



General Assembly

Amendment

February Session, 2024

LCO No. 5315



Offered by:
SEN. KISSEL, 7th Dist.

To: Subst. Senate Bill No. 4

File No. 522

Cal. No. 310

"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."

1 Strike sections 3 and 4 in their entirety and renumber remaining
2 sections and internal references accordingly

3 After the last section, add the following and renumber sections and
4 internal references accordingly:

5 "Sec. 501. Section 46a-60 of the general statutes is repealed and the
6 following is substituted in lieu thereof (*Effective October 1, 2024*):

7 (a) As used in this section:

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

10 (2) "Reasonable accommodation" means, but is not limited to, being

11 permitted to sit while working, more frequent or longer breaks, periodic
12 rest, assistance with manual labor, job restructuring, light duty
13 assignments, modified work schedules, temporary transfers to less
14 strenuous or hazardous work, time off to recover from childbirth or
15 break time and appropriate facilities for expressing breast milk; and

16 (3) "Undue hardship" means an action requiring significant difficulty
17 or expense when considered in light of factors such as (A) the nature
18 and cost of the accommodation; (B) the overall financial resources of the
19 employer; (C) the overall size of the business of the employer with
20 respect to the number of employees, and the number, type and location
21 of its facilities; and (D) the effect on expenses and resources or the
22 impact otherwise of such accommodation upon the operation of the
23 employer.

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

25 (1) For an employer, by the employer or the employer's agent, except
26 in the case of a bona fide occupational qualification or need, to refuse to
27 hire or employ or to bar or to discharge from employment any
28 individual or to discriminate against any individual in compensation or
29 in terms, conditions or privileges of employment because of the
30 individual's race, color, religious creed, age, sex, gender identity or
31 expression, marital status, national origin, ancestry, present or past
32 history of mental disability, intellectual disability, learning disability,
33 physical disability, including, but not limited to, blindness, status as a
34 veteran or status as a victim of domestic violence;

35 (2) For any employment agency, except in the case of a bona fide
36 occupational qualification or need, to fail or refuse to classify properly
37 or refer for employment or otherwise to discriminate against any
38 individual because of such individual's race, color, religious creed, age,
39 sex, gender identity or expression, marital status, national origin,
40 ancestry, present or past history of mental disability, intellectual
41 disability, learning disability, physical disability, including, but not
42 limited to, blindness, status as a veteran or status as a victim of domestic

43 violence;

44 (3) For a labor organization, because of the race, color, religious creed,
45 age, sex, gender identity or expression, marital status, national origin,
46 ancestry, present or past history of mental disability, intellectual
47 disability, learning disability, physical disability, including, but not
48 limited to, blindness, status as a veteran or status as a victim of domestic
49 violence of any individual to exclude from full membership rights or to
50 expel from its membership such individual or to discriminate in any
51 way against any of its members or against any employer or any
52 individual employed by an employer, unless such action is based on a
53 bona fide occupational qualification;

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

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

62 (6) For any person, employer, employment agency or labor
63 organization, except in the case of a bona fide occupational qualification
64 or need, to advertise employment opportunities in such a manner as to
65 restrict such employment so as to discriminate against individuals
66 because of their 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 (7) For an employer, by the employer or the employer's agent: (A) To
72 terminate a woman's employment because of her pregnancy; (B) to
73 refuse to grant to that employee a reasonable leave of absence for
74 disability resulting from her pregnancy; (C) to deny to that employee,

