



# Senate

General Assembly

**File No. 614**

January Session, 2021

Substitute Senate Bill No. 1023

*Senate, April 26, 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 AND RESPONSIBILITIES OF THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES.***

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

1 Section 1. Subparagraph (A) of subdivision (4) of subsection (b) of  
2 section 46a-68 of the general statutes is repealed and the following is  
3 substituted in lieu thereof (*Effective October 1, 2021*):

4 (4) (A) Each person designated by a state agency, department, board  
5 or commission as an equal employment opportunity officer shall (i) be  
6 responsible for mitigating any discriminatory conduct within the  
7 agency, department, board or commission, (ii) investigate all complaints  
8 of discrimination made against the state agency, department, board or  
9 commission, [except if any such complaint has been filed with the  
10 Commission on Human Rights and Opportunities or the Equal  
11 Employment Opportunity Commission, the state agency, department,  
12 board or commission may rely upon the process of the applicable  
13 commission, as applicable, in lieu of such investigation,] and (iii) report  
14 all findings and recommendations upon the conclusion of an  
15 investigation to the commissioner or director of the state agency,  
16 department, board or commission for proper action. An equal

17 employment opportunity officer shall not disclose witness statements or  
18 documents received or compiled in conjunction with the investigation  
19 of a complaint of discriminatory conduct within the agency,  
20 department, board or commission until the conclusion of such  
21 investigation, except that witness statements or documents may be  
22 disclosed to personnel charged with investigating or adjudicating such  
23 complaint, or to the Commission on Human Rights and Opportunities.

24 Sec. 2. Subsection (b) of section 46a-84 of the general statutes is  
25 repealed and the following is substituted in lieu thereof (*Effective October*  
26 *1, 2021*):

27 (b) Upon (1) certification of a complaint filed pursuant to subsection  
28 (a) or (b) of section 46a-82, (2) the filing of a complaint pursuant to  
29 subsection (c) of said section, or (3) a decision to hear a complaint, which  
30 is made pursuant to subsection (e) of section 46a-83, the Chief Human  
31 Rights Referee shall appoint a human rights referee to act as a presiding  
32 officer to hear the complaint. The chief referee shall also appoint an  
33 individual authorized by subsection (e) of this section or a referee, other  
34 than the referee appointed to hear the complaint, to conduct settlement  
35 negotiations. The chief referee shall serve in the name of the  
36 commission, and in accordance with section 46a-86a, a copy of the  
37 complaint, as the same may have been amended, requiring the  
38 respondent to answer the charges of the complaint, together with a  
39 written notice requiring the respondent to appear at a hearing or  
40 settlement conference at a date and time specified in the notice. A  
41 hearing on a complaint filed pursuant to subsection (a) or (b) of section  
42 46a-82 shall be commenced by convening a hearing conference not later  
43 than forty-five days after the certification of the complaint. Such hearing  
44 shall be a de novo hearing on the merits of the complaint and not an  
45 appeal of the commission's processing of the complaint prior to its  
46 certification. A hearing on a complaint filed pursuant to subsection (c)  
47 of section 46a-82 shall be commenced by convening a hearing  
48 conference not later than twenty days after the date of notice of such  
49 complaint. Hearings shall proceed with reasonable dispatch and be  
50 concluded in accordance with the provisions of section 4-180.

51 Sec. 3. Section 46a-68c of the general statutes is repealed and the  
52 following is substituted in lieu thereof (*Effective October 1, 2021*):

53 In addition to the provisions of section 4a-60, each contractor with  
54 fifty or more employees awarded a public works contract, municipal  
55 public works contract or contract for a quasi-public agency project in  
56 excess of fifty thousand dollars in any fiscal year, but not subject to the  
57 provisions of section 46a-68d, shall develop and file with the  
58 Commission on Human Rights and Opportunities an affirmative action  
59 plan which shall comply with regulations adopted by the commission.  
60 The executive director or the executive director's designee shall review  
61 and formally approve, conditionally approve or disapprove the content  
62 of the affirmative action plan not later than one hundred twenty days  
63 following the date of the submission of the plan to the commission. If  
64 the executive director or the executive director's designee fails to  
65 approve, conditionally approve or disapprove a plan within such one-  
66 hundred-twenty-day period, the plan shall be deemed to be either  
67 approved or deficient without consequence. The executive director or  
68 the executive director's designee shall, not later than fifteen days after  
69 the date of deeming an affirmative action plan approved or deficient  
70 without consequence, provide the contractor with written notification  
71 of the action taken with respect to such plan. Failure to develop an  
72 [approved] affirmative action plan [pursuant to this section] that is  
73 either approved or deficient without consequence shall act as a bar to  
74 bidding on or the award of future contracts until such requirement has  
75 been met. When the executive director or the executive director's  
76 designee approves an affirmative action plan pursuant to this section,  
77 the executive director or the executive director's designee shall issue a  
78 certificate of compliance to the contractor. Such certificate shall be prima  
79 facie proof of the contractor's eligibility to bid or be awarded contracts  
80 for a period of two years from the date of the certificate. Such certificate  
81 shall not excuse the contractor from monitoring by the commission or  
82 from the reporting and record-keeping requirements of sections 46a-68e  
83 and 46a-68f. The executive director or the executive director's designee  
84 may revoke the certificate of a contractor if the contractor does not  
85 implement its affirmative action plan in compliance with this section

86 and sections 4a-60, 4a-60g, 4a-62, 46a-56, 46a-68b, 46a-68d, and 46a-68e  
87 to 46a-68k, inclusive.

