



Senate

General Assembly

File No. 522

February Session, 2024

Substitute Senate Bill No. 4

Senate, April 17, 2024

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 VICTIMS OF DOMESTIC VIOLENCE, THE UNSOLICITED TRANSMISSION OF INTIMATE IMAGES BY MEANS OF AN ELECTRONIC COMMUNICATION DEVICE AND THE IMPERMISSIBLE USE OF NONDISCLOSURE AGREEMENTS IN THE WORKPLACE.

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

1 Section 1. Subsection (c) of section 46b-15f of the 2024 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective July 1, 2024*):

4 (c) The organization administering the program may only award [a
5 grant] grants (1) to provide services in the judicial districts of
6 Bridgeport, Danbury, Hartford, Middlesex, New Haven, Stamford-
7 Norwalk, Litchfield or Waterbury, and (2) in an amount not to exceed
8 two hundred thousand dollars, except that a grant to provide services
9 in the judicial district with the highest average number of applications
10 for restraining orders under section 46b-15 over the previous three fiscal
11 years may receive a grant of not more than four hundred thousand
12 dollars. Grants may not be used to provide services to individuals who

13 are not indigent.

14 Sec. 2. (NEW) (*Effective July 1, 2024*) (a) As used in this section:

15 (1) "Electronic communication device" has the same meaning as
16 provided in section 53a-196h of the general statutes; and

17 (2) "Intimate image" means a photograph, film, video, recording,
18 digital picture or other similar visual photographic reproduction of a
19 person eighteen years of age or older who is in a state of undress so as
20 to expose such person's genitals.

21 (b) Any person, eighteen years of age or older, who knowingly
22 transmits an intimate image by means of an electronic communication
23 device to the electronic communication device of another person,
24 eighteen years of age or older, when such other person has not
25 consented to the receipt of such material on their electronic
26 communication device or has expressly forbidden the receipt of such
27 material on their electronic communication device, shall be liable in a
28 civil action to the recipient of the intimate image for actual damages or
29 five hundred dollars, whichever is greater, in addition to reasonable
30 attorneys' fees and costs. The court may also award punitive damages
31 or enjoin the person transmitting the intimate images in violation of this
32 section from engaging in further acts constituting a violation of this
33 section. The remedies provided by this section are cumulative and shall
34 not be construed as restricting any other remedy that is available under
35 any other law.

36 (c) The provisions of this section shall not apply to (1) a health care
37 provider who transmits an intimate image for a legitimate medical
38 purpose; or (2) the transmission of commercial electronic mail, which is
39 otherwise subject to the provisions of 15 USC 7701 to 7713, inclusive, as
40 amended from time to time, and 16 CFR 316.

41 Sec. 3. Section 46a-60 of the general statutes is repealed and the
42 following is substituted in lieu thereof (*Effective October 1, 2024*):

43 (a) As used in this section:

44 (1) "Pregnancy" means pregnancy, childbirth or a related condition,
45 including, but not limited to, lactation;

46 (2) "Reasonable accommodation" means, but is not limited to, being
47 permitted to sit while working, more frequent or longer breaks, periodic
48 rest, assistance with manual labor, job restructuring, light duty
49 assignments, modified work schedules, temporary transfers to less
50 strenuous or hazardous work, time off to recover from childbirth or
51 break time and appropriate facilities for expressing breast milk; and

52 (3) "Undue hardship" means an action requiring significant difficulty
53 or expense when considered in light of factors such as (A) the nature
54 and cost of the accommodation; (B) the overall financial resources of the
55 employer; (C) the overall size of the business of the employer with
56 respect to the number of employees, and the number, type and location
57 of its facilities; and (D) the effect on expenses and resources or the
58 impact otherwise of such accommodation upon the operation of the
59 employer.

60 (b) It shall be a discriminatory practice in violation of this section:

61 (1) For an employer, by the employer or the employer's agent, except
62 in the case of a bona fide occupational qualification or need, to refuse to
63 hire or employ or to bar or to discharge from employment any
64 individual or to discriminate against any individual in compensation or
65 in terms, conditions or privileges of employment because of the
66 individual's race, color, religious creed, age, sex, gender identity or
67 expression, marital status, national origin, ancestry, present or past
68 history of mental disability, intellectual disability, learning disability,
69 physical disability, including, but not limited to, blindness, status as a
70 veteran or status as a victim of domestic violence;