75 who is disabled as a result of pregnancy, any compensation to which
76 she is entitled as a result of the accumulation of disability or leave
77 benefits accrued pursuant to plans maintained by the employer; (D) to
78 fail or refuse to reinstate the employee to her original job or to an
79 equivalent position with equivalent pay and accumulated seniority,
80 retirement, fringe benefits and other service credits upon her signifying
81 her intent to return unless, in the case of a private employer, the
82 employer's circumstances have so changed as to make it impossible or
83 unreasonable to do so; (E) to limit, segregate or classify the employee in
84 a way that would deprive her of employment opportunities due to her
85 pregnancy; (F) to discriminate against an employee or person seeking
86 employment on the basis of her pregnancy in the terms or conditions of
87 her employment; (G) to fail or refuse to make a reasonable
88 accommodation for an employee or person seeking employment due to
89 her pregnancy, unless the employer can demonstrate that such
90 accommodation would impose an undue hardship on such employer;
91 (H) to deny employment opportunities to an employee or person
92 seeking employment if such denial is due to the employee's request for
93 a reasonable accommodation due to her pregnancy; (I) to force an
94 employee or person seeking employment affected by pregnancy to
95 accept a reasonable accommodation if such employee or person seeking
96 employment (i) does not have a known limitation related to her
97 pregnancy, or (ii) does not require a reasonable accommodation to
98 perform the essential duties related to her employment; (J) to require an
99 employee to take a leave of absence if a reasonable accommodation can
100 be provided in lieu of such leave; and (K) to retaliate against an
101 employee in the terms, conditions or privileges of her employment
102 based upon such employee's request for a reasonable accommodation;

103 (8) For an employer, by the employer or the employer's agent, for an
104 employment agency, by itself or its agent, or for any labor organization,
105 by itself or its agent, to harass any employee, person seeking
106 employment or member on the basis of sex or gender identity or
107 expression. If an employer takes immediate corrective action in
108 response to an employee's claim of sexual harassment, such corrective

109 action shall not modify the conditions of employment of the employee
110 making the claim of sexual harassment unless such employee agrees, in
111 writing, to any modification in the conditions of employment.
112 "Corrective action" taken by an employer, includes, but is not limited to,
113 employee relocation, assigning an employee to a different work
114 schedule or other substantive changes to an employee's terms and
115 conditions of employment. Notwithstanding an employer's failure to
116 obtain a written agreement from an employee concerning a modification
117 in the conditions of employment, the commission may find that
118 corrective action taken by an employer was reasonable and not of
119 detriment to the complainant based on the evidence presented to the
120 commission by the complainant and respondent. As used in this
121 subdivision, "sexual harassment" means any unwelcome sexual
122 advances or requests for sexual favors or any conduct of a sexual nature
123 when (A) submission to such conduct is made either explicitly or
124 implicitly a term or condition of an individual's employment, (B)
125 submission to or rejection of such conduct by an individual is used as
126 the basis for employment decisions affecting such individual, or (C)
127 such conduct has the purpose or effect of substantially interfering with
128 an individual's work performance or creating an intimidating, hostile or
129 offensive working environment;

130 (9) For an employer, by the employer or the employer's agent, for an
131 employment agency, by itself or its agent, or for any labor organization,
132 by itself or its agent, to request or require information from an
133 employee, person seeking employment or member relating to the
134 individual's child-bearing age or plans, pregnancy, function of the
135 individual's reproductive system, use of birth control methods, or the
136 individual's familial responsibilities, unless such information is directly
137 related to a bona fide occupational qualification or need, provided an
138 employer, through a physician may request from an employee any such
139 information which is directly related to workplace exposure to
140 substances which may cause birth defects or constitute a hazard to an
141 individual's reproductive system or to a fetus if the employer first
142 informs the employee of the hazards involved in exposure to such

143 substances;

144 (10) For an employer, by the employer or the employer's agent, after
145 informing an employee, pursuant to subdivision (9) of this subsection,
146 of a workplace exposure to substances which may cause birth defects or
147 constitute a hazard to an employee's reproductive system or to a fetus,
148 to fail or refuse, upon the employee's request, to take reasonable
149 measures to protect the employee from the exposure or hazard
150 identified, or to fail or refuse to inform the employee that the measures
151 taken may be the subject of a complaint filed under the provisions of
152 this chapter. Nothing in this subdivision is intended to prohibit an
153 employer from taking reasonable measures to protect an employee from
154 exposure to such substances. For the purpose of this subdivision,
155 "reasonable measures" are those measures which are consistent with
156 business necessity and are least disruptive of the terms and conditions
157 of the employee's employment;

