes to an employee's terms and
215 conditions of employment;

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

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

234 investigating such complaint or to the commission upon request,
235 witness statements or documents received or compiled in conjunction
236 with the investigation of a complaint of discriminatory conduct within
237 the agency, department, board or commission.

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

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

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

254 (b) In addition to any other action taken under this section, upon a
255 finding of a discriminatory employment practice, the presiding officer
256 [may order the hiring or reinstatement of any individual, with or
257 without back pay, or] shall (1) issue an order eliminating the
258 discriminatory practice complained of and making the complainant
259 whole, including restoration to membership in any respondent labor
260 organization, and (2) (A) determine the amount of damages suffered
261 by the complainant, including the actual costs incurred by the
262 complainant as a result of the discriminatory practice, and (B) allow
263 reasonable attorney's fees and costs. The amount of attorney's fees
264 allowed shall not be contingent upon the amount of damages
265 requested by or awarded to the complainant. Liability for back pay

266 shall not accrue from a date more than two years prior to the filing or
267 issuance of the complaint. Interim earnings, including unemployment
268 compensation and welfare assistance or amounts which could have
269 been earned with reasonable diligence on the part of the person to
270 whom back pay is awarded shall be deducted from the amount of back
271 pay to which such person is otherwise entitled. The amount of any
272 deduction for interim unemployment compensation or welfare
273 assistance shall be paid by the respondent to the commission which
274 shall transfer such amount to 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 practice,
285 occurring on or after October 1, 2019, that punitive damages or a civil
286 penalty would be appropriate, the commission may bring a petition in
287 the superior court for the judicial district of Hartford, the judicial
288 district in which the discriminatory practice which is the subject of the
289 complaint occurred or the judicial district in which the respondent
290 resides [, provided this] for such order or relief. This subdivision shall
291 not apply to complaints against employers with less than [fifty] three
292 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, in accordance with this subsection, in
411 lieu of an administrative hearing pursuant to section 46a-84, as
412 amended by this act, when the executive director determines that a
413 civil action is in the public interest and if the parties to the
414 administrative hearing mutually agree, in writing, to the bringing of
415 such civil action by commission legal counsel. The commission legal
416 counsel shall bring such a civil action in the Superior Court not later
417 than ninety days following the date the commission legal counsel
418 notifies the parties of the executive director's determination. Such civil
419 action may be served by certified mail and shall not be subject to the

420 provisions of section 46a-100, 46a-101, as amended by this act, or 46a-
421 102, as amended by this act. The jurisdiction of the Superior Court in
422 an action brought under this subsection shall be limited to such claims,
423 counterclaims, defenses or the like that could be presented at an
424 administrative hearing before the commission, had the complaint
425 remained with the commission for disposition. A complainant may
426 intervene as a matter of right without permission of the court or the
427 parties. The civil action shall be tried to the court without a jury. If the
428 commission legal counsel determines that the interests of the state will
429 not be adversely affected, the complainant or attorney for the
430 complainant shall present all or part of the case in support of the
431 complaint. The court may grant any relief available under section 46a-
432 104, as amended by this act. Where the Superior Court finds that a
433 respondent has committed a discriminatory practice, the court shall
434 grant the commission its fees and costs and award the commission a
435 civil penalty, not exceeding ten thousand dollars, which shall be
436 payable to the commission and used by the commission to advance the
437 public interest in eliminating discrimination.

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

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

447 (b) Upon (1) certification of a complaint filed pursuant to subsection
448 (a) or (b) of section 46a-82, (2) the filing of a complaint pursuant to
449 subsection (c) of said section, or (3) a decision to hear a complaint,
450 which is made pursuant to subsection (e) of section 46a-83, the Chief
451 Human Rights Referee shall appoint a human rights referee to act as a

452 presiding officer to hear the complaint. The chief referee shall also
453 appoint an individual authorized by subsection (e) of this section or a
454 referee, other than the referee appointed to hear the complaint, to
455 conduct settlement negotiations. The chief referee shall serve in the
456 name of the commission a copy of the complaint, as the same may
457 have been amended, requiring the respondent to answer the charges of
458 the complaint, together with a written notice requiring the respondent
459 to appear at a hearing or settlement conference at a date and time
460 specified in the notice. A hearing on a complaint filed pursuant to
461 subsection (a) or (b) of section 46a-82 shall be commenced by
462 convening a hearing conference not later than forty-five days after the
463 certification of the complaint. Such hearing shall be a de novo hearing
464 on the merits of the complaint and not an appeal of the commission's
465 processing of the complaint prior to its certification. A hearing on a
466 complaint filed pursuant to subsection (c) of section 46a-82 shall be
467 commenced by convening a hearing conference not later than twenty
468 days after the date of notice of such complaint. Hearings shall proceed
469 with reasonable dispatch and be concluded in accordance with the
470 provisions of section 4-180.