88 Sec. 4. Subdivision (15) of section 46a-54 of the general statutes is  
89 repealed and the following is substituted in lieu thereof (*Effective October*  
90 *1, 2021*):

91 (15) To require an employer having three or more employees to (A)  
92 post in a prominent and accessible location information concerning the  
93 illegality of sexual harassment and remedies available to victims of  
94 sexual harassment, (B) provide, not later than three months after the  
95 employee's start date with the employer, a copy of the information  
96 concerning the illegality of sexual harassment and remedies available to  
97 victims of sexual harassment to each employee by electronic mail with  
98 a subject line that includes the words "Sexual Harassment Policy" or  
99 words of similar import, if (i) the employer has provided an electronic  
100 mail account to the employee, or (ii) the employee has provided the  
101 employer with an electronic mail address, provided if an employer has  
102 not provided an electronic mail account to the employee, the employer  
103 shall post the information concerning the illegality of sexual harassment  
104 and remedies available to victims of sexual harassment on the  
105 employer's Internet web site, if the employer maintains such an Internet  
106 web site. An employer may comply with the requirements of this  
107 subparagraph, by providing an employee with the link to the  
108 commission's Internet web site concerning the illegality of sexual  
109 harassment and the remedies available to victims of sexual harassment  
110 by electronic mail, text message or in writing; and (C) provide two hours  
111 of training and education to employees within one year of October 1,  
112 2019, provided any employer who has provided such training and  
113 education to any such employees after October 1, 2018, shall not be  
114 required to provide such training and education a second time. An  
115 employer having (i) three or more employees, shall provide such  
116 training and education to an employee hired on or after October 1, 2019,  
117 not later than six months after the date of his or her hire, provided the  
118 commission has developed and made available such training and  
119 education materials in accordance with the provisions of subdivision (8)

120 of subsection (a) of section 46a-56; or (ii) less than three employees shall  
121 provide such training and education to all supervisory employees  
122 within one year of October 1, 2019, and to all new supervisory  
123 employees within six months of their assumption of a supervisory  
124 position, provided any employer who has provided such training and  
125 education to any such supervisory employees after October 1, 2018, shall  
126 not be required to provide such training and education a second time.  
127 Any supervisory employee hired on or after October 1, 2019, by an  
128 employer having less than three employees, shall receive such training  
129 and education not later than six months after the date of his or her hire,  
130 provided the commission has developed and made available such  
131 training and education materials in accordance with the provisions of  
132 subdivision (8) of subsection (a) of section 46a-56. Such training and  
133 education shall include information concerning the federal and state  
134 statutory provisions concerning sexual harassment and remedies  
135 available to victims of sexual harassment. If an employee has received  
136 in-person training provided by the commission or has taken the no cost  
137 online training provided by the commission on its Internet web site in  
138 accordance with the provisions of subdivision (8) of subsection (a) of  
139 section 46a-56, while employed by a different employer within the two  
140 years preceding the date of hire, an employer may consider such prior  
141 training to satisfy the training requirements of this section. An employer  
142 who is required to provide training under this subdivision shall provide  
143 periodic supplemental training that updates all supervisory and  
144 nonsupervisory employees on the content of such training and  
145 education not less than every ten years. As used in this subdivision,  
146 "sexual harassment" has the same meaning as provided in subdivision  
147 (8) of subsection (b) of section 46a-60 and "employer" includes the  
148 General Assembly and "employee" means any individual employed by  
149 an employer, including an individual employed by such individual's  
150 parent, spouse or child;

151 Sec. 5. Subsection (f) of section 46a-82 of the general statutes is  
152 repealed and the following is substituted in lieu thereof (*Effective October*  
153 *1, 2021*):

154 (f) (1) Any complaint filed pursuant to this section for an alleged act  
 155 of discrimination that occurred prior to October 1, 2021, shall be filed  
 156 within one hundred and eighty days after the date of the alleged act of  
 157 discrimination, except that any complaint by a person [(1)] (A) claiming  
 158 to be aggrieved by a violation of subsection (a) of section 46a-80 that  
 159 occurred on or before October 1, 2019, shall be filed within thirty days  
 160 of the date of the alleged act of discrimination, and [(2)] (B) claiming to  
 161 be aggrieved by a violation of section 46a-60, sections 46a-70 to 46a-78,  
 162 inclusive, or section 46a-80 or 46a-81c, that occurred on or after October  
 163 1, 2019, and prior to October 1, 2021, shall be filed not later than three  
 164 hundred days after the date of the alleged act of discrimination.