71 (2) For any employment agency, except in the case of a bona fide
72 occupational qualification or need, to fail or refuse to classify properly
73 or refer for employment or otherwise to discriminate against any
74 individual because of such individual's race, color, religious creed, age,
75 sex, gender identity or expression, marital status, national origin,

76 ancestry, present or past history of mental disability, intellectual
77 disability, learning disability, physical disability, including, but not
78 limited to, blindness, status as a veteran or status as a victim of domestic
79 violence;

80 (3) For a labor organization, because of the race, color, religious creed,
81 age, sex, gender identity or expression, marital status, national origin,
82 ancestry, present or past history of mental disability, intellectual
83 disability, learning disability, physical disability, including, but not
84 limited to, blindness, status as a veteran or status as a victim of domestic
85 violence of any individual to exclude from full membership rights or to
86 expel from its membership such individual or to discriminate in any
87 way against any of its members or against any employer or any
88 individual employed by an employer, unless such action is based on a
89 bona fide occupational qualification;

90 (4) For any person, employer, labor organization or employment
91 agency to discharge, expel or otherwise discriminate against any person
92 because such person has opposed any discriminatory employment
93 practice or because such person has filed a complaint or testified or
94 assisted in any proceeding under section 46a-82, 46a-83 or 46a-84;

95 (5) For any person, whether an employer or an employee or not, to
96 aid, abet, incite, compel or coerce the doing of any act declared to be a
97 discriminatory employment practice or to attempt to do so;

98 (6) For any person, employer, employment agency or labor
99 organization, except in the case of a bona fide occupational qualification
100 or need, to advertise employment opportunities in such a manner as to
101 restrict such employment so as to discriminate against individuals
102 because of their race, color, religious creed, age, sex, gender identity or
103 expression, marital status, national origin, ancestry, present or past
104 history of mental disability, intellectual disability, learning disability,
105 physical disability, including, but not limited to, blindness, status as a
106 veteran or status as a victim of domestic violence;

107 (7) For an employer, by the employer or the employer's agent: (A) To

108 terminate a woman's employment because of her pregnancy; (B) to
109 refuse to grant to that employee a reasonable leave of absence for
110 disability resulting from her pregnancy; (C) to deny to that employee,
111 who is disabled as a result of pregnancy, any compensation to which
112 she is entitled as a result of the accumulation of disability or leave
113 benefits accrued pursuant to plans maintained by the employer; (D) to
114 fail or refuse to reinstate the employee to her original job or to an
115 equivalent position with equivalent pay and accumulated seniority,
116 retirement, fringe benefits and other service credits upon her signifying
117 her intent to return unless, in the case of a private employer, the
118 employer's circumstances have so changed as to make it impossible or
119 unreasonable to do so; (E) to limit, segregate or classify the employee in
120 a way that would deprive her of employment opportunities due to her
121 pregnancy; (F) to discriminate against an employee or person seeking
122 employment on the basis of her pregnancy in the terms or conditions of
123 her employment; (G) to fail or refuse to make a reasonable
124 accommodation for an employee or person seeking employment due to
125 her pregnancy, unless the employer can demonstrate that such
126 accommodation would impose an undue hardship on such employer;
127 (H) to deny employment opportunities to an employee or person
128 seeking employment if such denial is due to the employee's request for
129 a reasonable accommodation due to her pregnancy; (I) to force an
130 employee or person seeking employment affected by pregnancy to
131 accept a reasonable accommodation if such employee or person seeking
132 employment (i) does not have a known limitation related to her
133 pregnancy, or (ii) does not require a reasonable accommodation to
134 perform the essential duties related to her employment; (J) to require an
135 employee to take a leave of absence if a reasonable accommodation can
136 be provided in lieu of such leave; and (K) to retaliate against an
137 employee in the terms, conditions or privileges of her employment
138 based upon such employee's request for a reasonable accommodation;

139 (8) For an employer, by the employer or the employer's agent, for an
140 employment agency, by itself or its agent, or for any labor organization,
141 by itself or its agent, to harass any employee, person seeking
142 employment or member on the basis of sex or gender identity or