158 (11) For an employer, by the employer or the employer's agent, for an
159 employment agency, by itself or its agent, or for any labor organization,
160 by itself or its agent: (A) To request or require genetic information from
161 an employee, person seeking employment or member, or (B) to
162 discharge, expel or otherwise discriminate against any person on the
163 basis of genetic information. For the purpose of this subdivision,
164 "genetic information" means the information about genes, gene
165 products or inherited characteristics that may derive from an individual
166 or a family member;

167 (12) For an employer, by the employer or the employer's agent, to
168 request or require a prospective employee's age, date of birth, dates of
169 attendance at or date of graduation from an educational institution on
170 an initial employment application, provided the provisions of this
171 subdivision shall not apply to any employer requesting or requiring
172 such information (A) based on a bona fide occupational qualification or
173 need, or (B) when such information is required to comply with any
174 provision of state or federal law; and

175 (13) (A) For an employer or the employer's agent to deny an employee
176 a reasonable leave of absence in order to: (i) Seek attention for injuries
177 caused by domestic violence including for a child who is a victim of
178 domestic violence, provided the employee is not the perpetrator of the
179 domestic violence against the child; (ii) obtain services including safety
180 planning from a domestic violence agency or rape crisis center, as those
181 terms are defined in section 52-146k, as a result of domestic violence;
182 (iii) obtain psychological counseling related to an incident or incidents
183 of domestic violence, including for a child who is a victim of domestic
184 violence, provided the employee is not the perpetrator of the domestic
185 violence against the child; (iv) take other actions to increase safety from
186 future incidents of domestic violence, including temporary or
187 permanent relocation; or (v) obtain legal services, assisting in the
188 prosecution of the offense, or otherwise participate in legal proceedings
189 in relation to the incident or incidents of domestic violence.

190 (B) An employee who is absent from work in accordance with the
191 provisions of subparagraph (A) of this subdivision shall, within a
192 reasonable time after the absence, provide a certification to the employer
193 when requested by the employer. Such certification shall be in the form
194 of: (i) A police report indicating that the employee or the employee's
195 child was a victim of domestic violence; (ii) a court order protecting or
196 separating the employee or employee's child from the perpetrator of an
197 act of domestic violence; (iii) other evidence from the court or
198 prosecuting attorney that the employee appeared in court; or (iv)
199 documentation from a medical professional, domestic violence
200 counselor, as defined in section 52-146k, or other health care provider,
201 that the employee or the employee's child was receiving services,
202 counseling or treatment for physical or mental injuries or abuse
203 resulting in victimization from an act of domestic violence.

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

208 (D) To the extent permitted by law, employers shall maintain the
209 confidentiality of any information regarding an employee's status as a
210 victim of domestic violence.

211 (c) (1) The provisions of this section concerning age shall not apply
212 to: (A) The termination of employment of any person with a contract of
213 unlimited tenure at an independent institution of higher education who
214 is mandatorily retired, on or before July 1, 1993, after having attained
215 the age of seventy; (B) the termination of employment of any person
216 who has attained the age of sixty-five and who, for the two years
217 immediately preceding such termination, is employed in a bona fide
218 executive or a high policy-making position, if such person is entitled to
219 an immediate nonforfeitable annual retirement benefit under a pension,
220 profit-sharing, savings or deferred compensation plan, or any
221 combination of such plans, from such person's employer, which equals,
222 in aggregate, at least forty-four thousand dollars; (C) the termination of
223 employment of persons in occupations, including police work and fire-
224 fighting, in which age is a bona fide occupational qualification; (D) the
225 operation of any bona fide apprenticeship system or plan; or (E) the
226 observance of the terms of a bona fide seniority system or any bona fide
227 employee benefit plan for retirement, pensions or insurance which is not
228 adopted for the purpose of evading said provisions, except that no such
229 plan may excuse the failure to hire any individual and no such system
230 or plan may require or permit the termination of employment on the
231 basis of age. No such plan which covers less than twenty employees may
232 reduce the group hospital, surgical or medical insurance coverage
233 provided under the plan to any employee who has reached the age of
234 sixty-five and is eligible for Medicare benefits or any employee's spouse
235 who has reached age sixty-five and is eligible for Medicare benefits
236 except to the extent such coverage is provided by Medicare. The terms
237 of any such plan which covers twenty or more employees shall entitle
238 any employee who has attained the age of sixty-five and any employee's
239 spouse who has attained the age of sixty-five to group hospital, surgical
240 or medical insurance coverage under the same conditions as any
241 covered employee or spouse who is under the age of sixty-five.

