



General Assembly

February Session, 2020

Raised Bill No. 5122

LCO No. 889



Referred to Committee on HOUSING

Introduced by:
(HSG)

***AN ACT CONSIDERING CONSIDERATION OF CRIMINAL
CONVICTIONS OF A PROSPECTIVE TENANT.***

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

1 Section 1. Section 46a-64b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 As used in sections 46a-51 to 46a-99, inclusive, as amended by this
4 act, and section 2 of this act:

5 (1) "Conviction" means a judgment entered by a court upon a plea of
6 guilty, a plea of nolo contendere or a finding of guilty by a jury or the
7 court, notwithstanding any pending appeal or habeas corpus
8 proceeding arising from such judgment.

9 [(1)] (2) "Discriminatory housing practice" means any discriminatory
10 practice specified in section 46a-64c, section 2 of this act or section 46a-
11 81e.

12 [(2)] (3) "Dwelling" means any building, structure, mobile
13 manufactured home park or portion thereof which is occupied as, or

14 designed or intended for occupancy as, a residence by one or more
15 families, and any vacant land which is offered for sale or lease for the
16 construction or location thereon of any such building, structure, mobile
17 manufactured home park or portion thereof.

18 [(3)] (4) "Fair Housing Act" means Title VIII of the Civil Rights Act of
19 1968, as amended, and known as the federal Fair Housing Act (42 USC
20 3600-3620).

21 [(4)] (5) "Family" includes a single individual.

22 [(5)] (6) "Familial status" means one or more individuals who have
23 not attained the age of eighteen years being domiciled with a parent or
24 another person having legal custody of such individual or individuals;
25 or the designee of such parent or other person having such custody with
26 the written permission of such parent or other person; or any person
27 who is pregnant or is in the process of securing legal custody of any
28 individual who has not attained the age of eighteen years.

29 [(6)] (7) "Housing for older persons" means housing: (A) Provided
30 under any state or federal program that the Secretary of the United
31 States Department of Housing and Urban Development determines is
32 specifically designed and operated to assist elderly persons as defined
33 in the state or federal program; [or] (B) intended for, and solely occupied
34 by, persons sixty-two years of age or older; or (C) intended and operated
35 for occupancy by at least one person fifty-five years of age or older per
36 unit in accordance with the standards set forth in the Fair Housing Act
37 and regulations developed pursuant thereto by the Secretary of the
38 United States Department of Housing and Urban Development.

39 (8) "Housing provider" means a landlord or owner, an agent of such
40 landlord or owner, a realtor, property manager, housing authority, as
41 created in section 8-40, public housing agency or other entity that
42 provides dwelling units to potential tenants.

43 (9) "Landlord" means the owner, lessor or sublessor of the dwelling
44 unit, the building of which it is a part or the premises.

45 [(7)] (10) "Mobile manufactured home park" means a plot of land
46 upon which two or more mobile manufactured homes occupied for
47 residential purposes are located.

48 (11) "Owner" means one or more persons, jointly or severally, in
49 whom is vested (A) all or part of the legal title to property, or (B) all or
50 part of the beneficial ownership and a right to present use and
51 enjoyment of the premises and includes a mortgagee in possession.

52 [(8)] (12) "Physical or mental disability" includes, but is not limited to,
53 intellectual disability, as defined in section 1-1g, and physical disability,
54 as defined in subdivision (15) of section 46a-51, and also includes, but is
55 not limited to, persons who have a handicap as that term is defined in
56 the Fair Housing Act.

57 [(9)] (13) "Residential-real-estate-related transaction" means (A) the
58 making or purchasing of loans or providing other financial assistance
59 for purchasing, constructing, improving, repairing or maintaining a
60 dwelling, or secured by residential real estate; or (B) the selling,
61 brokering or appraising of residential real property.

62 [(10)] (14) "To rent" includes to lease, to sublease, to let and to
63 otherwise grant for a consideration the right to occupy premises not
64 owned by the occupant.

