
OLR Bill Analysis

sSB 5 (File 516, as amended by House “A” and Senate “A”)*

AN ACT CONCERNING ONLINE DATING OPERATORS, ONLINE CHILD GROOMING AND HARASSMENT, DOMESTIC VIOLENCE TRAINING AND PROTECTIONS FOR VICTIMS OF FAMILY VIOLENCE AND DOMESTIC VIOLENCE.

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Requires online dating operators offering services in Connecticut to provide Connecticut users safety awareness notifications (e.g., whether the operator conducts criminal background screenings) before allowing them to use their online dating platforms and authorizes the DCP commissioner to penalize violators up to \$25,000 per violation

§ 6 — ONLINE ABUSE PREVENTION GRANT PROGRAM

Creates a grant program, administered by DESPP, to prevent online abuse and provide educational and training opportunities to inform people about identifying, reporting, responding to, and avoiding online abuse

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Prohibits discrimination on the basis of someone's status as a domestic violence victim in employment, public accommodations, housing, the granting of credit, and other laws over which the CHRO has jurisdiction; authorizes such a victim aggrieved by an alleged discriminatory practice to file discrimination complaints with CHRO

§§ 8 & 9 — DOMESTIC VIOLENCE TRAINING AND INFORMATION FOR EMPLOYEES

Requires state agencies, within available appropriations, to provide a one-hour minimum training and education on domestic violence and victim resources; requires employers with three or more employees to post similar information in an accessible location

§ 22 — CHRO LEGAL COUNSEL

Eliminates requirements that a CHRO legal counsel serve as a supervising attorney and that the CHRO executive director assign commission legal counsel through the supervising attorney

§ 23 — DSS FUNDING

Requires DSS to make \$1.44 million available to domestic violence child and family advocates at domestic violence agencies for trauma-informed services

SUMMARY

This bill addresses several different subjects, including online dating, domestic violence training, employment discrimination and workplace sexual harassment, and anti-discrimination protections for domestic violence victims.

Among other things, the bill does the following:

1. requires online dating operators offering services in Connecticut to provide Connecticut users with safety awareness notifications before allowing them to use their online dating platforms (§§ 1-5);
2. sets up a grant program administered by the Department of Emergency Services and Public Protection (DESPP) to provide education and training on online abuse (§ 6);
3. extends anti-discrimination statutes to cover (a) people working for an employer with one or two employees and (b) elected and appointed officials for a governmental body (§ 7);
4. prohibits discriminatory practices based on someone's status as a domestic violence victim (§§ 7 & 10-21);
5. requires state agencies to provide domestic violence training and certain employers to post related information (§§ 8 & 9);
6. eliminates requirements concerning a Commission on Human Rights and Opportunities (CHRO) supervising attorney (§ 22); and
7. requires the Department of Social Services (DSS) to make \$1.44 million available for advocates at domestic violence agencies to provide trauma-informed services (§ 23).

*Senate Amendment “A” strikes the underlying bill and replaces it with similar provisions. In doing so, it makes changes to the underlying bill, such as (1) requiring online dating operators to provide Connecticut users with safety awareness notifications instead of conducting user verifications, (2) applying the underlying bill’s antidiscrimination protections to victims of domestic violence rather than family violence, and (3) extending antidiscrimination protections to elected and appointed officials. It adds the provisions on CHRO’s supervising attorney. It also removes provisions on (1) impermissible settlement terms and certain defenses against an employment discrimination claim, (2) affirmative actions in public contracts, and (3) campus mental health coalitions.

*House Amendment “A” eliminates provisions from the underlying bill that would have (1) created a working group to make recommendations on criminalizing “child grooming” (e.g., inducing a child for sexual exploitation); (2) broadened the definition of workplace sexual harassment; and (3) prohibited someone from asserting, as a defense to an employment discrimination complaint, that the conduct was not severe or pervasive.