165 (2) Any complaint filed pursuant to this section for an alleged act of  
 166 discrimination that occurred on or after October 1, 2021, shall be filed  
 167 within three hundred days after the date of the alleged act of  
 168 discrimination.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	46a-68(b)(4)(A)
Sec. 2	October 1, 2021	46a-84(b)
Sec. 3	October 1, 2021	46a-68c
Sec. 4	October 1, 2021	46a-54(15)
Sec. 5	October 1, 2021	46a-82(f)

**Statement of Legislative Commissioners:**

In Section 5(f)(2), "provided such alleged act of discrimination occurred on or after October 1, 2021" was deleted from the end of the sentence to avoid repetition.

**JUD** Joint Favorable Subst.

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*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.*

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## **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill requires state equal employment opportunity (EEO) officers to investigate discrimination complaints filed against a state agency, by eliminating an exception in current law that allows them to instead rely on the Commission for Human Rights and Opportunities (CHRO). In FY 20, there were 2,319 total complaints filed; of this amount 223, or approximately 10% of those were filed against state agencies. This shift, from requiring EEO officers to investigate complaints instead of only CHRO, is not expected to result in costs to the state or municipalities.

Additionally, the bill exempts employers from requiring workplace sexual harassment prevention training from an employee who, within two years before their hire, received this training under another employer. This also has no fiscal impact as this training, provided by CHRO, has no cost to state agencies or municipalities.

Finally, the bill allows claimants to file a complaint within 300 days after any alleged discriminatory act, instead of 180 days as is current practice for certain types of discriminatory practice complaints. Extending the deadline to 300 days for the types of complaints that are still at 180 (i.e. housing, certain public accommodations, and credit) is expected to result in a minimal number of additional claims being filed. As such, this change has no fiscal impact.

## **The Out Years**

**State Impact:** None

**Municipal Impact:** None



**OLR Bill Analysis****sSB 1023*****AN ACT CONCERNING THE DUTIES AND RESPONSIBILITIES OF THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES.*****SUMMARY**

This bill makes various changes affecting the Commission on Human Rights and Opportunities (CHRO) and related laws.

It requires state entities' equal employment opportunity officers to investigate discrimination complaints filed against the entity, even if a complaint has also been filed with CHRO or the Equal Employment Opportunity Commission (EEOC). It does so by eliminating an exception in current law that allows them to instead rely on CHRO's or the EEOC's process. As under current law, this provision applies to state agencies, departments, boards, or commissions.

For CHRO complaints that reach the public hearing stage, the bill specifies that the chief referee may serve the complaint and required notice by first class mail, email, fax, or file transfer protocol.

By law, CHRO's executive director must approve, conditionally approve, or disapprove certain contractors' affirmative action plans within 120 days of their submission. The bill specifies that these contractors are not barred from bidding on future contracts if the executive director failed to meet the deadline and the plan was deemed deficient without consequence. Current law already provides that these contractors are not barred if their plans are deemed approved (see BACKGROUND).

For purposes of existing requirements for employee training in sexual harassment laws, the bill allows employers to not provide the training to an employee who, within two years before being hired, received the training while working for another employer. This applies if that

training was provided by CHRO (1) in-person or (2) through its online training program required by law (see BACKGROUND).

Finally, for all types of discriminatory practice complaints, the bill allows claimants to file a complaint within 300 days after the alleged act. This applies to discriminatory acts that allegedly occurred on or after October 1, 2021. Under current law, claimants have 300 days to file complaints for certain types of discrimination (e.g., employment and several types of state agency discrimination) and 180 days for other types (e.g., housing, public accommodations, and credit).

EFFECTIVE DATE: October 1, 2021

## **BACKGROUND**

### ***Affirmative Action Plans and Contract Bidding***

By law, the successful bidder for certain large state, municipal, or quasi-public agency contracts must file with and obtain CHRO approval for an affirmative action plan before the contract is awarded. A contractor who is not subject to this requirement still must file an affirmative action plan with CHRO if the contractor (1) has 50 or more employees and (2) is awarded such a contract for more than \$50,000 (hereinafter, "other contractors").

The CHRO executive director or her designee must review and approve, conditionally approve, or disapprove affirmative action plans submitted by other contractors within 120 days after their submission. If she or her designee fails to do so, the plans are deemed approved or deficient without consequence.

### ***Employee Training on Sexual Harassment Laws***

By law, employers generally must provide their employees, within specified deadlines, with two hours of training on sexual harassment laws and remedies available to victims. (For employers with less than three employees, the requirement only applies to supervisory employees.) CHRO must develop and make available to employers a free, online training video or other interactive method that meets these training requirements.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 34 Nay 1 (04/09/2021)