143 expression. If an employer takes immediate corrective action in
144 response to an employee's claim of sexual harassment, such corrective
145 action shall not modify the conditions of employment of the employee
146 making the claim of sexual harassment unless such employee agrees, in
147 writing, to any modification in the conditions of employment.
148 "Corrective action" taken by an employer, includes, but is not limited to,
149 employee relocation, assigning an employee to a different work
150 schedule or other substantive changes to an employee's terms and
151 conditions of employment. Notwithstanding an employer's failure to
152 obtain a written agreement from an employee concerning a modification
153 in the conditions of employment, the commission may find that
154 corrective action taken by an employer was reasonable and not of
155 detriment to the complainant based on the evidence presented to the
156 commission by the complainant and respondent. As used in this
157 subdivision, "sexual harassment" means any unwelcome sexual
158 advances or requests for sexual favors or any conduct of a sexual nature
159 when (A) submission to such conduct is made either explicitly or
160 implicitly a term or condition of an individual's employment, (B)
161 submission to or rejection of such conduct by an individual is used as
162 the basis for employment decisions affecting such individual, or (C)
163 such conduct has the purpose or effect of substantially interfering with
164 an individual's work performance or creating an intimidating, hostile or
165 offensive working environment;

166 (9) For an employer, by the employer or the employer's agent, for an
167 employment agency, by itself or its agent, or for any labor organization,
168 by itself or its agent, to request or require information from an
169 employee, person seeking employment or member relating to the
170 individual's child-bearing age or plans, pregnancy, function of the
171 individual's reproductive system, use of birth control methods, or the
172 individual's familial responsibilities, unless such information is directly
173 related to a bona fide occupational qualification or need, provided an
174 employer, through a physician may request from an employee any such
175 information which is directly related to workplace exposure to
176 substances which may cause birth defects or constitute a hazard to an
177 individual's reproductive system or to a fetus if the employer first

178 informs the employee of the hazards involved in exposure to such
179 substances;

180 (10) For an employer, by the employer or the employer's agent, after
181 informing an employee, pursuant to subdivision (9) of this subsection,
182 of a workplace exposure to substances which may cause birth defects or
183 constitute a hazard to an employee's reproductive system or to a fetus,
184 to fail or refuse, upon the employee's request, to take reasonable
185 measures to protect the employee from the exposure or hazard
186 identified, or to fail or refuse to inform the employee that the measures
187 taken may be the subject of a complaint filed under the provisions of
188 this chapter. Nothing in this subdivision is intended to prohibit an
189 employer from taking reasonable measures to protect an employee from
190 exposure to such substances. For the purpose of this subdivision,
191 "reasonable measures" are those measures which are consistent with
192 business necessity and are least disruptive of the terms and conditions
193 of the employee's employment;

194 (11) For an employer, by the employer or the employer's agent, for an
195 employment agency, by itself or its agent, or for any labor organization,
196 by itself or its agent: (A) To request or require genetic information from
197 an employee, person seeking employment or member, or (B) to
198 discharge, expel or otherwise discriminate against any person on the
199 basis of genetic information. For the purpose of this subdivision,
200 "genetic information" means the information about genes, gene
201 products or inherited characteristics that may derive from an individual
202 or a family member;

203 (12) For an employer, by the employer or the employer's agent, to
204 request or require a prospective employee's age, date of birth, dates of
205 attendance at or date of graduation from an educational institution on
206 an initial employment application, provided the provisions of this
207 subdivision shall not apply to any employer requesting or requiring
208 such information (A) based on a bona fide occupational qualification or
209 need, or (B) when such information is required to comply with any
210 provision of state or federal law; [and]

211 (13) (A) For an employer or the employer's agent to deny an employee
212 a reasonable leave of absence in order to: (i) Seek attention for injuries
213 caused by domestic violence including for a child who is a victim of
214 domestic violence, provided the employee is not the perpetrator of the
215 domestic violence against the child; (ii) obtain services including safety
216 planning from a domestic violence agency or rape crisis center, as those
217 terms are defined in section 52-146k, as a result of domestic violence;
218 (iii) obtain psychological counseling related to an incident or incidents
219 of domestic violence, including for a child who is a victim of domestic
220 violence, provided the employee is not the perpetrator of the domestic
221 violence against the child; (iv) take other actions to increase safety from
222 future incidents of domestic violence, including temporary or
223 permanent relocation; or (v) obtain legal services, assisting in the
224 prosecution of the offense, or otherwise participate in legal proceedings
225 in relation to the incident or incidents of domestic violence.

