

# CHAPTER 814c\*

## HUMAN RIGHTS AND OPPORTUNITIES

\*Annotations to former chapter 563:

Provision for commission to initiate its own proceedings if violation has occurred. 166 C. 226.

Not unfair employment practice to require all employees to work factory shift although it interfered with complainant's religious sabbath. 28 CS 341.

Annotations to present chapter:

Plaintiff having failed to follow prescribed administrative route for claim of discrimination lacks statutory authority to pursue that claim in superior court. 196 C. 208. Connecticut Fair Employment Practices Act (CFEPA) cited. Id. Secs. 46a-51 through 46a-96 cited. 202 C. 601. Secs. 46a-51 through 46a-99 cited. 205 C. 324. Cited. 211 C. 464.

Connecticut Fair Employment Practices Act (CFEPA), Secs. 46a-51 et seq. cited. 4 CA 423; 44 CA 446. Connecticut Fair Employment Practices Act Sec. 46a-51 et seq. cited. Id., 677.

Cited. 39 CS 528.

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## **PART I**

### **GENERAL PROVISIONS**

**Sec. 46a-51. (Formerly Sec. 31-122). Definitions.** As used in section 4a-60a and this chapter:

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

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

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

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

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

(6) "Discrimination" includes segregation and separation;

(7) "Discriminatory employment practice" means any discriminatory practice specified in section 46a-60 or 46a-81c;

(8) "Discriminatory practice" means a violation of section 4a-60, 4a-60a, 4a-60g, 46a-58, 46a-59, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-68, 46a-68c to 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive, subsection (a) of section 46a-80 or sections 46a-81b to 46a-81o, inclusive;

(9) "Employee" means any person employed by an employer but shall not include any individual employed by such individual's parents, spouse or child, or in the domestic service of any person;

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

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

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

(13) "Mental retardation" means mental retardation as defined in section 1-1g;

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

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

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

(17) "Discrimination on the basis of sex" includes but is not limited to discrimination related to pregnancy, child-bearing capacity, sterilization, fertility or related medical conditions;

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

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

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

(1949 Rev., S. 7401; 1959, P.A. 145, S. 1; 1967, P.A. 253; 636, S. 5, 6; P.A. 75-350, S. 1; P.A. 76-96, S. 1, 2; P.A. 77-452, S. 61, 72; P.A. 80-422, S. 1; 80-449, S. 3, 6; P.A. 81-81, S. 3; 81-382, S. 1; P.A. 82-51, S. 2; P.A. 83-587, S. 56, 96; P.A. 84-204; P.A. 88-303, S. 4; P.A. 90-246, S. 1; 90-330, S. 2, 11; P.A. 91-58, S. 20; P.A. 95-79, S. 167, 189; P.A. 01-28, S. 1; June 30 Sp. Sess. P.A. 03-6, S. 189; P.A. 07-142, S. 1.)

History: 1959 act added Subdiv. (k) defining age; 1967 acts redefined "employer" as one with three or more rather than five or more employees and redefined "commission" and "commissioner" to change commission name from commission on civil rights to commission on human rights and opportunities; P.A. 75-350 deleted definition of "age", i.e. as "any age between forty and sixty-five, inclusive"; P.A. 76-96 redefined "court" as court of common pleas rather than superior court; P.A. 77-452 redefined "court" as superior court; P.A. 80-422 deleted definition of "unfair employment practice", defined "blind", "commission counsel", "discriminatory employment practice", "discriminatory practice", "mental retardation" and "respondent", replaced alphabetic Subdiv. indicators with numeric indicators and arranged definitions in alphabetical order; P.A. 80-449 made no substantive change; Sec. 31-122 transferred to Sec. 46a-51 in 1981; P.A. 81-81 amended Subdiv. (8) by adding reference to "section 47a-2a" which was subsequently transferred and redesignated Sec. 46a-64a; P.A. 81-382 added Subdiv. (17) defining "discrimination on the basis of sex"; P.A. 82-51 redefined "mental retardation" to adopt the definition of Sec. 1-1g of the general statutes; P.A. 83-587 substituted "46a-54" for "46-54" in Subdiv. (3); P.A. 84-204 added Subdiv. (18) defining "discrimination on the basis of religious creed"; P.A. 88-303 redefined "discriminatory practice" to include a violation of Sec.