EFFECTIVE DATE: October 1, 2022, except that the (1) DESPP grant program (§ 6) and DSS funding (§ 23) provisions are effective July 1, 2022; and (2) domestic violence training (§ 8) and CHRO supervising attorney changes (§ 22) are effective upon passage.

§§ 1-5 — ONLINE DATING SERVICES

Requires online dating operators offering services in Connecticut to provide Connecticut users safety awareness notifications (e.g., whether the operator conducts criminal background screenings) before allowing them to use their online dating platforms and authorizes the DCP commissioner to penalize violators up to \$25,000 per violation

Affected Online Dating Operators and Users (§ 1)

The bill imposes its notification requirements on “online dating operators,” defined as anyone who operates a software application (e.g., presumably, an online dating platform) designed to facilitate online dating. An “online dating platform” is a digital service designed to allow users to interact through the internet to initiate relationships with other individuals for the purpose of romance, sex, or marriage (i.e.,

“online dating”).

Under the bill, a “Connecticut user” is a user (i.e., someone who uses an online dating operator’s service) who (1) provides a Connecticut home address or zip code when registering with an online dating operator or (2) is known or determined by an online dating operator, or its online dating platform, to be in Connecticut at the time of registration.

Criminal Background Screening Notification (§§ 1 & 2)

The bill establishes criminal background screening notifications that online dating operators must provide their Connecticut users. The notifications differ depending on whether the operator conducts such a screening.

Under the bill, a “criminal background screening” is a name search for an individual’s history of criminal convictions that is conducted by searching (1) an available and regularly updated government public record database that in the aggregate provides national coverage for searching an individual’s history of criminal convictions or (2) a regularly updated database maintained by a private vendor that provides national coverage for searching an individual’s history of criminal convictions and sexual offender registries. A “criminal conviction” is a conviction for a state or federal crime.

Screening Not Conducted. If an online dating operator does not conduct a criminal background screening on each user, then the operator must, before permitting a Connecticut user to communicate through its online dating platform with another user, provide the Connecticut user with a clear and conspicuous notification that the online dating operator does not conduct a criminal background screening on each user.

Screening Conducted. If an online dating operator offers services to Connecticut residents and conducts a criminal background screening on each user, then the operator must, before allowing a Connecticut user to communicate through its platform with another user, provide the

Connecticut user a clear and conspicuous notification indicating that the operator conducts a criminal background screening on each user. The notification must include a statement of whether the platform excludes an individual who is identified as having a criminal conviction and a statement that a criminal background screening may (1) be inaccurate or incomplete, (2) give a user a false sense of security, and (3) be circumvented by an individual who has a criminal history. The bill also requires this notification be included on the operator's online dating platform.

Safety Awareness Notification (§ 3)

The bill requires online dating operators that offer services to Connecticut residents to provide a safety awareness notification clearly and conspicuously on its online dating platform to all Connecticut users.

The notification must include a list of safety measures reasonably designed to increase awareness of safer online dating practices. It must also include the following statements in substantially similar form:

1. "Use caution when communicating with a stranger who wants to meet you."
2. "You should not include your last name, electronic mail address, home address, phone number or any other identifying information in your online dating profile or electronic mail messages or communications until you feel comfortable with the other user. Stop communicating with anyone who pressures you for personal or financial information or attempts in any way to coerce you into revealing such information."
3. "If you choose to have a face-to-face meeting with another user who you met on the online dating platform, tell a family member or friend where you will be meeting and when you will return. You should not agree to be picked up at your home. Always provide your own transportation to and from your date and meet in a public place with many people around."
4. "Anyone who is able to commit identity theft can also falsify a

dating profile.”

Notification Timing and Communication Mode (§ 4)

The bill requires an online dating operator to communicate the required notifications when a Connecticut user registers with it by email, text message, push notification, inbox message, or in-product message.

The bill specifies that the communication must not address matters other than the criminal background screening notification and the safety awareness notification. Additionally, if the means of communication is character limited, the bill allows the online dating operator to include the full content of the information by linking to a separate website. However, the website may only address the required notifications.

