



House of Representatives

General Assembly

File No. 615

January Session, 2023

House Bill No. 6638

House of Representatives, April 17, 2023

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT REVISING THE STATE'S ANTIDISCRIMINATION STATUTES.

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

1 Section 1. Section 46a-58 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 (a) It shall be a discriminatory practice in violation of this section for
4 any person to subject, or cause to be subjected, any other person to the
5 deprivation of any rights, privileges or immunities, secured or protected
6 by the Constitution or laws of this state or of the United States, on
7 account of religion, national origin, alienage, color, race, sex, gender
8 identity or expression, sexual orientation, blindness, mental disability,
9 physical disability, age, status as a veteran or status as a victim of
10 domestic violence.

11 (b) Any person who intentionally desecrates any public property,
12 monument or structure, or any religious object, symbol or house of
13 religious worship, or any cemetery, or any private structure not owned
14 by such person, shall be in violation of subsection (a) of this section. For

15 the purposes of this subsection, "desecrate" means to mar, deface or
16 damage as a demonstration of irreverence or contempt.

17 (c) Any person who places a burning cross or a simulation thereof on
18 any public property, or on any private property without the written
19 consent of the owner, and with intent to intimidate or harass any other
20 person or group of persons, shall be in violation of subsection (a) of this
21 section.

22 (d) Any person who places a noose or a simulation thereof on any
23 public property, or on any private property without the written consent
24 of the owner, and with intent to intimidate or harass any other person
25 on account of religion, national origin, alienage, color, race, sex, gender
26 identity or expression, sexual orientation, blindness, mental disability,
27 physical disability, age, status as a veteran or status as a victim of
28 domestic violence, shall be in violation of subsection (a) of this section.

29 (e) (1) Except as provided in subdivision (2) of this subsection, any
30 person who violates any provision of this section shall be guilty of a
31 class A misdemeanor and shall be fined not less than one thousand
32 dollars, except that if property is damaged as a consequence of such
33 violation in an amount in excess of one thousand dollars, such person
34 shall be guilty of a class D felony and shall be fined not less than one
35 thousand dollars.

36 (2) Any person who violates the provisions of this section by
37 intentionally desecrating a house of religious worship (A) shall be guilty
38 of a class D felony and shall be fined not less than one thousand dollars
39 if property is damaged as a consequence of such violation in an amount
40 up to and including ten thousand dollars, and (B) shall be guilty of a
41 class C felony and shall be fined not less than three thousand dollars if
42 the property damaged as a consequence of such violation is in an
43 amount in excess of ten thousand dollars.

44 (3) The minimum amount of any fine imposed by the provisions of
45 this section may not be remitted or reduced by the court unless the court
46 states on the record its reasons for remitting or reducing such fine.

47 (4) The court may order restitution for any victim of a violation of this
48 section pursuant to subsection (c) of section 53a-28.

49 Sec. 2. Section 46a-51 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective July 1, 2023*):

51 As used in section 4a-60a and this chapter:

52 (1) "Blind" refers to an individual whose central visual acuity does
53 not exceed 20/200 in the better eye with correcting lenses, or whose
54 visual acuity is greater than 20/200 but is accompanied by a limitation
55 in the fields of vision such that the widest diameter of the visual field
56 subtends an angle no greater than twenty degrees;

57 (2) "Commission" means the Commission on Human Rights and
58 Opportunities created by section 46a-52;

59 (3) "Commission legal counsel" means a member of the legal staff
60 employed by the commission pursuant to section 46a-54;

61 (4) "Commissioner" means a member of the commission;

62 (5) "Court" means the Superior Court or any judge of said court;

63 (6) "Discrimination" includes segregation and separation;

64 (7) "Discriminatory employment practice" means any discriminatory
65 practice specified in subsection (b), (d), (e) or (f) of section 31-51i or
66 section 46a-60 or 46a-81c;

67 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
68 60a, 4a-60g, 31-40y, subsection (b), (d), (e) or (f) of section 31-51i,
69 subparagraph (C) of subdivision (15) of section 46a-54, subdivisions (16)
70 and (17) of section 46a-54, section 46a-58, as amended by this act, 46a-
71 59, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-68, 46a-68c to 46a-68f, inclusive,
72 or 46a-70 to 46a-78, inclusive, subsection (a) of section 46a-80 or sections
73 46a-81b to 46a-81o, inclusive, and sections 46a-80b to 46a-80e, inclusive,
74 and sections 46a-80k to 46a-80m, inclusive;