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

474 (d) The case in support of the complaint shall be presented at the
475 hearing by the Attorney General, who shall be counsel for the
476 commission, or by a commission legal counsel as provided in section
477 46a-55, as amended by this act. If the Attorney General or the
478 commission legal counsel determines that a material mistake of law or
479 fact has been made in the finding of reasonable cause on a complaint
480 filed pursuant to subsection (a) or (b) of section 46a-82, or the
481 commission legal counsel determines that a complaint to be heard
482 pursuant to subsection (e) of section 46a-83, should be further
483 investigated, the Attorney General or the commission legal counsel
484 may withdraw the certification of the complaint or the decision to hear

485 the complaint and remand the file to the investigator for further action.
486 The investigator shall complete any required action not later than
487 ninety days after receipt of such file. The complainant may be
488 represented by an attorney of the complainant's own choice. If the
489 Attorney General or the commission legal counsel determines that the
490 interests of the state will not be adversely affected, the complainant or
491 the attorney for the complainant shall present all or part of the case in
492 support of the complaint. No commissioner may participate in the
493 deliberations of the presiding officer in the case.

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

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

518 any such order for relief pursuant to section 46a-95.

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

523 (h) The complainant, the respondent and the commission shall be
524 afforded the opportunity to inspect and copy relevant and material
525 records, papers and documents not in the possession of such party,
526 except as otherwise provided by applicable state or federal law. The
527 presiding officer may order a party to produce such records, papers
528 and documents, and if a party fails to comply with such order within
529 thirty days of the date of such order, the presiding officer may issue a
530 nonmonetary order that the presiding officer deems just and
531 appropriate, including, but not limited to, an order (1) finding that the
532 matters that are the subject of the order are established in accordance
533 with the claim of the party requesting such order, (2) prohibiting the
534 party who has failed to comply with such order from introducing
535 designated matters into evidence, (3) limiting the participation of the
536 noncomplying party with regard to issues or facts relating to the order,
537 and (4) drawing an adverse inference against the noncomplying party.

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

550 appointment of a magistrate whenever the total number of complaints
551 pending in the commission's office of public hearings exceeds one
552 hundred.

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

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

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

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

579 (e) Before admitting evidence pursuant to subsection (c) of this
580 section, the court shall conduct an in camera hearing and give the

581 parties and the victim the right to attend such hearing and be heard.
582 Unless the court orders otherwise, the motion, related materials and
583 the record of the hearing shall be sealed and remain sealed.

584 Sec. 19. Section 52-557d of the general statutes is repealed and the
585 following is substituted in lieu thereof (*Effective October 1, 2019*):

586 (a) Notwithstanding the provisions of section 52-577, [no] an action
587 to recover damages for personal injury to a minor, including emotional
588 distress, caused by sexual abuse, sexual exploitation or sexual assault
589 arising may be brought under this subsection by such person [later
590 than thirty years from the date such person attains the age of majority]
591 at any time if the action arises from an incident: (1) Occurring on or
592 after October 1, 2019, or (2) that occurred prior to October 1, 2019, and
593 the statute of limitations applicable to such action had not expired on
594 September 30, 2019.

595 (b) Notwithstanding the provisions of section 52-577, an action to
596 recover damages for personal injury to a minor, including emotional
597 distress, caused by sexual abuse, sexual exploitation or sexual assault
598 that could not be brought on or before September 30, 2019, because
599 such action would not be within the applicable statute of limitations,
600 may be brought on or before December 31, 2021.

601 Sec. 20. (NEW) (*Effective October 1, 2019, and applicable to any cause of*
602 *action arising from an incident committed on or after said date*):

603 (a) As used in this section:

604 (1) "Sexual assault" means (A) compelling another person to engage
605 in sexual intercourse by the (i) use of force against such other person or
606 a third person, or (ii) threat of use of force against such other person or
607 against a third person which reasonably causes such person to fear
608 physical injury to such person or a third person, or (B) engaging in
609 sexual intercourse with another person who was made mentally
610 incapacitated by the actor to the extent that such other person is unable

611 to consent to such sexual intercourse.

612 (2) "Actor" means the person who is alleged to have committed the
613 sexual assault.

614 (3) "Sexual intercourse" means vaginal intercourse, anal intercourse,
615 fellatio or cunnilingus between persons regardless of sex. Penetration,
616 however slight, is sufficient to complete vaginal intercourse, anal
617 intercourse or fellatio and does not require emission of semen.
618 Penetration may be committed by an object manipulated by the actor
619 into the genital or anal opening of another person's body.