65 Sec. 2. (NEW) (*Effective October 1, 2020*) (a) Except as provided in
66 subsections (e) and (f) of this section, it shall be a discriminatory practice
67 in violation of this section to refuse to rent after the making of a bona
68 fide offer, or to refuse to negotiate for the rental of, or otherwise make
69 unavailable or deny a rental unit or deny occupancy in a rental unit to
70 any person based on such person's criminal record, except for (1)
71 conviction or release from confinement, whichever occurs later, for the
72 commission of a misdemeanor described in subsection (b) of this section
73 during the three years immediately preceding the rental application, or
74 (2) conviction or release from confinement, whichever occurs later, for
75 the commission of a felony described in subsection (b) of this section
76 during the ten years immediately preceding the rental application.

77 (b) Within the three and ten-year periods specified in subdivisions (1)
78 and (2) of subsection (a) of this section, a housing provider may only
79 consider a criminal conviction or release from confinement of any
80 person for the commission of a felony or misdemeanor that, if repeated,
81 would adversely affect the health, safety or welfare of other tenants,
82 including, but not limited to: (1) A crime of physical violence to persons
83 or property; (2) a crime involving the illegal manufacture, sale or
84 distribution of a controlled substance, as defined in section 21a-240 of
85 the general statutes; (3) a violation of subdivision (1) of subsection (a) of
86 section 53-21 of the general statutes; (4) a sexual offense under sections
87 53a-65 to 53a-90b, inclusive, of the general statutes; or (5) a financial
88 crime involving fraud or deceit. In no case may a record of arrest or a
89 charge not followed by a conviction, or a record of a conviction that has
90 been erased, be used as a basis to reject a person's rental application.

91 (c) Prior to denying a rental application pursuant to this section, a
92 housing provider shall provide written notice to the applicant that the
93 application requires further review due to the applicant's criminal
94 conviction. The housing provider shall provide the applicant an
95 opportunity to present relevant mitigating information regarding the
96 conviction and evidence that the applicant would be a good tenant. Such
97 evidence may include the following factors: (1) The nature and severity
98 of the criminal offense; (2) the facts or circumstances surrounding the
99 criminal conduct; (3) the age of the applicant at the time of the offense;
100 (4) the length of time elapsed since the offense; (5) evidence the
101 applicant has maintained a good tenant history before or after the
102 offense; (6) any information produced by the applicant, or produced on
103 the applicant's behalf, in regard to the applicant's rehabilitation or good
104 conduct since the offense; and (7) any other evidence that the offense is
105 unlikely to reoccur. If, after consideration of evidence relevant to the
106 factors set forth in this subsection, the housing provider rejects an
107 applicant's rental application based on the conviction of a crime, the
108 housing provider shall give a written explanation for such rejection and
109 specifically state the evidence presented and reasons for rejection. The
110 housing provider shall send a copy of such rejection by registered mail

111 to the applicant at the address provided in the rental application.

112 (d) Except as provided in subsections (e) and (f) of this section, it shall
113 be a discriminatory practice in violation of this section:

114 (1) To discriminate against any person in the terms, conditions or
115 privileges of rental of a dwelling, or in the provision of services or
116 facilities in connection therewith, because of such person's criminal
117 conviction status;

118 (2) To make, print or publish, or cause to be made, printed or
119 published any notice, statement or advertisement, with respect to the
120 rental of a dwelling that indicates any preference, limitation or
121 discrimination based on criminal conviction status, or an intention to
122 make any such preference, limitation or discrimination; and

123 (3) To represent to any person because of criminal conviction status
124 that any dwelling is not available for inspection or rental when such
125 dwelling is in fact so available.

126 (e) The provisions of this section shall not apply to a person who
127 applies for public housing who has a conviction for manufacture or
128 production of methamphetamine on the premises of federally assisted
129 housing, or to a person subject to a lifetime registration requirement
130 under a state sexual offender registration program pursuant to 24 CFR
131 960.204 and 24 CFR 982.553. Nothing in this section shall be construed
132 to limit the applicability of 24 CFR 960.204 or 24 CFR 982.553 with regard
133 to a public housing authority.