75 (9) "Employee" means any person employed by an employer but shall
76 not include any individual employed by such individual's parents,
77 spouse or child. "Employee" includes any elected or appointed official
78 of a municipality, board, commission, counsel or other governmental
79 body;

80 (10) "Employer" includes the state and all political subdivisions
81 thereof and means any person or employer with one or more persons in
82 such person's or employer's employ;

83 (11) "Employment agency" means any person undertaking with or
84 without compensation to procure employees or opportunities to work;

85 (12) "Labor organization" means any organization which exists for the
86 purpose, in whole or in part, of collective bargaining or of dealing with
87 employers concerning grievances, terms or conditions of employment,
88 or of other mutual aid or protection in connection with employment;

89 (13) "Intellectual disability" means intellectual disability as defined in
90 section 1-1g;

91 (14) "Person" means one or more individuals, partnerships,
92 associations, corporations, limited liability companies, legal
93 representatives, trustees, trustees in bankruptcy, receivers and the state
94 and all political subdivisions and agencies thereof;

95 (15) "Physically disabled" refers to any individual who has any
96 chronic physical handicap, infirmity or impairment, whether congenital
97 or resulting from bodily injury, organic processes or changes or from
98 illness, including, but not limited to, epilepsy, deafness or being hard of
99 hearing or reliance on a wheelchair or other remedial appliance or
100 device;

101 (16) "Respondent" means any person alleged in a complaint filed
102 pursuant to section 46a-82 to have committed a discriminatory practice;

103 (17) "Discrimination on the basis of sex" includes but is not limited to
104 discrimination related to pregnancy, child-bearing capacity,

105 sterilization, fertility or related medical conditions;

106 (18) "Discrimination on the basis of religious creed" includes but is
107 not limited to discrimination related to all aspects of religious
108 observances and practice as well as belief, unless an employer
109 demonstrates that the employer is unable to reasonably accommodate
110 to an employee's or prospective employee's religious observance or
111 practice without undue hardship on the conduct of the employer's
112 business;

113 (19) "Learning disability" refers to an individual who exhibits a severe
114 discrepancy between educational performance and measured
115 intellectual ability and who exhibits a disorder in one or more of the
116 basic psychological processes involved in understanding or in using
117 language, spoken or written, which may manifest itself in a diminished
118 ability to listen, speak, read, write, spell or to do mathematical
119 calculations;

120 (20) "Mental disability" refers to an individual who has a record of, or
121 is regarded as having one or more mental disorders, as defined in the
122 most recent edition of the American Psychiatric Association's
123 "Diagnostic and Statistical Manual of Mental Disorders"; and

124 (21) "Gender identity or expression" means a person's gender-related
125 identity, appearance or behavior, whether or not that gender-related
126 identity, appearance or behavior is different from that traditionally
127 associated with the person's physiology or assigned sex at birth, which
128 gender-related identity can be shown by providing evidence including,
129 but not limited to, medical history, care or treatment of the gender-
130 related identity, consistent and uniform assertion of the gender-related
131 identity or any other evidence that the gender-related identity is
132 sincerely held, part of a person's core identity or not being asserted for
133 an improper purpose;

134 (22) "Veteran" means veteran as defined in subsection (a) of section
135 27-103;

136 (23) "Race" is inclusive of ethnic traits historically associated with
137 race, including, but not limited to, hair texture and protective hairstyles;

138 (24) "Protective hairstyles" includes, but is not limited to, wigs,
139 headwraps and hairstyles such as individual braids, cornrows, locs,
140 twists, Bantu knots, afros and afro puffs; [and]

141 (25) "Domestic violence" has the same meaning as provided in
142 subsection (b) of section 46b-1; and

143 (26) "Sexual orientation" means a person's identity in relation to the
144 gender or genders to which they are romantically, emotionally or
145 sexually attracted, inclusive of any identity that a person may have
146 previously expressed or be perceived to hold.