620 (4) "Mentally incapacitated" has the same meaning as provided in
621 section 53a-65 of the general statutes.

622 (5) "Use of force" has the same meaning as provided in section 53a-
623 65 of the general statutes.

624 (b) Notwithstanding the provisions of sections 52-577 and 52-577d
625 of the general statutes, as amended by this act, a person may bring an
626 action to recover damages for personal injury caused by sexual assault
627 at any time after the date of the act complained of.

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

630 (a) A person is guilty of sexual assault in the third degree when
631 such person (1) compels another person to submit to sexual contact (A)
632 by the use of force against such other person or a third person, or (B)
633 by the threat of use of force against such other person or against a third
634 person, which reasonably causes such other person to fear physical
635 injury to himself or herself or a third person, or (2) subjects another
636 person to sexual contact and such other person is mentally
637 incapacitated to the extent that such other person is unable to consent
638 to such sexual contact, or [(2)] (3) engages in sexual intercourse with
639 another person whom the actor knows to be related to him or her
640 within any of the degrees of kindred specified in section 46b-21.

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

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

645 (a) A person is guilty of sexual assault in the fourth degree when: (1)
646 Such person subjects another person to sexual contact who is (A) under
647 thirteen years of age and the actor is more than two years older than
648 such other person, or (B) thirteen years of age or older but under
649 fifteen years of age and the actor is more than three years older than
650 such other person, or (C) [mentally incapacitated or] impaired because
651 of mental disability or disease to the extent that such other person is
652 unable to consent to such sexual contact, or (D) physically helpless, or
653 (E) less than eighteen years old and the actor is such other person's
654 guardian or otherwise responsible for the general supervision of such
655 other person's welfare, or (F) in custody of law or detained in a
656 hospital or other institution and the actor has supervisory or
657 disciplinary authority over such other person; or (2) such person
658 subjects another person to sexual contact without such other person's
659 consent; or (3) such person engages in sexual contact with an animal or
660 dead body; or (4) such person is a psychotherapist and subjects
661 another person to sexual contact who is (A) a patient of the actor and
662 the sexual contact occurs during the psychotherapy session, or (B) a
663 patient or former patient of the actor and such patient or former
664 patient is emotionally dependent upon the actor, or (C) a patient or
665 former patient of the actor and the sexual contact occurs by means of
666 therapeutic deception; or (5) such person subjects another person to
667 sexual contact and accomplishes the sexual contact by means of false
668 representation that the sexual contact is for a bona fide medical
669 purpose by a health care professional; or (6) such person is a school
670 employee and subjects another person to sexual contact who is a
671 student enrolled in a school in which the actor works or a school under
672 the jurisdiction of the local or regional board of education which
673 employs the actor; or (7) such person is a coach in an athletic activity or

674 a person who provides intensive, ongoing instruction and subjects
675 another person to sexual contact who is a recipient of coaching or
676 instruction from the actor and (A) is a secondary school student and
677 receives such coaching or instruction in a secondary school setting, or
678 (B) is under eighteen years of age; or (8) such person subjects another
679 person to sexual contact and (A) the actor is twenty years of age or
680 older and stands in a position of power, authority or supervision over
681 such other person by virtue of the actor's professional, legal,
682 occupational or volunteer status and such other person's participation
683 in a program or activity, and (B) such other person is under eighteen
684 years of age; or (9) such person subjects another person to sexual
685 contact who is placed or receiving services under the direction of the
686 Commissioner of Developmental Services in any public or private
687 facility or program and the actor has supervisory or disciplinary
688 authority over such other person.

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

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

698 (a) There shall be no limitation of time within which a person may
699 be prosecuted for (1) a capital felony under the provisions of section
700 53a-54b in effect prior to April 25, 2012, a class A felony or a violation
701 of subdivision (2) of subsection (a) of section 53-21, section 53a-54d or
702 53a-169, a class B felony violation of section 53a-70 or 53a-70a, a class C
703 felony violation of section 53a-71 or 53a-72b or a violation of section
704 53a-70b or 53a-86, (2) a violation of section 53a-165aa or 53a-166 in
705 which such person renders criminal assistance to another person who

706 has committed an offense set forth in subdivision (1) of this subsection,
707 (3) a violation of section 53a-156 committed during a proceeding that
708 results in the conviction of another person subsequently determined to
709 be actually innocent of the offense or offenses of which such other
710 person was convicted, or (4) a motor vehicle violation or offense that
711 resulted in the death of another person and involved a violation of
712 subsection (a) of section 14-224.

