



Senate

General Assembly

File No. 443

January Session, 2021

Substitute Senate Bill No. 363

Senate, April 14, 2021

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 CONCERNING THE DUTIES OF THE OFFICE OF THE ATTORNEY GENERAL.

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

1 Section 1. (NEW) (*Effective July 1, 2021*) (a) The Attorney General may
2 investigate the facts and circumstances concerning any alleged violation
3 of section 53a-181j, 53a-181k or 53a-181l of the general statutes, and in
4 connection with such investigation, issue subpoenas and written
5 interrogatories in the same manner and to the same extent as is provided
6 in section 35-42 of the general statutes. No information obtained
7 pursuant to the provisions of this subsection may be used in a criminal
8 proceeding.

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

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

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

32 Sec. 2. (NEW) (*Effective July 1, 2021*) (a) The Attorney General may
33 investigate, intervene in or bring a civil or administrative action in the
34 name of the state, seeking injunctive or declaratory relief, damages, and
35 any other relief that may be available under law, whenever any person
36 is or has engaged in a practice or pattern of conduct that:

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

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

44 (b) In conducting any investigation under this section, the Attorney
45 General may issue subpoenas and interrogatories, and otherwise gather

46 information, in the same manner and to the same extent as is provided
47 in section 35-42 of the general statutes. No information obtained
48 pursuant to the provisions of this subsection may be used in a criminal
49 proceeding.

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

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

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

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

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	New section
Sec. 2	July 1, 2021	New section

Statement of Legislative Commissioners:

The first sentence of Section 2 (i) was rewritten for clarity.

JUD Joint Favorable Subst. -LCO

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: None

Municipal Impact: None

Explanation

The bill expands the Attorney General's powers and allows him to issue subpoenas when conducting investigations. It also establishes a civil penalty of up to \$2,500 for each hate crime or civil rights violation.

This provision is not anticipated to result in a fiscal impact as the majority of cases under the bill are expected to result in a court order opposed to the issuance of monetary penalties.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 363*****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 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.

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)