226 (B) An employee who is absent from work in accordance with the
227 provisions of subparagraph (A) of this subdivision shall, within a
228 reasonable time after the absence, provide a certification to the employer
229 when requested by the employer. Such certification shall be in the form
230 of: (i) A police report indicating that the employee or the employee's
231 child was a victim of domestic violence; (ii) a court order protecting or
232 separating the employee or employee's child from the perpetrator of an
233 act of domestic violence; (iii) other evidence from the court or
234 prosecuting attorney that the employee appeared in court; or (iv)
235 documentation from a medical professional, domestic violence
236 counselor, as defined in section 52-146k, or other health care provider,
237 that the employee or the employee's child was receiving services,
238 counseling or treatment for physical or mental injuries or abuse
239 resulting in victimization from an act of domestic violence.

240 (C) Where an employee has a physical or mental disability resulting
241 from an incident or series of incidents of domestic violence, such
242 employee shall be treated in the same manner as an employee with any
243 other disability.

244 (D) To the extent permitted by law, employers shall maintain the
245 confidentiality of any information regarding an employee's status as a
246 victim of domestic violence; and

247 (14) For an employer, by the employer or the employer's agent to: (A)
248 Refuse to hire or employ, discriminate in compensation or in terms,
249 conditions or privileges of employment, or bar or discharge from
250 employment, any employee or independent contractor because such
251 person disclosed conduct the person reasonably believes to be a
252 discriminatory employment practice, or because such person
253 disparaged the employer for engaging in conduct the person reasonably
254 believes to be a discriminatory employment practice, or (B) require or
255 request a prospective, current or former employee or independent
256 contractor to enter into an agreement containing a provision that is void
257 pursuant to subsection (e) of this section, or for an employer to attempt
258 to enforce such provision. An employer who violates the provisions of
259 this subdivision shall be liable to an employee or independent
260 contractor for actual damages or statutory damages of ten thousand
261 dollars, whichever is more, as well as other remedies provided under
262 law, including, but not limited to, the remedies prescribed in section 4
263 of this act. The provisions of this subdivision and subsection (e) of this
264 section shall be liberally construed so as to effectuate their remedial
265 purpose and such provisions shall extend to an intern, who is paid or
266 unpaid, and any volunteer engaged in service to an employer in this
267 state in the business of the employer.

268 (c) (1) The provisions of this section concerning age shall not apply
269 to: (A) The termination of employment of any person with a contract of
270 unlimited tenure at an independent institution of higher education who
271 is mandatorily retired, on or before July 1, 1993, after having attained
272 the age of seventy; (B) the termination of employment of any person
273 who has attained the age of sixty-five and who, for the two years
274 immediately preceding such termination, is employed in a bona fide
275 executive or a high policy-making position, if such person is entitled to
276 an immediate nonforfeitable annual retirement benefit under a pension,
277 profit-sharing, savings or deferred compensation plan, or any

278 combination of such plans, from such person's employer, which equals,
279 in aggregate, at least forty-four thousand dollars; (C) the termination of
280 employment of persons in occupations, including police work and fire-
281 fighting, in which age is a bona fide occupational qualification; (D) the
282 operation of any bona fide apprenticeship system or plan; or (E) the
283 observance of the terms of a bona fide seniority system or any bona fide
284 employee benefit plan for retirement, pensions or insurance which is not
285 adopted for the purpose of evading said provisions, except that no such
286 plan may excuse the failure to hire any individual and no such system
287 or plan may require or permit the termination of employment on the
288 basis of age. No such plan which covers less than twenty employees may
289 reduce the group hospital, surgical or medical insurance coverage
290 provided under the plan to any employee who has reached the age of
291 sixty-five and is eligible for Medicare benefits or any employee's spouse
292 who has reached age sixty-five and is eligible for Medicare benefits
293 except to the extent such coverage is provided by Medicare. The terms
294 of any such plan which covers twenty or more employees shall entitle
295 any employee who has attained the age of sixty-five and any employee's
296 spouse who has attained the age of sixty-five to group hospital, surgical
297 or medical insurance coverage under the same conditions as any
298 covered employee or spouse who is under the age of sixty-five.

299 (2) No employee retirement or pension plan may exclude any
300 employee from membership in such plan or cease or reduce the
301 employee's benefit accruals or allocations under such plan on the basis
302 of age. The provisions of this subdivision shall be applicable to plan
303 years beginning on or after January 1, 1988, except that for any
304 collectively bargained plan this subdivision shall be applicable on the
305 earlier of (A) January 1, 1990, or (B) the later of (i) the expiration date of
306 the collective bargaining agreement, or (ii) January 1, 1988.