4-114a; P.A. 90-246 amended Subdiv. (8) by deleting reference to repealed Sec. 46a-64a and adding reference to Sec. 46a-64c; P.A. 90-330 added definition of "learning disability"; P.A. 91-58 added reference in introductory clause to Sec. 4a-60a and proposed to add reference to Secs. 46a-81a to 46a-81o, inclusive, but said Secs. already included in existing reference to "this chapter", amended definition of "discriminatory employment practice" to add reference to Sec. 46a-81c, and amended definition of "discriminatory practice" to include a violation of Sec. 4a-60a and Secs. 46a-81b to 46a-81o, inclusive; P.A. 95-79 redefined "person" to include limited liability companies, effective May 31, 1995; P.A. 01-28 added Subdiv. (20) defining "mental disability" and made technical changes for the purpose of gender neutrality in Subdivs. (9), (10) and (18); June 30 Sp. Sess. P.A. 03-6 replaced "commission counsel" with "commission legal counsel" as the defined term and replaced "the counsel employed by the commission pursuant to section 46a-54" with "a member of the legal staff employed by the commission pursuant to section 46a-54" as the definition of said term, effective August 20, 2003; P.A. 07-142 amended Subdiv. (8) by adding reference to Sec. 4a-60g and Secs. 46a-68c to 46a-68f, inclusive, and making technical changes, effective July 1, 2007.

**Annotations to former section 31-122:**

Cited. 153 C. 173. Cited. 163 C. 327. Cited. 172 C. 496 (Dissent).

Court cannot substitute its own discretion for that reposed by statute in hearing tribunal. 18 CS 125.  
Cited. 28 CS 472.

**Subdiv. (b):**

A corporation is not privileged under this chapter to do what an individual is precluded from doing. 168 C. 26.

**Subdiv. (f):**

Cited. 168 C. 26.

**Subdiv. (i):**

Cited. 3 CA 464.

**Subdiv. (j):**

Segregating employment opportunity advertisements into sex classifications constitutes discrimination. 168 C. 26.

**Annotations to present section:**

Cited. 188 C. 44. Cited. 226 C. 670.

**Subdiv. (4):**

Cited. 3 CA 464.

**Subdiv. (8):**

Cited. 231 C. 328.

Subdiv. (10):

Cited. 195 C. 226.

Does not evince an intent by General Assembly to grant small businesses a license to discriminate, but instead evidences intention to exempt small businesses from the other burdens of the act, not from its antidiscrimination policy. 64 CA 573.

Subdiv. (15):

Cited. 220 C. 307. Cited. 236 C. 96. Cited. 237 C. 209. Plaintiff who testified at trial that he had sustained a knee injury during course of his employment that required surgery and resulted in his receiving worker's compensation benefits and a disability rating for his knee satisfied statutory definition of being "physically disabled". 278 C. 692.

Cited. 35 CA 474.

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**Sec. 46a-52. (Formerly Sec. 31-123). Commission on Human Rights and Opportunities: Appointment; expenses; training requirements; executive director; deputy directors.** (a) The commission shall consist of nine persons. On and after October 1, 2000, such persons shall be appointed with the advice and consent of both houses of the General Assembly. (1) On or before July 15, 1990, the Governor shall appoint five members of the commission, three of whom shall serve for terms of five years and two of whom shall serve for terms of three years. Upon the expiration of such terms, and thereafter, the Governor shall appoint either two or three members, as appropriate, to serve for terms of five years. On or before July 14, 1990, the president pro tempore of the Senate, the minority leader of the Senate, the speaker of the House of Representatives and the minority leader of the House of Representatives shall each appoint one member to serve for a term of three years. Upon the expiration of such terms, and thereafter, members so appointed shall serve for terms of three years. (2) If any vacancy occurs, the appointing authority making the initial appointment shall appoint a person to serve for the remainder of the unexpired term. The Governor shall select one of the members of the commission to serve as chairperson for a term of one year. The commission shall meet at least once during each two-month period and at such other times as the chairperson deems necessary. Special meetings shall be held on the request of a majority of the members of the commission after notice in accordance with the provisions of section 1-225.

(b) Except as provided in section 46a-57, the members of the commission shall serve without pay, but their reasonable expenses, including educational training expenses and expenses for necessary stenographic and clerical help, shall be paid by the state upon approval of the Commissioner of Administrative Services. Not later than two months after appointment to the commission, each member of the commission shall receive a minimum of ten hours of introductory training prior to voting on any commission matter. Each year following such introductory training, each member shall receive five hours of follow-up training. Such introductory and follow-up training shall consist of instruction on the laws governing discrimination in employment, housing, public accommodation and credit, affirmative action and the procedures of the commission. Such training shall be organized by the managing director of the legal division of the commission. Any member who fails to complete such training shall not vote on any commission matter. Any

member who fails to comply with such introductory training requirement within six months of appointment shall be deemed to have resigned from office. Any member who fails to attend three consecutive meetings or who fails to attend fifty per cent of all meetings held during any calendar year shall be deemed to have resigned from office.