Investigations and Penalties for Violations (§ 5)

The bill authorizes the Department of Consumer Protection (DCP) to penalize violators by (1) issuing fines up to \$25,000 per violation, (2) accepting an offer in compromise, or (3) taking other actions allowed under law or regulations. DCP may take these actions if an online dating operator fails to comply with the bill’s provisions.

The bill also allows the commissioner or her designee to (1) conduct investigations and hold hearings on any issue related to the online operator provisions and (2) issue subpoenas, administer oaths, compel testimony, and order the production of books, records, and documents.

Under the bill, if anyone refuses to appear, testify, or produce any book, record, or document when ordered to, then the commissioner or her designee may apply to Superior Court for an appropriate enforcement order.

Additionally, the bill authorizes the attorney general, at the request of the commissioner or his designee, to apply to Superior Court in the name of the state for an order to restrain and enjoin anyone from violating the bill’s provisions on online operators.

§ 6 — ONLINE ABUSE PREVENTION GRANT PROGRAM

Creates a grant program, administered by DESPP, to prevent online abuse and provide educational and training opportunities to inform people about identifying, reporting, responding to, and avoiding online abuse

Administration and Purpose

The bill establishes a grant program to be administered by DESPP, in consultation with the State-Wide Hate Crimes Advisory Council, to provide educational and training opportunities to (1) prevent online abuse and (2) inform people about identifying, reporting, responding to, and avoiding online abuse. Under the bill, “online abuse” means the following acts, when conducted using any interactive computer service:

1. speech or conduct motivated by hatred, prejudice, or bigotry towards a person or group based on the person’s actual or perceived religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, or disability;
2. harassment, stalking, swatting, or doxing (i.e., publicly revealing previously private personal information about someone, usually via the internet); or
3. an assault.

Requests for Proposals From Eligible Entities

Each fiscal year, within three months after receiving funds from the state, DESPP must issue a request for proposals (RFP) from eligible entities. Under the bill, an “eligible entity” must be located in Connecticut and may be any of the following or any entity operating under them:

1. local or regional school districts,
2. historical societies,
3. tax-exempt entities registered with the Office of the Secretary of the State,
4. government agencies,

5. constituent units of the state higher education system, or
6. public libraries.

Each RFP response must specify:

1. the types of online abuse that the eligible entity proposes to address, which must conform to the program's purpose;
2. the methods used to achieve the program's goals;
3. the entity's other specific goals;
4. the target audience of the training and information that the entity would provide;
5. whether the entity is replicating a program found to have a high likelihood of success as determined by a cost-benefit analysis in a peer reviewed academic journal; and
6. the amount of matching funds the entity will contribute, if any.

Grant Awards

The bill authorizes DESPP to award grants for any programming or service that prevents online abuse or furthers the other program goals, including training teachers or school professionals, archiving, public murals, curriculum development, and marketing.

It allows eligible entities to use awarded funds collectively, including regionally, through coordinated efforts and conferences that achieve the program's goals.

The bill limits the total grant amount that DESPP may award an eligible entity to a maximum of \$30,000 during any fiscal year.

§ 7 — APPLICATION OF ANTIDISCRIMINATION LAWS TO EMPLOYERS WITH ONE OR TWO EMPLOYEES

Subjects employers with one or two employees to the antidiscrimination laws, including those that prohibit discriminatory employment practices or workplace sexual harassment

Under the current human rights and opportunities laws, "employer"

means the state and all its political subdivisions and any person or employer with at least three employees. The bill lowers the number of employees an employer must have to be subject to these laws to one or more instead of three or more.

In doing so, it subjects employers with one or two employees to the antidiscrimination laws under the CHRO statutes, including those that prohibit (1) discriminatory employment practices (such as those described under § 10 below) and (2) workplace sexual harassment. These laws also impose certain duties on the employer, such as the duty to provide reasonable accommodation to an employee who is pregnant, unless doing so would be an undue hardship.

