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## OLR Bill Analysis

### sHB 5414

#### ***AN ACT CONCERNING ADDITIONAL LEGAL PROTECTIONS UNDER THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES STATUTES FOR VICTIMS OF SEXUAL ASSAULT, TRAFFICKING IN PERSONS AND STALKING.***

#### **SUMMARY**

This bill prohibits various forms of discrimination based on someone's status as a victim of sexual assault, trafficking in persons, or stalking. This applies to employment, public accommodations, housing, credit, state services, certain public contracts, and other areas under the jurisdiction of the Commission on Human Rights and Opportunities (CHRO). In doing so, the bill allows individuals aggrieved by these violations, or CHRO itself, to file a complaint with CHRO alleging discrimination.

The bill adds sexual assault, trafficking in persons, and stalking to existing laws under which CHRO may require (1) state agencies, within available appropriations, to provide training and education to employees on domestic violence and the resources available to victims and (2) employers with three or more employees to post similar information in an accessible workplace location.

It also prohibits discrimination in certain public contracts based on someone's status as a victim of domestic violence. (Existing law already prohibits discrimination based on this status in the other contexts covered by this bill.)

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2024

#### **§§ 1 & 4-16 — PROTECTED CLASSES UNDER ANTI-DISCRIMINATION LAWS**

The bill prohibits various forms of discrimination based on

someone's status as a victim of sexual assault, trafficking in persons, or stalking. This specifically applies to someone who was a victim of any of the following under the state's penal code:

1. 1st, 2nd, 3rd, or 4th degree sexual assault;
2. aggravated 1st degree sexual assault;
3. aggravated sexual assault of a minor;
4. 3rd degree sexual assault with a firearm;
5. trafficking in persons;
6. 1st, 2nd, or 3rd degree stalking; or
7. electronic stalking.

The bill also applies to people who were victims of certain sexual assault crimes that have since been repealed; specifically, sexual assault in a spousal or cohabiting relationship or 1st or 2nd degree rape. (These crimes were repealed in 2019, 1975, and 1971, respectively, and generally folded into the other sexual assault crimes listed above.)

The bill's anti-discrimination provisions for all of these victims mirror the existing law regarding victims of domestic violence (except for one provision noted below that adds protections for domestic violence victims as well as these other victims).

***General Anti-Discriminatory Provision and Deprivation of Rights  
(§ 4)***

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, age, veteran status, or status as a domestic violence victim. The bill adds status as a sexual assault, trafficking in persons, or stalking victim to this list, thus authorizing CHRO to investigate claims of discrimination based on this status.

Under existing law, this provision specifically prohibits 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 adds sexual assault, trafficking in persons, or stalking victims to the list of protected classes.

By law, a violation of these provisions is generally a class A misdemeanor, punishable by up to 364 days in prison, a fine of up to \$2,000, or both. If the violation results in more than \$1,000 in property damage, then it is a class D felony, punishable by up to five years in prison, a fine of up to \$5,000, or both. In either case, there is a minimum \$1,000 fine unless the court states on the record its reasons for reducing it.

***Employment Discrimination (§ 6)***

The bill generally prohibits an employer or its agent 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 sexual assault, trafficking, or stalking victim. The prohibition does not apply if there is a bona fide occupational qualification or need.

The bill also prohibits the following kinds of employment discrimination based on sexual assault, trafficking, or stalking victim status:

1. employers refusing to provide a reasonable leave of absence to an employee whom the employer knows is a victim (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 advertising employment opportunities in a way that restricts employment and therefore discriminates except when involving a bona fide occupational qualification or need; or

5. any person aiding, abetting, inciting, compelling, or coercing someone to commit a discriminatory employment practice or attempting to do so.

**Retaliation.** The bill additionally prohibits retaliation against an employee for taking action to address this discrimination. It prohibits employers, employment agencies, labor organizations, or anyone else from firing, expelling, or otherwise discriminating against someone because he or she opposed a discriminatory employment practice, brought a complaint, or testified or assisted someone else in a complaint proceeding.

**Applicability.** These provisions apply to private, state, or municipal employers with at least one employee, and all employees except those employed by their parents, spouse, or children.