(c) On or before July 15, 1989, the commission shall appoint an executive director who shall be the chief executive officer of the Commission on Human Rights and Opportunities to serve for a term expiring on July 14, 1990. Upon the expiration of such term and thereafter, the executive director shall be appointed for a term of four years. The executive director shall be supervised and annually evaluated by the commission. The executive director shall serve at the pleasure of the commission but no longer than four years from July fifteenth in the year of his or her appointment unless reappointed pursuant to the provisions of this subsection. The executive director shall receive an annual salary within the salary range of a salary group established by the Commissioner of Administrative Services for the position. The executive director (1) shall conduct comprehensive planning with respect to the functions of the commission; (2) shall coordinate the activities of the commission; and (3) shall cause the administrative organization of the commission to be examined with a view to promoting economy and efficiency. In accordance with established procedures, the executive director may enter into such contractual agreements as may be necessary for the discharge of the director's duties.

(d) The executive director may appoint no more than two deputy directors with the approval of a majority of the members of the commission. The deputy directors shall be supervised by the executive director and shall assist the executive director in the administration of the commission, the effectuation of its statutory responsibilities and such other duties as may be assigned by the executive director. Deputy directors shall serve at the pleasure of the executive director and without tenure. The executive director may remove a deputy director with the approval of a majority of the members of the commission.

(e) The commission shall be within the Department of Administrative Services for administrative purposes only.

(1949 Rev., S. 7400, 7402; September, 1957, P.A. 11, S. 13; 1959, P.A. 145, S. 2; 1967, P.A. 426, S. 1; 636, S. 7; P.A. 74-57, S. 1, 2; P.A. 75-446, S. 1; P.A. 77-614, S. 137, 610; P.A. 78-148, S. 9; 78-315, S. 1, 4; P.A. 80-422, S. 2; P.A. 83-569, S. 9, 17; P.A. 89-332, S. 1, 7; P.A. 91-302, S. 1, 5; P.A. 93-362, S. 2; P.A. 98-245, S. 12, 14; P.A. 00-150, S. 1; June Sp. Sess. P.A. 00-1, S. 29, 46; Sept. Sp. Sess. P.A. 09-7, S. 153.)

History: 1959 act required investigation of cases of discrimination involving age; 1967 acts required investigation of cases of discrimination involving sex, increased commission members from 10 to 12 and required appointment of 4 members by July 15, 1967; P.A. 74-57 required investigation of cases of discrimination re physical disability or blindness; P.A. 75-446 required investigation of cases of discrimination involving marital status; P.A. 77-614 replaced commissioner of finance and control with commissioner of administrative services, imposed new appointment procedure, authorized governor, rather than commission members, to choose chairman and deputy and added Subsec. (b); P.A. 78-148 required investigation of discrimination cases involving mental retardation; P.A. 78-315 added provision for appointment of successors to original members and returned power to appoint chairman and deputy to commission members; P.A. 80-422 divided former Subsec. (a) into Subsecs. (a) and (b), relettering former Subsec. (b) accordingly, and deleted provisions re commission's duties to investigate discrimination cases and report to governor; Sec. 31-123 transferred to Sec. 46a-52 in 1981; P.A. 83-569 changed membership from 12 to 9, included legislative appointments and established attendance requirements; P.A. 89-332 amended Subsec. (a) re expiration of terms of members on July 14, 1990, and appointment and terms of new members and appointment of chairman by governor, amended Subsec. (b) by adding educational training expenses, added a new Subsec. (c) re appointment of executive director on or before July 15, 1989, to serve until July 14, 1990, term of director appointed after July 14, 1990, and duties of executive director; P.A. 91-302 deleted