307 (3) The provisions of this section concerning age shall not prohibit an
308 employer from requiring medical examinations for employees for the
309 purpose of determining such employees' physical qualification for
310 continued employment.

311 (4) Any employee who continues employment beyond the normal
312 retirement age in the applicable retirement or pension plan shall give
313 notice of intent to retire, in writing, to such employee's employer not
314 less than thirty days prior to the date of such retirement.

315 (d) (1) An employer shall provide written notice of the right to be free
316 from discrimination in relation to pregnancy, childbirth and related
317 conditions, including the right to a reasonable accommodation to the
318 known limitations related to pregnancy pursuant to subdivision (7) of
319 subsection (b) of this section to: (A) New employees at the
320 commencement of employment; (B) existing employees within one
321 hundred twenty days of October 1, 2017; and (C) any employee who
322 notifies the employer of her pregnancy within ten days of such
323 notification. An employer may comply with the provisions of this
324 section by displaying a poster in a conspicuous place, accessible to
325 employees, at the employer's place of business that contains the
326 information required by this section in both English and Spanish. The
327 Labor Commissioner may adopt regulations, in accordance with
328 chapter 54, to establish additional requirements concerning the means
329 by which employers shall provide such notice.

330 (2) The Commission on Human Rights and Opportunities shall
331 develop courses of instruction and conduct ongoing public education
332 efforts as necessary to inform employers, employees, employment
333 agencies and persons seeking employment about their rights and
334 responsibilities under this section.

335 (e) Any provision in an agreement between an employer and a
336 prospective, current or former employee or independent contractor
337 shall be void as against public policy if such provision prohibits
338 disparagement or disclosure relating to conduct the employee or
339 independent contractor reasonably believes to be a discriminatory
340 employment practice.

341 Sec. 4. (NEW) (Effective October 1, 2024) (a) As used in this section:

342 (1) "Employee" has the same meaning as provided in subdivision (9)

343 of section 46a-51 of the general statutes. "Employee" includes a current,
344 former or prospective employee, or an independent contractor;

345 (2) "Employer" has the same meaning as provided in subdivision (10)
346 of section 46a-51 of the general statutes. "Employer" includes any person
347 who acts, directly or indirectly, in the interest of an employer to any of
348 the employees of such employer and any successor in interest of an
349 employer; and

350 (3) "Volunteer" means any person who provides services to an
351 employer without compensation for such services. "Volunteer" includes
352 an intern providing service to an employer.

353 (b) Any provision in an agreement between an employer and an
354 employee or volunteer not to disclose or discuss conduct, or the
355 existence of a settlement involving conduct, that the employee or
356 volunteer reasonably believed under state, federal or common law to be:
357 Legally impermissible discrimination, legally impermissible
358 harassment, legally impermissible retaliation directed at an employee or
359 volunteer, a wage and hour violation or a sexual assault, or that is
360 recognized as against a clear mandate of public policy, shall be void and
361 unenforceable. Prohibited nondisclosure and nondisparagement
362 provisions in an agreement between an employee or volunteer and an
363 employer are those provisions concerning legally impermissible
364 conduct that occurs at the workplace, at work-related events
365 coordinated by or through the employer, between employees or
366 volunteers, or between an employer and an employee or volunteer,
367 whether on or off the employment premises. Prohibited nondisclosure
368 and nondisparagement provisions include those contained in
369 employment agreements, independent contractor agreements,
370 agreements to pay compensation in exchange for the release of a legal
371 claim, or any other form of agreement between the employer and an
372 employee or a volunteer.

373 (c) It shall be a violation of this section for an employer to: (1)
374 Discharge or otherwise discriminate or retaliate against an employee or
375 volunteer for disclosing or discussing conduct that the employee or

376 volunteer reasonably believed to be legally impermissible
377 discrimination, legally impermissible harassment, legally impermissible
378 retaliation directed at an employee or volunteer, a wage and hour
379 violation or a sexual assault, or that is recognized as against a clear
380 mandate of public policy, occurring in the workplace, at work-related
381 events coordinated by or through the employer, between employees or
382 volunteers, or between the employer and an employee or volunteer,
383 whether on or off the employment premises; (2) request or require that
384 an employee or volunteer enter into any agreement provision that is
385 prohibited by this section; or (3) enforce a provision of an agreement
386 prohibited by this section, whether through a lawsuit, a threat to enforce
387 or any other attempt to influence a party to comply with a provision in
388 any agreement that is prohibited by this section.