242 (2) No employee retirement or pension plan may exclude any
243 employee from membership in such plan or cease or reduce the
244 employee's benefit accruals or allocations under such plan on the basis
245 of age. The provisions of this subdivision shall be applicable to plan
246 years beginning on or after January 1, 1988, except that for any
247 collectively bargained plan this subdivision shall be applicable on the
248 earlier of (A) January 1, 1990, or (B) the later of (i) the expiration date of
249 the collective bargaining agreement, or (ii) January 1, 1988.

250 (3) The provisions of this section concerning age shall not prohibit an
251 employer from requiring medical examinations for employees for the
252 purpose of determining such employees' physical qualification for
253 continued employment.

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

258 (d) (1) An employer shall provide written notice of the right to be free
259 from discrimination in relation to pregnancy, childbirth and related
260 conditions, including the right to a reasonable accommodation to the
261 known limitations related to pregnancy pursuant to subdivision (7) of
262 subsection (b) of this section to: (A) New employees at the
263 commencement of employment; (B) existing employees within one
264 hundred twenty days of October 1, 2017; and (C) any employee who
265 notifies the employer of her pregnancy within ten days of such
266 notification. An employer may comply with the provisions of this
267 section by displaying a poster in a conspicuous place, accessible to
268 employees, at the employer's place of business that contains the
269 information required by this section in both English and Spanish. The
270 Labor Commissioner may adopt regulations, in accordance with
271 chapter 54, to establish additional requirements concerning the means
272 by which employers shall provide such notice.

273 (2) The Commission on Human Rights and Opportunities shall

274 develop courses of instruction and conduct ongoing public education
275 efforts as necessary to inform employers, employees, employment
276 agencies and persons seeking employment about their rights and
277 responsibilities under this section.

278 (e) With respect to a discriminatory practice, any nondisclosure
279 clause or nondisparagement clause agreed to by an employer and an
280 employee shall be void if such agreement was entered into before such
281 discriminatory practice occurred or is alleged to have occurred. For any
282 nondisclosure clause or nondisparagement clause agreed to by an
283 employer and an employee after a discriminatory practice has occurred
284 or is alleged to have occurred, such clause shall be void unless (1) the
285 employer advises the employee in writing to consult with an attorney
286 prior to executing the agreement, and (2) the employee is given a period
287 of at least seven days to consider the agreement, provided no such
288 clause shall be void under this subsection if approved in writing by an
289 attorney representing such employee. Any nondisclosure clause or
290 nondisparagement clause void under this subsection shall only be void
291 to the extent such clause applies to a discriminatory practice. For the
292 purposes of this subsection, "nondisclosure clause" means a provision
293 in a contract or agreement that requires the parties to a contract or
294 agreement not to disclose or discuss conduct, the existence of a
295 settlement involving conduct or information covered by the terms and
296 conditions of the contract or agreement; and "nondisparagement clause"
297 means a provision in a contract or agreement that requires one or more
298 parties to the contract or agreement not to make a negative statement
299 about another party that relates to the contract, agreement, claim or case.
300 This subsection shall only apply to nondisparagement and
301 nondisclosure clauses entered into on or after October 1, 2024."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2024	46a-60