provision in Subsec. (a)(1) re appointment of members of commission on or before July 1, 1983, and added Subsec. (d) re appointment of no more than two deputy directors by the executive director with the approval of a majority of the commission, and the duties and status of the deputy directors; P.A. 93-362 inserted new Subsec. (e) re appointment of no more than two hearing adjudicators by executive director and powers of hearing adjudicators, relettering former Subsec. (e) as (f); P.A. 98-245 amended Subsec. (c) to provide for annual evaluation of the executive director by the commission and to specify that executive director shall serve at the pleasure of the commission but no longer than four years from July fifteenth unless reappointed, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date; P.A. 00-150 amended Subsec. (a) to require that commission members be appointed with the advice and consent of both houses of the General Assembly on and after October 1, 2000; June Sp. Sess. P.A. 00-1 amended Subsec. (c) to give executive director authority to enter into necessary contractual agreements, effective June 21, 2000; Sept. Sp. Sess. P.A. 09-7 amended Subsec. (b) to add provisions re training requirements for members, made a technical change in Subsec. (c), deleted former Subsec. (e) re appointment of hearing adjudicators and redesignated existing Subsec. (f) as Subsec. (e), effective October 5, 2009.

See Sec. 4-38f for definition of "administrative purposes only".

Annotations to former section 31-123:

Cited. 153 C. 173. Cited. 163 C. 327. Cited. 172 C. 496 (Dissent).

Cited. 28 CS 472.

Annotations to present section:

P.A. 89-332 Sec. 1 cited. 236 C. 681. P.A. 89-332 cited. Id.

Cited. 3 CA 464.

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**Sec. 46a-53. (Formerly Sec. 4-61b). Executive Committee on Human Rights and Opportunities.**

Section 46a-53 is repealed.

(1967, P.A. 636, S. 4; P.A. 78-59; P.A. 83-569, S. 16, 17.)

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**Sec. 46a-54. (Formerly Sec. 31-125). Commission powers.** The commission shall have the following powers and duties:

(1) To establish and maintain such offices as the commission may deem necessary;

- (2) To organize the commission into a division of affirmative action monitoring and contract compliance, a division of discriminatory practice complaints and such other divisions, bureaus or units as may be necessary for the efficient conduct of business of the commission;
- (3) To employ legal staff and commission legal counsel as necessary to perform the duties and responsibilities under section 46a-55. One commission legal counsel shall serve as supervising attorney. Each commission legal counsel shall be admitted to practice law in this state;
- (4) To appoint such investigators and other employees and agents as it deems necessary, fix their compensation within the limitations provided by law and prescribe their duties;
- (5) To adopt, publish, amend and rescind regulations consistent with and to effectuate the provisions of this chapter;
- (6) To establish rules of practice to govern, expedite and effectuate the procedures set forth in this chapter;
- (7) To recommend policies and make recommendations to agencies and officers of the state and local subdivisions of government to effectuate the policies of this chapter;
- (8) To receive, initiate as provided in section 46a-82, investigate and mediate discriminatory practice complaints;
- (9) By itself or with or by hearing officers or human rights referees, to hold hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and require the production for examination of any books and papers relating to any matter under investigation or in question;
- (10) To make rules as to the procedure for the issuance of subpoenas by individual commissioners, hearing officers and human rights referees;
- (11) To require written answers to interrogatories under oath relating to any complaint under investigation pursuant to this chapter alleging any discriminatory practice as defined in subdivision (8) of section 46a-51, and to adopt regulations, in accordance with the provisions of chapter 54, for the procedure for the issuance of interrogatories and compliance with interrogatory requests;
- (12) To utilize such voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered and needed and with the cooperation of such agencies, (A) to study the problems of discrimination in all or specific fields of human relationships, and (B) to foster through education and community effort or otherwise good will among the groups and elements of the population of the state;
- (13) To require the posting by an employer, employment agency or labor organization of such notices regarding statutory provisions as the commission shall provide;
- (14) To require the posting, by any respondent or other person subject to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-81e, of such notices of statutory provisions as it deems desirable;
- (15) (A) To require an employer having three or more employees to post in a prominent and accessible location information concerning the illegality of sexual harassment and remedies available to victims of sexual harassment; and (B) to require an employer having fifty or more employees to provide two hours of

training and education to all supervisory employees within one year of October 1, 1992, and to all new supervisory employees within six months of their assumption of a supervisory position, provided any employer who has provided such training and education to any such employees after October 1, 1991, shall not be required to provide such training and education a second time. Such training and education shall include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of sexual harassment. As used in this subdivision, "sexual harassment" shall have the same meaning as set forth in subdivision (8) of subsection (a) of section 46a-60, and "employer" shall include the General Assembly;