389 (d) The provisions of this section shall not prohibit: (1) An employer
390 and an employee or volunteer from protecting trade secrets, proprietary
391 information or confidential information that does not involve illegal
392 acts; (2) an employee or volunteer from requesting that the employee
393 and employer enter into a binding written agreement, which may
394 include terms and conditions that preclude the employer from
395 disclosing certain confidential information relating to an employee or a
396 volunteer that does not involve illegal acts; and (3) the enforcement of a
397 provision in any agreement that prohibits the disclosure of the amount
398 paid in settlement of a claim.

399 (e) Any employer who, on or after October 1, 2024, violates the
400 provisions of this section shall be liable in a civil cause of action for
401 actual damages or statutory damages of ten thousand dollars,
402 whichever is more, as well as reasonable attorneys' fees and costs.

403 (f) A nondisclosure or nondisparagement provision prohibited under
404 subsection (b) of this section and entered into prior to October 1, 2024,
405 shall be void and unenforceable only where such provision was entered
406 into at the outset of employment or during the course of employment.
407 For a nondisclosure or nondisparagement provision void and
408 unenforceable under this subsection, an employee may recover only

409 damages relating to preventing the enforcement of the provision. The
410 provisions of this subsection shall not apply to a nondisclosure or
411 nondisparagement provision contained in an agreement to settle a legal
412 claim.

413 (g) A nondisclosure or nondisparagement provision in any
414 agreement signed by an employee or volunteer who is a resident of this
415 state is governed by the laws of this state.

416 (h) The provisions of this section are to be liberally construed so as to
417 effectuate its remedial purpose. The remedies provided by this section
418 are cumulative and shall not be construed as restricting any other
419 remedy that is available under any other law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2024	46b-15f(c)
Sec. 2	July 1, 2024	New section
Sec. 3	October 1, 2024	46a-60
Sec. 4	October 1, 2024	New section

Statement of Legislative Commissioners:

In Section 1, "Middletown" was changed to "Middlesex" and "Torrington" was changed to "Litchfield" for accuracy; in Section 3(b)(14), "actual or statutory damages" was changed to "actual damages or statutory damages" for clarity, and in Section 4(e), "actual or statutory damages" was changed to "actual damages or statutory damages" for clarity.

JUD *Joint Favorable Subst.*

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 25 \$	FY 26 \$
Judicial Dept.	GF - Cost	up to \$630,000	up to \$630,000

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill makes various changes including: (1) expanding the temporary restraining order grant program (2) creates civil causes of action for non-consensual electronic transmission of intimate images and for certain illegal clauses in unemployment contracts (3) creates a discriminatory practice regarding employers and nondisclosure or nondisparagement provisions in contracts. The bill results in an annual cost of up to \$630,000 to the Judicial Department.

Judicial Department

The bill adds three locations an existing grant program that provides legal assistance to indigent people applying for restraining orders. The program is administered by the Connecticut Bar Foundation and is funded at \$1.25 million by the Judicial Department.¹ The addition of three locations results in a cost of up to \$630,000 to the Judicial Department. Each location may receive a grant of up to \$200,000 annually from the administering entity and additional 5% (\$10,000) may

¹The program currently serves five locations.

be allocated to administrative costs.

Commission on Human Rights and Opportunities

The bill gives the Commission on Human Rights and Opportunities (CHRO) jurisdiction over discriminatory employment practices and does not result in a fiscal impact to CHRO. It is anticipated that this change will more likely affect existing filings rather than result in new filings.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to actual grants made.

OLR Bill Analysis**sSB 4*****AN ACT CONCERNING VICTIMS OF DOMESTIC VIOLENCE, THE UNSOLICITED TRANSMISSION OF INTIMATE IMAGES BY MEANS OF AN ELECTRONIC COMMUNICATION DEVICE AND THE IMPERMISSIBLE USE OF NONDISCLOSURE AGREEMENTS IN THE WORKPLACE.*****SUMMARY**

This bill makes unrelated changes on the temporary restraining order grant program, the electronic transmission of intimate images, employment discrimination, and nondisclosure and nondisparagement clauses in employment contracts.