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

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

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

724 (2) No person may be prosecuted for a class A misdemeanor
725 violation of section 53a-73a, as amended by this act, except within five
726 years next after the offense has been committed.

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

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

735 Sec. 24. Section 54-193a of the general statutes is repealed and the

736 following is substituted in lieu thereof (*Effective October 1, 2019, and*
737 *applicable to any offense committed on or after October 1, 2019, and to any*
738 *offense committed prior to October 1, 2019, for which the statute of*
739 *limitations in effect at the time of the commission of the offense had not yet*
740 *expired as of October 1, 2019):*

741 Notwithstanding the provisions of section 54-193, as amended by
742 this act, [no person may be prosecuted for any offense, except a class A
743 felony,] there shall be no limitation of time within which a person may
744 be prosecuted for any offense involving sexual abuse, sexual
745 exploitation or sexual assault of a minor. [except within thirty years
746 from the date the victim attains the age of majority or within five years
747 from the date the victim notifies any police officer or state's attorney
748 acting in such police officer's or state's attorney's official capacity of the
749 commission of the offense, whichever is earlier, provided if the
750 prosecution is for a violation of subdivision (1) of subsection (a) of
751 section 53a-71, the victim notified such police officer or state's attorney
752 not later than five years after the commission of the offense.]

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

756 (2) "Criminal offense against a victim who is a minor" means (A) a
757 violation of subdivision (2) of section 53-21 of the general statutes in
758 effect prior to October 1, 2000, subdivision (2) of subsection (a) of
759 section 53-21, subdivision (2) of subsection (a) of section 53a-70,
760 subdivision (1), (4), (8) or (10) or subparagraph (B) of subdivision (9) of
761 subsection (a) of section 53a-71, subdivision [(2)] (3) of subsection (a) of
762 section 53a-72a, as amended by this act, subdivision (2) of subsection
763 (a) of section 53a-86, subdivision (2) of subsection (a) of section 53a-87,
764 section 53a-90a, 53a-196a, 53a-196b, 53a-196c, 53a-196d, 53a-196e or
765 53a-196f, (B) a violation of subparagraph (A) of subdivision (9) of
766 subsection (a) of section 53a-71 or section 53a-92, 53a-92a, 53a-94, 53a-
767 94a, 53a-95, 53a-96 or 53a-186, provided the court makes a finding that,

768 at the time of the offense, the victim was under eighteen years of age,
 769 (C) a violation of any of the offenses specified in subparagraph (A) or
 770 (B) of this subdivision for which a person is criminally liable under
 771 section 53a-8, 53a-48 or 53a-49, or (D) a violation of any predecessor
 772 statute to any offense specified in subparagraph (A), (B) or (C) of this
 773 subdivision the essential elements of which are substantially the same
 774 as said offense.

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

778 (c) Notwithstanding the provisions of subsection [(b)] (c) of section
 779 54-193, as amended by this act, a person may be prosecuted for a
 780 violation of any provision of this chapter more than five years after
 781 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>October 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,</i>	52-557d
Sec. 20	<i>October 1, 2019, and applicable to any cause of action arising from an incident committed on or after said date</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 Purpose:

To: (1) Enhance employer-sponsored training on sexual harassment, (2) extend the statute of limitations applicable to certain personal injury actions involving sexual abuse, sexual exploitation and sexual assault, (3) increase penalties for sexually assaulting a mentally incapacitated person, and (4) eliminate or extend the statute of limitations for the

prosecution of sexual assault crimes and certain risk of injury to children offenses.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. LOONEY, 11th Dist.; SEN. DUFF, 25th Dist.
SEN. WINFIELD, 10th Dist.; SEN. ABRAMS, 13th Dist.
SEN. BERGSTEIN, 36th Dist.; SEN. BRADLEY, 23rd Dist.
SEN. CASSANO, 4th Dist.; SEN. COHEN, 12th Dist.
SEN. FLEXER, 29th Dist.; SEN. FONFARA, 1st Dist.
SEN. HARTLEY, 15th Dist.; SEN. HASKELL, 26th Dist.
SEN. KUSHNER, 24th Dist.; SEN. LEONE, 27th Dist.
SEN. LESSER, 9th Dist.; SEN. MARONEY, 14th Dist.
SEN. MOORE, 22nd Dist.; SEN. NEEDLEMAN, 33rd Dist.
SEN. OSTEN, 19th Dist.; REP. PHIPPS, 100th Dist.
REP. CONLEY, 40th Dist.; REP. GILCHREST, 18th Dist.
REP. ELLIOTT, 88th Dist.; REP. WINKLER, 56th Dist.
REP. HUGHES, 135th Dist.; SEN. ANWAR AS, 3rd Dist.

S.B. 3