(16) To require each state agency that employs one or more employees to (A) provide a minimum of three hours of diversity training and education (i) to all supervisory and nonsupervisory employees, not later than July 1, 2002, with priority for such training to supervisory employees, and (ii) to all newly hired supervisory and nonsupervisory employees, not later than six months after their assumption of a position with a state agency, with priority for such training to supervisory employees. Such training and education shall include information concerning the federal and state statutory provisions concerning discrimination and hate crimes directed at protected classes and remedies available to victims of discrimination and hate crimes, standards for working with and serving persons from diverse populations and strategies for addressing differences that may arise from diverse work environments; and (B) submit an annual report to the Commission on Human Rights and Opportunities concerning the status of the diversity training and education required under subparagraph (A) of this subdivision. The information in such annual reports shall be reviewed by the commission for the purpose of submitting an annual summary report to the General Assembly. Notwithstanding the provisions of this section, if a state agency has provided such diversity training and education to any of its employees prior to October 1, 1999, such state agency shall not be required to provide such training and education a second time to such employees. The requirements of this subdivision shall be accomplished within available appropriations. As used in this subdivision, "employee" shall include any part-time employee who works more than twenty hours per week;

(17) To require each agency to submit information demonstrating its compliance with subdivision (16) of this section as part of its affirmative action plan and to receive and investigate complaints concerning the failure of a state agency to comply with the requirements of subdivision (16) of this section; and

(18) To enter into contracts for and accept grants of private or federal funds and to accept gifts, donations or bequests, including donations of service by attorneys.

(1949 Rev., S. 7404; September, 1957, P.A. 11, S. 13; 1967, P.A. 210, S. 1; 715, S. 1; P.A. 75-216, S. 1, 2; 75-597; P.A. 77-452, S. 62, 72; P.A. 78-280, S. 1, 127; P.A. 80-422, S. 3; 80-483, S. 91, 186; P.A. 81-81, S. 4; P.A. 84-88; P.A. 88-317, S. 97, 107; P.A. 89-332, S. 2, 7; P.A. 90-246, S. 6; P.A. 91-58, S. 21; 91-302, S. 2, 5; P.A. 92-85; P.A. 98-245, S. 9, 14; P.A. 99-180, S. 1; P.A. 01-53, S. 3; June 30 Sp. Sess. P.A. 03-6, S. 190; P.A. 05-201, S. 1.)

History: 1967 acts empowered commission to require posting of notices regarding statutory provisions by employer, employment agency or labor organization and imposed maximum fine of \$250 for failure to do so and authorized establishment of offices the commission deems necessary rather than of a single office in Hartford; P.A. 75-216 empowered commission to require written answers to interrogatories re complaints under investigation and added provisions re court action when interrogatories are not answered; P.A. 75-597 empowered commission to enter into contracts for and accept federal funds; P.A. 77-452 replaced court of common pleas with superior court where appearing; P.A. 78-280 deleted reference to counties; P.A. 80-422 replaced alphabetic Subdiv. indicators with numeric indicators, deleted provisions re procedures for court action when commission's powers are defied, re penalties associated with failure to recognize commission's powers, etc. and re commission's annual report to the governor and empowered commission to employ

commission counsel, to establish rules of practice and to require posting of notice re statutory provisions at places of public accommodation, resort or amusement; P.A. 80-483 corrected faulty section reference; Sec. 31-125 transferred to Sec. 46a-54 in 1981; P.A. 81-81 amended Subdiv. (10) by adding reference to Sec. "47a-2a" which was subsequently transferred and redesignated Sec. 46a-64a; P.A. 84-88 amended Subdiv. (10) to require written answers to interrogatories under oath to any complaint alleging any discriminatory practice and added provision re regulations concerning procedure for issuance of and compliance with interrogatories; P.A. 88-317 substituted hearing "officers" for hearing "examiners" in Subdivs. (8) and (9), effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 89-332 added new Subdiv. (2) re organization of commission into division of affirmative action monitoring, division of discriminatory practice complaints and such other divisions and units as necessary and renumbered remaining Subdivs; P.A. 90-246 amended Subdiv. (14) by replacing requirement that posting be at place of public accommodation, resort or amusement with requirement that posting be by respondent or other person subject to requirements of Sec. 46a-64 or 46a-64c; P.A. 91-58 amended Subdiv. (14) to add reference to Secs. 46a-81d and 46a-81e; P.A. 91-302 amended Subdiv. (15) to permit acceptance of private funds and gifts, donations or bequests, including donations of service by attorneys; P.A. 92-85 inserted new Subdiv. (15) re requiring that employers of three or more employees post information re sexual harassment and remedies available to victims and that employers of fifty or more employees provide two hours training and education re sexual harassment to all supervisory employees, renumbering former Subdiv. (15) as (16); P.A. 98-245 amended Subdivs. (9) and (10) by adding reference to human rights referees, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date; P.A. 99-180 added a new Subdiv. (16) to establish a three-hour diversity training and education requirement for all state agencies, to establish a related annual reporting requirement for all state agencies and the commission and added a new Subdiv. (17) to require the commission to receive and investigate complaints about a state agency's failure to comply with the newly established diversity training requirement, renumbering former Subdiv. (16) as (18); P.A. 01-53 made technical changes in Subdivs. (11) and (12), amended Subdiv. (16) by extending date for completion of training from January 1, 2001, to July 1, 2002, and adding definition of "employee" to include part-time employee who works more than 20 hours per week, and amended Subdiv. (17) to require agency to demonstrate compliance with training requirement as part of affirmative action plan; June 30 Sp. Sess. P.A. 03-6 amended Subdiv. (3) to authorize the commission to employ "legal staff as necessary to perform the duties and responsibilities under section 46a-55" rather than "a commission counsel who shall not be subject to the provisions of chapter 67", effective August 20, 2003; P.A. 05-201 amended Subdiv. (3) by adding provisions re commission legal counsel, supervising attorney and admission to practice law, effective July 6, 2005.