147 Sec. 3. Subsection (d) of section 31-51q of the general statutes is
148 repealed and the following is substituted in lieu thereof (*Effective July 1,*
149 *2023*):

150 (d) The provisions of this section shall not apply to a religious
151 corporation, entity, association, educational institution or society that is
152 exempt from the requirements of Title VII of the Civil Rights Act of 1964
153 pursuant to 42 USC 2000e-1(a) or is exempt from sections 4a-60a, [46a-
154 81a and] 46a-81b to 46a-81o, inclusive, pursuant to section 46a-81p, as
155 amended by this act, with respect to speech on religious matters to
156 employees who perform work connected with the activities undertaken
157 by such religious corporation, entity, association, educational institution
158 or society.

159 Sec. 4. Section 46a-81p of the general statutes is repealed and the
160 following is substituted in lieu thereof (*Effective July 1, 2023*):

161 The provisions of sections 4a-60a and [46a-81a] 46a-81b to 46a-81o,
162 inclusive, shall not apply to a religious corporation, entity, association,
163 educational institution or society with respect to the employment of
164 individuals to perform work connected with the carrying on by such
165 corporation, entity, association, educational institution or society of its
166 activities, or with respect to matters of discipline, faith, internal

167 organization or ecclesiastical rule, custom or law which are established
168 by such corporation, entity, association, educational institution or
169 society.

170 Sec. 5. Section 46a-81q of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective July 1, 2023*):

172 The provisions of sections 4a-60a and [46a-81a] 46a-81b to 46a-81o,
173 inclusive, shall not apply to the conduct and administration of a ROTC
174 program established and maintained pursuant to 10 USC Sections 2101
175 to 2111, inclusive, as amended from time to time, and the regulations
176 thereunder, at an institution of higher education. For purposes of this
177 section, "ROTC" means the Reserve Officers' Training Corps.

178 Sec. 6. Section 46a-81a of the general statutes is repealed. (*Effective July*
179 *1, 2023*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	46a-58
Sec. 2	<i>July 1, 2023</i>	46a-51
Sec. 3	<i>July 1, 2023</i>	31-51q(d)
Sec. 4	<i>July 1, 2023</i>	46a-81p
Sec. 5	<i>July 1, 2023</i>	46a-81q
Sec. 6	<i>July 1, 2023</i>	Repealer section

JUD *Joint Favorable*

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:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

Sections 1 and 2 change the circumstances under which a behavior may be considered discriminatory. **Section 1** adds age to the list of reasons a person cannot be discriminated against, and **Section 2** revises the definition of sexual orientation applicable to the state's anti-discrimination laws. These changes may result in: (1) a potential cost for incarceration or probation, and (2) a potential revenue gain from fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$2,500¹ while the average marginal cost for supervision in the community is less than \$800² each year.

The bill also makes other changes that have no fiscal impact to the state or municipalities.

¹Inmate marginal cost is based on increased consumables (e.g., food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

² Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of offenses and amount of fines assessed.

OLR Bill Analysis**HB 6638****AN ACT REVISING THE STATE'S ANTIDISCRIMINATION STATUTES.****SUMMARY**

In the state's antidiscrimination laws, this bill (1) adds "age" to the list of protected classes and (2) repeals the definition of the term "sexual orientation" and replaces it with a new one.

It also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2023

§ 1 — AGE AS A PROTECTED CLASS

By 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, veteran status, or status as a domestic violence victim. The bill adds "age" to this list of protected classes, which authorizes the Commission on Human Rights and Opportunities (CHRO) to investigate claims of discrimination based on age.

Under existing law, this crime also includes placing a noose or simulation of one on public property, or on private property without the owner's written consent with the intent to harass someone because of any protected class listed above. The bill correspondingly adds "age" to this list of protected classes.

By law, a violation of these provisions is generally a class A misdemeanor; but, if the violation results in more than \$1,000 in property damage, 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.

§§ 2-6 — SEXUAL ORIENTATION

Under current antidiscrimination law, “sexual orientation” generally means having a preference for heterosexuality, homosexuality or bisexuality or having a history of or being identified with this preference. However, its definition expressly excludes any behavior that is a sex offense crime.

The bill redefines “sexual orientation” to means a person’s identity in relation to the gender or genders to which they are romantically, emotionally, or sexually attracted, including any identity that a person may have previously expressed or be perceived to hold. This new definition specifically applies to antidiscrimination laws subject to enforcement by CHRO, as well as laws prohibiting nondiscrimination in awarding agency, municipal public works and quasi-public agency project contracts.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 26 Nay 11 (03/28/2023)