134 (f) The provisions of this section shall not apply to (1) the rental of a
135 room or rooms in a single-family dwelling unit if the owner actually
136 maintains and occupies part of such unit as his or her residence, or (2) a
137 unit in a dwelling containing not more than four units if the owner
138 actually maintains and occupies one of such other units as his or her
139 residence.

140 (g) Nothing in this section limits the applicability of any reasonable

141 state statute or municipal ordinance restricting the maximum number
142 of persons permitted to occupy a dwelling.

143 (h) Any person aggrieved by a violation of this section may file a
144 complaint not later than one hundred eighty days after the alleged act
145 of discrimination, pursuant to section 46a-82 of the general statutes, as
146 amended by this act.

147 (i) Notwithstanding any other provision of chapter 814c of the
148 general statutes, complaints alleging a violation of this section shall be
149 investigated not later than one hundred days after filing and a final
150 administrative disposition shall be made not later than one year after
151 filing unless it is impracticable to do so. If the Commission on Human
152 Rights and Opportunities is unable to complete its investigation or make
153 a final administrative determination within such time frames, it shall
154 notify the complainant and the respondent in writing of the reasons for
155 not doing so.

156 Sec. 3. Section 8-45a of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective October 1, 2020*):

158 A housing authority, as defined in subsection (b) of section 8-39, in
159 determining eligibility for the rental of public housing units may
160 establish criteria and consider relevant information concerning (1) an
161 applicant's or any proposed occupant's history of criminal activity,
162 during the time periods established under subsection (a) of section 2 of
163 this act, involving: (A) Crimes of physical violence to persons or
164 property, (B) crimes involving the illegal manufacture, sale, distribution
165 or use of, or possession with intent to manufacture, sell, use or
166 distribute, a controlled substance, as defined in section 21a-240, or (C)
167 other criminal acts which would adversely affect the health, safety or
168 welfare of other tenants, (2) an applicant's or any proposed occupant's
169 abuse, or pattern of abuse, of alcohol when the housing authority has
170 reasonable cause to believe that such applicant's or proposed occupant's
171 abuse, or pattern of abuse, of alcohol may interfere with the health,
172 safety or right to peaceful enjoyment of the premises by other residents,

173 and (3) an applicant or any proposed occupant who is subject to a
174 lifetime registration requirement under section 54-252 on account of
175 being convicted or found not guilty by reason of mental disease or defect
176 of a sexually violent offense. In evaluating any such information, the
177 housing authority shall give consideration to the time, nature and extent
178 of the applicant's or proposed occupant's conduct and to factors which
179 might indicate a reasonable probability of favorable future conduct such
180 as evidence of rehabilitation and evidence of the willingness of the
181 applicant, the applicant's family or the proposed occupant to participate
182 in social service or other appropriate counseling programs and the
183 availability of such programs.

184 Sec. 4. Subdivision (8) of section 46a-51 of the 2020 supplement to the
185 general statutes is repealed and the following is substituted in lieu
186 thereof (*Effective October 1, 2020*):

187 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
188 60a, 4a-60g, 31-40y, subparagraph (C) of subdivision (15) of section 46a-
189 54, subdivisions (16) and (17) of section 46a-54, section 46a-58, 46a-59,
190 46a-60, 46a-64, 46a-64c, section 2 of this act, section 46a-66, 46a-68, 46a-
191 68c to 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive, subsection (a) of
192 section 46a-80 or sections 46a-81b to 46a-81o, inclusive;

193 Sec. 5. Subdivision (14) of section 46a-54 of the 2020 supplement to
194 the general statutes is repealed and the following is substituted in lieu
195 thereof (*Effective October 1, 2020*):

196 (14) To require the posting, by any respondent or other person subject
197 to the requirements of section 46a-64, 46a-64c, section 2 of this act,
198 section 46a-81d or 46a-81e, of such notices of statutory provisions as it
199 deems desirable;

200 Sec. 6. Section 46a-74 of the general statutes is repealed and the
201 following is substituted in lieu thereof (*Effective October 1, 2020*):

202 No state department, board or agency may permit any
203 discriminatory practice in violation of section 46a-59, 46a-64, [or] 46a-

204 64c or section 2 of this act.