Under the bill, employers with one or two employees are no longer exempt from liability for employment discrimination based on any of the protected classes. The bill gives these employees the right to file a complaint with CHRO claiming to be aggrieved by an employer's alleged discriminatory practice, as employees of employers with three or more employees may do under existing law.

Existing law requires employers with three or more employees to post certain notices and provide training and education on the illegality of workplace sexual harassment. The bill generally subjects employers with one or two employees to these requirements, but existing law already requires them to provide training and education to their supervisory employees. By law, an employer who fails to post the required notices, or provide the required training and education, must be fined up to \$750.

As under existing law for other size employers, under the bill, if an employee of an employer with one or two employees refuses or threatens to refuse to comply with the employment discrimination prohibitions, the employer may file a written complaint under oath asking CHRO for assistance by conciliation or other remedial action.

§§ 7 & 10-21 — DOMESTIC VIOLENCE VICTIMS AS A PROTECTED CLASS UNDER ANTI-DISCRIMINATION LAWS

Prohibits discrimination on the basis of someone's status as a domestic violence victim in employment, public accommodations, housing, the granting of credit, and other laws over which the CHRO has jurisdiction; authorizes such a victim aggrieved by an alleged discriminatory practice to file discrimination complaints with CHRO

The bill prohibits various forms of discrimination based on someone's status as a domestic violence victim, such as in employment, public accommodations, housing sales or rentals, granting credit, and several other areas. In several cases, it classifies discrimination on this basis as a "discriminatory practice" under the CHRO laws. By doing so, the act allows individuals aggrieved by these violations or CHRO itself to file a complaint with CHRO alleging discrimination.

Domestic Violence Defined (§ 7)

For purposes of the CHRO laws the bill applies a general definition for the term "domestic violence."

Under the bill, "domestic violence" generally means the following:

1. a continuous threat of present physical pain or physical injury against a family or household member;
2. stalking, including 2nd degree stalking, of a family or household member;
3. a pattern of threatening, including 2nd degree threatening, of a family or household member or a third party that intimidates the family or household member; or
4. coercive control of a family or household member, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty (CGS § 46b-1(b)).

General Anti-Discriminatory Provision and Deprivation of Rights (§ 11)

Under existing law, it is a discriminatory practice to deprive someone of any rights, privileges, or immunities secured or protected by

Connecticut or federal laws or constitutions, or cause such a deprivation, because of religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, mental or physical disability, or status as a veteran. The bill adds status as a domestic violence victim to this list.

Under existing law, it is a crime to place a noose or simulation of one on public property, or on private property without the written consent of the owner, and with the intent to harass someone because of any protected class listed above. The bill adds “domestic violence victim” to the list of protected classes.

By law, violation of these provisions is generally a class A misdemeanor; but, if the violation results in property damage above \$1,000, then it is a class D felony. In either case, there is a minimum \$1,000 fine unless the court states on the record its reasons for reducing it. A class A misdemeanor is punishable by up to 364 days in prison; a class D felony is punishable by up to five years in prison.

Employment Discrimination (§ 10)

The bill prohibits an employer or employer’s agent, unless there is a bona fide occupational qualification or need, from (1) refusing to hire or employ someone; (2) barring or discharging someone from employment; or (3) discriminating against someone in pay or in employment terms, conditions, or privileges because the person is a domestic violence victim. This prohibition applies to all employers, public or private, and all employees except those employed by their parents, spouse, or children.