Among other things, the bill specifically does the following:

1. expands the existing grant program that gives free legal assistance to indigent individuals applying for temporary restraining orders to include the Danbury, Middlesex, and Litchfield judicial districts;
2. creates a civil cause of action, with certain exceptions, when an adult knowingly transmits an intimate image electronically to another adult who did not consent to receiving the image or expressly forbid it;
3. makes it a discriminatory practice, with violators liable for damages, for an employer to take certain actions, such as (a) terminating an employee for disclosing a discriminatory employment practice or disparaging the employer for engaging in one or (b) requiring an employee to agree to nondisclosure or nondisparagement provisions; and
4. generally prohibits nondisclosure and nondisparagement clauses

in employment contracts; makes these provisions void and unenforceable; and creates a civil cause of action by making an employer liable for damages, reasonable attorneys' fees, and costs, with specific provisions for employment contracts effective before October 1, 2024.

Lastly, the bill also makes conforming changes.

EFFECTIVE DATE: July 1, 2024, except that the provisions on employment discrimination and nondisclosure agreements (§§ 3 & 4) are effective October 1, 2024.

§ 1 — RESTRAINING ORDER GRANT PROGRAM

Existing law (1) creates a grant program that gives free legal assistance to indigent individuals applying for temporary restraining orders; (2) requires the organization that administers the interest on lawyers' trust accounts (IOLTA) program to administer the grant program; and (3) appropriates funds to the judicial branch for the program, which it must turn over to IOLTA upon receipt.

The bill expands the grant program by allowing the grants to be used for these services in additional judicial districts. Under current law, the organization administering the program may only award the grants to the Bridgeport, Hartford, New Haven, Stamford-Norwalk, or Waterbury judicial districts. The bill expands this to include the Danbury, Middlesex, and Litchfield judicial districts.

Under existing law, unchanged by the bill, grants must not exceed \$200,000, except a grant to the judicial district with the highest average number of applications for civil restraining orders over the previous three fiscal years may receive a grant of up to \$400,000. A family or household member may apply for a civil temporary restraining order for relief from physical abuse, stalking, a pattern of threatening, or coercive control from another family or household member (CGS § 46b-15).

§ 2 — ELECTRONIC TRANSMISSION OF INTIMATE IMAGES

Civil Cause of Action

The bill creates a civil cause of action, with exceptions, when one adult (i.e., at least age 18) knowingly transmits an intimate image using an electronic communication device to another adult's electronic communication device and that other adult did not consent to receiving the image or expressly forbid it.

Under the bill, an "intimate image" is a photograph, film, video, recording, digital picture, or other similar visual photographic reproduction of an adult who is in a state of undress so as to expose that person's genitals. An "electronic communication device" is any electronic device that can transmit a visual depiction, including a computer, computer network and system, and a cellular or wireless telephone.

Exception. The bill specifies that it does not apply to (1) a health care provider who transmits an intimate image for a legitimate medical purpose or (2) the transmission of commercial electronic mail, which is otherwise subject to federal laws.

Remedies

A person who violates the bill's provisions, must be liable for actual damages or \$500, whichever is greater, and attorney's fees and costs. The court may also award punitive damages or enjoin the person transmitting the intimate images from engaging in further acts in violation of the bill. Under the bill, these remedies are cumulative and must not be construed as restricting any other remedy available under any other law.

§ 3 — DISCRIMINATORY EMPLOYMENT PRACTICES

The bill makes it a discriminatory practice for an employer, or the employer's agent, to:

1. refuse to hire or employ; discriminate in compensation or in terms, conditions, or privileges of employment; or bar or discharge from employment, any employee or independent contractor because they (a) disclosed conduct that they

reasonably believe to be a discriminatory employment practice or (b) disparaged the employer for engaging in conduct they reasonably believe to be a discriminatory employment practice; or

2. require or request a prospective, current, or former employee or independent contractor to enter into an agreement containing a provision that is void under the bill (see directly below), or for an employer to attempt to enforce the provision.

Existing law gives an adversely affected person the right to file a complaint with the Commission on Human Rights and Opportunities (CHRO). The bill maintains CHRO's jurisdiction over claims of discriminatory practices.

Void Provision

The bill explicitly makes any provision in an agreement between an employer and a prospective, current, or former employee or independent contractor void as against public policy if it prohibits disparagement or disclosure of conduct the employee or independent contractor reasonably believes to be a discriminatory employment practice.

Damages

Under the bill, an employer who violates this provision must be liable to an employee or independent contractor for actual damages or statutory damages of \$10,000, whichever is more, as well as other remedies provided under law, including those described below.