205 Sec. 7. Subsection (a) of section 46a-82 of the 2020 supplement to the
206 general statutes is repealed and the following is substituted in lieu
207 thereof (*Effective October 1, 2020*):

208 (a) Any person claiming to be aggrieved by an alleged discriminatory
209 practice, except for an alleged violation of section 4a-60g or 46a-68 or the
210 provisions of sections 46a-68c to 46a-68f, inclusive, may, by himself or
211 herself or by such person's attorney, file with the commission a
212 complaint in writing under oath, except that a complaint that alleges a
213 violation of section 46a-64c or section 2 of this act need not be notarized.
214 The complaint shall state the name and address of the person alleged to
215 have committed the discriminatory practice, provide a short and plain
216 statement of the allegations upon which the claim is based and contain
217 such other information as may be required by the commission. After the
218 filing of a complaint, the commission shall provide the complainant
219 with a notice that: (1) Acknowledges receipt of the complaint; and (2)
220 advises of the time frames and choice of forums available under this
221 chapter.

222 Sec. 8. Subsections (a) to (c), inclusive, of section 46a-83 of the general
223 statutes are repealed and the following is substituted in lieu thereof
224 (*Effective October 1, 2020*):

225 (a) Not later than fifteen days after the date of filing of any
226 discriminatory practice complaint pursuant to subsection (a) or (b) of
227 section 46a-82, as amended by this act, or an amendment to such
228 complaint adding an additional respondent, the commission shall serve
229 the respondent as provided in section 46a-86a with the complaint and a
230 notice advising of the procedural rights and obligations of a respondent
231 under this chapter. The respondent shall either (1) file a written answer
232 to the complaint as provided in subsection (b) of this section, or (2) not
233 later than ten days after the date of receipt of the complaint, provide
234 written notice to the complainant and the commission that the
235 respondent has elected to participate in pre-answer conciliation, except

236 that a discriminatory practice complaint alleging a violation of section
237 46a-64c, section 2 of this act or section 46a-81e shall not be subject to pre-
238 answer conciliation. A complaint sent by first class mail shall be
239 considered to be received not later than two days after the date of
240 mailing, unless the respondent proves otherwise. The commission shall
241 conduct a pre-answer conciliation conference not later than thirty days
242 after the date of receiving the respondent's request for pre-answer
243 conciliation.

244 (b) Except as provided in this subsection, not later than thirty days
245 after the date (1) of receipt of the complaint, or (2) on which the
246 commission determines that the pre-answer conciliation conference was
247 unsuccessful, the respondent shall file a written answer to the
248 complaint, under oath, with the commission. The respondent may
249 request, and the commission may grant, one extension of time of not
250 more than fifteen days within which to file a written answer to the
251 complaint. An answer to any amendment to a complaint shall be filed
252 within twenty days of the date of receipt to such amendment. The
253 answer to any complaint alleging a violation of section 46a-64c, section
254 2 of this act or section 46a-81e shall be filed not later than ten days after
255 the date of receipt of the complaint.

256 (c) Not later than sixty days after the date of the filing of the
257 respondent's answer, the executive director or the executive director's
258 designee shall conduct a case assessment review to determine whether
259 the complaint should be retained for further processing or dismissed
260 because (1) it fails to state a claim for relief or is frivolous on its face, (2)
261 the respondent is exempt from the provisions of this chapter, or (3) there
262 is no reasonable possibility that investigating the complaint will result
263 in a finding of reasonable cause. The case assessment review shall
264 include the complaint, the respondent's answer and the responses to the
265 commission's requests for information, and the complainant's
266 comments, if any, to the respondent's answer and information
267 responses. The executive director or the executive director's designee
268 shall send notice of any action taken pursuant to the case assessment
269 review in accordance with section 46a-86a. For any complaint dismissed

270 pursuant to this subsection, the executive director or the executive
271 director's designee shall issue a release of jurisdiction allowing the
272 complainant to bring a civil action under section 46a-100. This
273 subsection and subsection (e) of this section shall not apply to any
274 complaint alleging a violation of section 46a-64c, section 2 of this act or
275 section 46a-81e. The executive director shall report the results of the case
276 assessment reviews made pursuant to this subsection to the commission
277 quarterly during each year.

278 Sec. 9. Subdivision (2) of subsection (g) of section 46a-83 of the general
279 statutes is repealed and the following is substituted in lieu thereof
280 (*Effective October 1, 2020*):

281 (2) If the investigator makes a finding that there is reasonable cause
282 to believe that a violation of section 46a-64c or section 2 of this act has
283 occurred, the complainant and the respondent shall have twenty days
284 from sending of the reasonable cause finding to elect a civil action in lieu
285 of an administrative hearing pursuant to section 46a-84. If either the
286 complainant or the respondent requests a civil action, the commission,
287 through the Attorney General or a commission legal counsel, shall
288 commence an action pursuant to subsection (b) of section 46a-89, as
289 amended by this act, not later than ninety days after the date of receipt
290 of the notice of election. If the Attorney General or a commission legal
291 counsel believes that injunctive relief, punitive damages or a civil
292 penalty would be appropriate, such relief, damages or penalty may also
293 be sought. The jurisdiction of the Superior Court in an action brought
294 under this subdivision shall be limited to such claims, counterclaims,
295 defenses or the like that could be presented at an administrative hearing
296 before the commission, had the complaint remained with the
297 commission for disposition. A complainant may intervene as a matter
298 of right in a civil action without permission of the court or the parties. If
299 the Attorney General or commission legal counsel, as the case may be,
300 determines that the interests of the state will not be adversely affected,
301 the complainant or attorney for the complainant shall present all or part
302 of the case in support of the complaint. If the Attorney General or a
303 commission legal counsel determines that a material mistake of law or

304 fact has been made in the finding of reasonable cause, the Attorney
305 General or a commission legal counsel may decline to bring a civil action
306 and shall remand the file to the investigator for further action. The
307 investigator shall complete any such action not later than ninety days
308 after receipt of such file.

309 Sec. 10. Subsection (c) of section 46a-86 of the 2020 supplement to the
310 general statutes is repealed and the following is substituted in lieu
311 thereof (*Effective October 1, 2020*):

312 (c) In addition to any other action taken under this section, upon a
313 finding of a discriminatory practice prohibited by section 46a-58, 46a-
314 59, 46a-64, 46a-64c, section 2 of this act, section 46a-81b, 46a-81d or 46a-
315 81e, the presiding officer shall determine the damage suffered by the
316 complainant, which damage shall include, but not be limited to, the
317 expense incurred by the complainant for obtaining alternate housing or
318 space, storage of goods and effects, moving costs and other costs
319 actually incurred by the complainant as a result of such discriminatory
320 practice and shall allow reasonable attorney's fees and costs. The
321 amount of attorney's fees allowed shall not be contingent upon the
322 amount of damages requested by or awarded to the complainant.

323 Sec. 11. Subdivision (1) of subsection (b) of section 46a-89 of the
324 general statutes is repealed and the following is substituted in lieu
325 thereof (*Effective October 1, 2020*):

326 (b) (1) Whenever a complaint filed pursuant to section 46a-82, as
327 amended by this act, alleges a violation of section 46a-64, 46a-64c,
328 section 2 of this act, section 46a-81d or 46a-81e, and the commission
329 believes that injunctive relief is required or that the imposition of
330 punitive damages or a civil penalty would be appropriate, the
331 commission may bring a petition in the superior court for the judicial
332 district in which the discriminatory practice which is the subject of the
333 complaint occurred or the judicial district in which the respondent
334 resides.

335 Sec. 12. Subsection (b) of section 46a-90a of the general statutes is

336 repealed and the following is substituted in lieu thereof (*Effective October*
337 *1, 2020*):

338 (b) When the presiding officer finds that the respondent has engaged
339 in any discriminatory practice prohibited by section 46a-60, 46a-64, 46a-
340 64c, 46a-81c, section 2 of this act, section 46a-81d or 46a-81e and grants
341 relief on the complaint, requiring that a temporary injunction remain in
342 effect, the executive director may, through the procedure outlined in
343 subsection (a) of section 46a-95, petition the court which granted the
344 original temporary injunction to make the injunction permanent.

345 Sec. 13. Section 46a-98a of the general statutes is repealed and the
346 following is substituted in lieu thereof (*Effective October 1, 2020*):

347 Any person claiming to be aggrieved by a violation of section 46a-
348 64c, section 2 of this act or section 46a-81e or by a breach of a conciliation
349 agreement entered into pursuant to this chapter, may bring an action in
350 the Superior Court, or the housing session of said court if appropriate
351 within one year of the date of the alleged discriminatory practice or of a
352 breach of a conciliation agreement entered into pursuant to this chapter.
353 No action pursuant to this section may be brought in the Superior Court
354 regarding the alleged discriminatory practice after the commission has
355 obtained a conciliation agreement pursuant to section 46a-83, as
356 amended by this act, or commenced a hearing pursuant to section 46a-
357 84, except for an action to enforce the conciliation agreement. The court
358 shall have the power to grant relief, by injunction or otherwise, as it
359 deems just and suitable. The court may grant any relief which a
360 presiding officer may grant in a proceeding under section 46a-86, as
361 amended by this act, or which the court may grant in a proceeding
362 under section 46a-89, as amended by this act. The commission, through
363 commission legal counsel or the Attorney General, may intervene as a
364 matter of right in any action brought pursuant to this section without
365 permission of the court or the parties.

366 Sec. 14. Subdivision (1) of subsection (a) of section 47a-23c of the
367 general statutes is repealed and the following is substituted in lieu

368 thereof (*Effective October 1, 2020*):

369 (a) (1) Except as provided in subdivision (2) of this subsection, this
 370 section applies to any tenant who resides in a building or complex
 371 consisting of five or more separate dwelling units or who resides in a
 372 mobile manufactured home park and who is either: (A) Sixty-two years
 373 of age or older, or whose spouse, sibling, parent or grandparent is sixty-
 374 two years of age or older and permanently resides with that tenant, or
 375 (B) a person with a physical or mental disability, as defined in
 376 subdivision [(8)] (12) of section 46a-64b, as amended by this act, or
 377 whose spouse, sibling, child, parent or grandparent is a person with a
 378 physical or mental disability who permanently resides with that tenant,
 379 but only if such disability can be expected to result in death or to last for
 380 a continuous period of at least twelve months.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	46a-64b
Sec. 2	<i>October 1, 2020</i>	New section
Sec. 3	<i>October 1, 2020</i>	8-45a
Sec. 4	<i>October 1, 2020</i>	46a-51(8)
Sec. 5	<i>October 1, 2020</i>	46a-54(14)
Sec. 6	<i>October 1, 2020</i>	46a-74
Sec. 7	<i>October 1, 2020</i>	46a-82(a)
Sec. 8	<i>October 1, 2020</i>	46a-83(a) to (c)
Sec. 9	<i>October 1, 2020</i>	46a-83(g)(2)
Sec. 10	<i>October 1, 2020</i>	46a-86(c)
Sec. 11	<i>October 1, 2020</i>	46a-89(b)(1)
Sec. 12	<i>October 1, 2020</i>	46a-90a(b)
Sec. 13	<i>October 1, 2020</i>	46a-98a
Sec. 14	<i>October 1, 2020</i>	47a-23c(a)(1)

Statement of Purpose:

To prohibit housing providers from considering a prospective tenant's criminal conviction after certain time periods.

[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.]