The bill also prohibits the following kinds of employment discrimination based on domestic violence victim status:

1. employers refusing to provide a reasonable accommodation to an employee whom the employer knows is a victim of domestic violence unless the absence would cause an undue hardship (see below);
2. employment agencies failing or refusing to classify properly or

- refer for employment or otherwise discriminating against someone except in the case of a bona fide occupational qualification or need;
3. labor organizations excluding someone from full membership rights, expelling a member, or discriminating in any way against a member, employer, or employee unless the action is due to a bona fide occupational qualification;
 4. employers, employment agencies, labor organizations, or anyone else taking adverse action against someone because he or she opposed a discriminatory employment practice, brought a complaint, or testified or assisted someone else in a complaint proceeding;
 5. any person aiding, abetting, inciting, compelling, or coercing someone to commit a discriminatory employment practice or attempting to do so; and
 6. employers, employment agencies, labor organizations, or anyone else advertising employment opportunities in a way that restricts employment and therefore discriminates except when involving a bona fide occupational qualification or need.

Reasonable Leave of Absence. Under the bill, it is a discriminatory practice for an employer or the employer's agent to deny an employee a reasonable leave of absence for the employee to do the following:

1. seek attention for injuries caused by domestic violence, including for a child who is a domestic violence victim, so long the employee is not the perpetrator against the child;
2. obtain services, including safety planning, from a domestic violence agency or rape crisis center;
3. obtain psychological counseling, including for a child, so long as the employee is not the perpetrator against the child;
4. take other actions to increase safety from future incidents,

including temporary or permanent relocation; or

5. obtain legal services, assist in the offense's prosecution, or otherwise participate in related legal proceedings.

The bill requires an employee who is absent from work under these circumstances to provide a certification to the employer, upon request, within a reasonable time after the absence. The certification must be one of the following:

1. a police report indicating that the employee or the employee's child was a domestic violence victim,
2. a court order protecting or separating the employee or employee's child from the perpetrator,
3. other evidence from the court or prosecutor that the employee appeared in court, or
4. documentation from a medical professional or a domestic violence counselor, or other health care provider, that the employee or employee's child was receiving services, counseling, or treatment for physical or mental injuries or abuse resulting in victimization from domestic violence.

Under the bill, if an employee has a physical or mental disability resulting from a domestic violence incident, then the employee must be treated the same as employees with other disabilities.

The bill also requires employers, to the extent allowed by law, to maintain the confidentiality of any information about an employee's status as a domestic violence victim.

Public Accommodations (§ 13)

The bill prohibits anyone from denying someone, based on his or her status as a domestic violence victim, full and equal accommodations in any public establishment (i.e., one that caters to or offers its services, facilities, or goods to the general public), including any commercial property or building lot on which a commercial building will be built or

offered for sale or rent, subject to lawful conditions and limitations that apply alike to everyone. It further prohibits discriminating, segregating, or separating people based on their domestic violence victim status. Violations are punishable as a class D misdemeanor, subject to a fine of up to \$250, up to 30 days' imprisonment, or both.

Housing (§ 14)

The bill prohibits anyone from refusing to sell or rent after a person makes a bona fide offer; refusing to negotiate for the sale or rental of a dwelling; or otherwise denying or making a dwelling unavailable to someone based on their status as a domestic violence victim.

A violation is a class D misdemeanor, punishable by up to 30 days in prison, a fine of up to \$250, or both.

This prohibition does not apply to either of the following if the owner maintains his or her residence there: (1) renting a room or rooms in a single-family home or (2) a unit in a two-family home.

Credit (§ 15)

The bill prohibits a creditor from discriminating against an adult in a credit transaction based on the person's status as a domestic violence victim.

Other Areas Subject to CHRO's Jurisdiction (§§ 12 & 16-21)

The bill authorizes CHRO to investigate claims of discrimination based on a person's status as a domestic violence victim under other laws over which CHRO has jurisdiction. Specifically, the bill does the following:

1. subjects any professional or trade association, board, or other similar organization whose profession, trade, or occupation requires a state license, to a fine of \$100 to \$500 for denying someone membership because of his or her status as a domestic violence victim (§ 12);
2. requires state officials and supervisory personnel to recruit, appoint, assign, train, evaluate, and promote state personnel on