See Sec. 4a-60g re commission's duties re set-aside program for small contractors, minority business enterprises, individuals with disabilities and nonprofit corporations.

Annotations to former section 31-125:

Regulations promulgated under this section cited. 153 C. 172. Cited. 153 C. 173. Cited. 163 C. 327.

Subdiv. (j):

Cited. 35 CS 565.

Annotations to present section:

P.A. 89-332 Sec. 2 cited. 236 C. 681. P.A. 89-332 cited. Id.

Cited. 3 CA 464.

Subdiv. (10):

Cited. 202 C. 601.

Cited. 18 CA 126.

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**Sec. 46a-55. (Formerly Sec. 31-125a). Commission legal counsel.** The executive director, through the supervising attorney, shall assign a commission legal counsel to represent the commission in any proceeding wherein any state agency or state officer is an adversary party and in such other matters as the commission and the Attorney General may jointly prescribe.

(1967, P.A. 715, S. 2; P.A. 80-422, S. 4; May 9 Sp. Sess. P.A. 02-7, S. 93; June 30 Sp. Sess. P.A. 03-6, S. 191; P.A. 05-201, S. 2.)

History: P.A. 80-422 rephrased provisions and authorized counsel to represent commission in proceeding where state officers are adversary parties; Sec. 31-125a transferred to Sec. 46a-55 in 1981; May 9 Sp. Sess. P.A. 02-7 required commission counsel to report to the executive director on a day-to-day basis and required executive director to evaluate the performance of the commission counsel, effective August 15, 2002; June 30 Sp. Sess. P.A. 03-6 replaced "The commission counsel shall represent the commission" with "The executive director shall assign a commission legal counsel to represent the commission", replaced "The commission counsel" with "Each commission legal counsel" and deleted provision requiring the executive director to evaluate the performance of the commission counsel, effective August 20, 2003; P.A. 05-201 added provision re assignment through the supervising attorney and deleted provisions re representation of commission, bar membership and reports, effective July 6, 2005.

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**Sec. 46a-56. Commission duties.** (a) The commission shall:

- (1) Investigate the possibilities of affording equal opportunity of profitable employment to all persons, with particular reference to job training and placement;
- (2) Compile facts concerning discrimination in employment, violations of civil liberties and other related matters;
- (3) Investigate and proceed in all cases of discriminatory practices as provided in this chapter and noncompliance with the provisions of section 4a-60 or 4a-60a or sections 46a-68c to 46a-68f, inclusive;
- (4) From time to time, but not less than once a year, report to the Governor as provided in section 4-60, making recommendations for the removal of such injustices as it may find to exist and such other recommendations as it deems advisable and describing the investigations, proceedings and hearings it has

conducted and their outcome, the decisions it has rendered and the other work it has performed;

(5) Monitor state contracts to determine whether they are in compliance with sections 4a-60 and 4a-60a, and those provisions of the general statutes which prohibit discrimination; and

(6) Compile data concerning state contracts with female and minority business enterprises and submit a report annually to the General Assembly concerning the employment of such business enterprises as contractors and subcontractors.

(b) The commission may, when it is deemed in the best interests of the state, exempt a contractor from the requirements of complying with any or all of the provisions of section 4a-60, 4a-60a, 46a-68c, 46a-68d or 46a-68e in any specific contract. