
OLR Bill Analysis

sSB 363 (File 443, as amended by Senate "B")*

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

SUMMARY

This bill expands the attorney general's powers to include (1) investigating allegations of certain hate crimes and civil rights violations; (2) initiating related legal proceedings, with certain exceptions; and (3) seeking relief for the affected person. When conducting investigations, the attorney general may issue subpoenas and interrogatories consistent with how he investigates Connecticut Antitrust Act violations. But the bill prohibits information obtained from these investigations from being used in any criminal proceeding.

The bill specifies that its provisions do not allow the attorney general to assert a claim against a state agency or a state officer or employee whose act or omission was done in his or her official capacity, unless he determines that the officer or employee is not entitled to indemnification under the law.

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

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

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

cases to CHRO as appropriate. It also requires the attorney general to post information on the office's website about properly filing a CHRO complaint.

*Senate Amendment "B" adds the provision on the attorney general's authority regarding claims against state agencies, officers, and employees.

EFFECTIVE DATE: July 1, 2021

APPLICABILITY

The bill applies to allegations of:

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

HATE CRIMES

Civil Action in the State's Name

Under the bill, if the attorney general finds that a person has committed a hate crime, he may bring a civil action in the state's name against the person in the Superior Court for the judicial district where the act occurred.

Relief

The bill allows the attorney general to obtain any relief that the affected person may be entitled to by law. This includes treble damages; a civil penalty of up to \$2,500 per violation, provided the violation is established by clear and convincing evidence; and declaratory, injunctive, or equitable relief that the attorney general

determines is necessary to vindicate the public's interests. Any civil penalty received must be deposited in the General Fund.

CIVIL RIGHTS VIOLATIONS

Civil or Administrative Action in the State's Name

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

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

Relief

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

Assurance of Discontinuance

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

BACKGROUND

Hate Crimes

The crimes of 1st, 2nd, and 3rd degree intimidation based on bigotry or bias address certain actions that intimidate or harass another person

because of his or her actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 27 Nay 10 (03/29/2021)