- the basis of merit and qualifications, without regard for their status as a domestic violence victim (§ 16);
3. requires state agency services to be performed without discrimination based on a person's status as a domestic violence victim (§ 17);
 4. requires any state agency that provides employment referrals or placement services to public or private employers to reject any job request that indicates an intention to exclude anyone based on his or her status as a domestic violence victim (§ 18);
 5. prohibits state departments, boards, or agencies from granting, denying, or revoking a person's license or charter on the grounds that he or she is a domestic violence victim (§ 19);
 6. requires all educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state agencies, or in which they participate, to be open to all qualified people, without regard for domestic violence victim status (§ 20); and
 7. prohibits a person's status as a domestic violence victim from being a limiting factor in state-administered programs involving the distribution of funds to qualified applicants for benefits authorized by law; and prohibits the state from giving financial assistance to public agencies, private institutions, or other organizations that discriminate on this basis (§ 21).

§§ 8 & 9 — DOMESTIC VIOLENCE TRAINING AND INFORMATION FOR EMPLOYEES

Requires state agencies, within available appropriations, to provide a one-hour minimum training and education on domestic violence and victim resources; requires employers with three or more employees to post similar information in an accessible location

State Agencies (§§ 8 & 9)

The bill authorizes CHRO to require that all state agencies provide at least one hour of training and education on domestic violence and the resources available to victims. The training must be given to employees hired (1) before January 1, 2023, by July 1, 2023, and (2) on or after

January 1, 2023, within six months after their date of hire.

Under the bill, this training and education for state employees must be provided within available appropriations using CHRO's training and education materials (see below). It must include information on (1) domestic violence, abuser, and victim behaviors; (2) how domestic violence may impact the workplace; and (3) the resources available to victims.

The bill requires CHRO, in conjunction with domestic violence victim advocacy organizations, to develop the following:

1. a link with information on domestic violence and available resources for victims and include it on the commission's website and
2. an online training and education video or other interactive method of training and education that meets the requirements above and make them available to each state agency at no cost.

Employers With Three or More Employees (§ 8)

The bill also allows CHRO to require employers with three or more employees to post, in a prominent and accessible location, information on domestic violence and the resources available to such victims in Connecticut.

§ 22 — CHRO LEGAL COUNSEL

Eliminates requirements that a CHRO legal counsel serve as a supervising attorney and that the CHRO executive director assign commission legal counsel through the supervising attorney

Under current law, (1) one CHRO legal counsel must serve as a supervising attorney and (2) when CHRO's executive director assigns commission legal counsel in certain actions, she must do so through the supervising attorney. This applies when she assigns commission legal counsel to do the following:

1. represent the commission in any proceeding where a state agency or officer is an adversary party and other matters that the commission and the attorney general jointly prescribe;

2. represent the commission in any hearing or appeal on complaints by an employee of a state or quasi-public agency or large state contractor that action has been threatened or occurred in retaliation for whistleblowing; and
3. bring a civil action about an alleged discriminatory practice.

In these cases, the bill eliminates the requirement that the executive director assign commission legal counsel through the supervising attorney. It also eliminates the requirement that one CHRO legal counsel serve as a supervising attorney.

§ 23 — DSS FUNDING

Requires DSS to make \$1.44 million available to domestic violence child and family advocates at domestic violence agencies for trauma-informed services

For FY 23, the bill requires DSS to make \$1.44 million available to domestic violence child and family advocates at domestic violence agencies for providing trauma-informed services to children and families experiencing domestic violence.

Under the bill, a “domestic violence agency” is any office, shelter, host home, or agency that meets DSS's service provision criteria and helps domestic violence victims through crisis intervention, emergency shelter referral, and medical and legal advocacy.

“Trauma-informed services” are services directed by a thorough understanding of the neurological, biological, psychological, and social effects of trauma and violence on someone.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 3 (03/31/2022)

Appropriations Committee

Joint Favorable

Yea 50 Nay 0 (04/22/2022)