**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 to do the following:

1. seek attention for injuries caused by sexual assault, trafficking, or stalking, or obtain psychological counseling related to these crimes, including for a child who is a victim, so long as the employee did not commit the offense against the child;
2. obtain services, including safety planning, from a domestic violence agency or rape crisis center due to the sexual assault, trafficking, or stalking;
3. take other actions to increase safety from future incidents, including temporary or permanent relocation; or
4. obtain legal services, assist in the offense's prosecution, or otherwise participate in related legal proceedings.

The bill requires an employee who misses 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 sexual assault, trafficking, or stalking 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, domestic violence or sexual assault 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 caused by sexual assault, trafficking, or stalking.

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

The bill also requires employers, to the extent allowed by law, to keep confidential any information about an employee's status as a victim.

### ***Public Accommodations (§ 7)***

The bill prohibits anyone from denying someone, based on his or her status as a sexual assault, trafficking, or stalking victim, full and equal accommodations in any place of public accommodation (i.e., one that caters to or offers its services, facilities, or goods to the general public), subject to lawful conditions and limitations that apply alike to everyone. It further prohibits discriminating, segregating, or separating people based on their victim status. A violation is a class D misdemeanor, punishable by up to 30 days in prison, a fine of up to \$250, or both.

### ***Housing (§ 8)***

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 sexual assault, trafficking, or stalking victim. A violation is a class D misdemeanor.

This prohibition does not apply to the rental of (1) a room in an owner-occupied single family home or (2) part of an owner-occupied two-family home.

***Credit (§ 9)***

The bill prohibits a creditor from discriminating against an adult in a credit transaction based on the person’s status as a sexual assault, trafficking, or stalking victim.

***Other Areas Subject to CHRO’s Jurisdiction (§§ 5 & 10-16)***

The bill prohibits discrimination based on a person’s status as a sexual assault, trafficking, or stalking victim in other laws over which CHRO has jurisdiction. Specifically, the bill does the following:

1. prohibits any professional or trade association, board, or other similar organization whose profession, trade, or occupation requires a state license, from denying someone membership because of the person’s status as a sexual assault, trafficking, or stalking victim (violators are subject to a \$100 to \$500 fine) (§ 5);
2. requires state officials and supervisory personnel to recruit, appoint (i.e., hire), assign, train, evaluate, and promote state personnel based on merit and qualifications, without regard for their status as victim of these crimes (§ 10);
3. requires state agencies to deliver services without discrimination based on a person’s victim status (§ 11);
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 victim status (§ 12);
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 victim (§ 13);

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 their victim status (§ 14); and
7. prohibits (a) a person's victim status from being a limiting factor in state-administered programs that distribute funds to qualified applicants for benefits authorized by law, and (b) the state from giving financial assistance to public agencies, private institutions, or other organizations that discriminate on this basis (§ 15).

The bill also generally requires state agency, municipal public works, and quasi-public agency project contracts to require the contractors to (1) agree that, in performing the contracts, they will not unlawfully discriminate or permit discrimination on the grounds of someone's status as a domestic violence, sexual assault, trafficking, or stalking victim and (2) agree to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated without regard to their victim status. This law is also under CHRO's jurisdiction.

## **§§ 2 & 3 — TRAINING AND INFORMATION FOR EMPLOYEES**

### ***State Agencies***

Existing law 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 bill expands this training to include sexual assault, trafficking, and stalking, and makes conforming changes. For employees hired before January 1, 2025, the expanded training must be given by July 1, 2025. Employees hired on or after January 1, 2025, must be given the training within six months after their date of hire.

Under the bill, as under existing law, this training and education must be provided within available appropriations using CHRO's training and education materials.

Existing law 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.

The bill requires CHRO to develop these resources in conjunction with sexual assault, trafficking, and stalking victim advocacy organizations as well, and expands the scope of the resources to include those crimes.

### ***Employers***

Existing law allows CHRO to require employers to post, in a prominent and accessible location, information on domestic violence and the resources available to victims in Connecticut. The bill expands this to include information on sexual assault, trafficking, and stalking. As under existing law, this provision applies to employers with at least three employees.

## **BACKGROUND**

### ***Related Bill***

sHB 5419 (File 455), reported favorably by the Judiciary Committee, extends to the attorney general existing authority to petition the court for relief that is available to CHRO in cases involving violations of housing and public accommodation anti-discrimination laws.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 27 Nay 8 (03/28/2024)