Legal Interpretation and Remedial Purpose

The bill specifies that the provisions described above must (1) be liberally construed to effectuate their remedial purpose and (2) extend to an intern, who is paid or unpaid, and any volunteer engaged in service to an employer in this state in the employer's business.

§ 4 — NONDISCLOSURE AND NONDISPARAGEMENT AGREEMENTS

The bill generally prohibits an employer from including nondisclosure or nondisparagement clauses in employment contracts.

Definitions

Under the bill, for the provisions prohibiting nondisclosure and nondisparagement clauses in employment agreements, an “employee” is anyone employed by an employer, excluding anyone employed by his or her parents, spouse, or child. It includes (1) a current, former, or prospective employee, or an independent contractor and (2) any elected or appointed official of a municipality, board, commission, counsel, or other governmental body. An “employer” is any person or employer that employs at least one person, including the state and its political subdivisions, and anyone who acts, directly or indirectly, in the employer’s interest to any of its employees and any of the employer’s successor in interest. A “volunteer” is a person who provides services to an employer without compensation, including interns.

Void and Unenforceable Provisions

The bill makes certain provisions in an employment contract between an employer and an employee or volunteer void and unenforceable.

Under the bill, any provision in these agreements not to disclose or discuss conduct, or the existence of a settlement involving conduct, that the employee or volunteer reasonably believed under state, federal, or common law to be legally impermissible discrimination, harassment, retaliation directed at an employee or volunteer, a wage and hour violation, or a sexual assault, or that is recognized as against a clear mandate of public policy, must be void and unenforceable.

Prohibited Nondisclosure and Nondisparagement Provisions

Under the bill, the prohibited nondisclosure and nondisparagement provisions in an agreement between an employer and an employee or volunteer concern legally impermissible conduct that occurs at the workplace, at work-related events coordinated by or through the employer, between employees or volunteers, or between an employer and an employee or volunteer, whether on or off the employment

premises.

The prohibited provisions include those in employment agreements, independent contractor agreements, agreements to pay compensation for the release of a legal claim, or any other form of agreement between the employer and an employee or a volunteer.

Violations

The bill makes it a violation for an employer to:

1. discharge or otherwise discriminate or retaliate against an employee or volunteer for disclosing or discussing conduct that the employee or volunteer reasonably believed to be (a) legally impermissible discrimination, harassment, or retaliation directed at an employee or volunteer; (b) a wage and hour violation or a sexual assault, or (c) recognized as against a clear mandate of public policy, occurring in the workplace, at work-related events coordinated by or through the employer, between employees or volunteers, or between the employer and an employee or volunteer, whether on or off the employment premises;
2. request or require that an employee or volunteer enter into any agreement provision that is prohibited by this section; or
3. enforce a provision of an agreement prohibited by this section, whether through a lawsuit, a threat to enforce or any other attempt to influence a party to comply with a provision in any agreement that is prohibited under the bill.

Actions Not Prohibited

The bill specifies that it does not prohibit:

1. an employer and an employee or volunteer from protecting trade secrets, or proprietary or confidential information that does not involve illegal acts;
2. an employee or volunteer from requesting a binding written agreement with the employer, which may include terms and

conditions that preclude the employer from disclosing certain confidential information about an employee or a volunteer that does not involve illegal acts; and

3. enforcing a provision in any agreement that prohibits the disclosure of the amount paid in a claim settlement.

Civil Cause of Action and Damages

The bill creates a civil cause of action by making any employer who violates the bill's provisions on or after October 1, 2024, liable for actual or statutory damages of \$10,000, whichever is more, as well as reasonable attorney's fees and costs.

Agreements Effective Before October 1, 2024

Under the bill, a prohibited nondisclosure or nondisparagement provision entered before October 1, 2024, is void and unenforceable only where the provision was entered into at the outset of employment or during employment.

Damages Limited. For a nondisclosure or nondisparagement provision void and unenforceable in these agreements, an employee may recover only damages relating to preventing the provision's enforcement.

This does not apply to a nondisclosure or nondisparagement provision in an agreement to settle a legal claim.

Legal Interpretation and Remedial Purpose

The bill specifies that (1) its provisions must be liberally construed to effectuate its remedial purpose and (2) remedies provided are cumulative and must not be construed as restricting any other remedy that is available under any other law.

Governing Law

Under the bill, a nondisclosure or nondisparagement provision in any agreement signed by an employee or volunteer who is a resident of the state is governed by Connecticut laws.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 24 Nay 11 (03/28/2024)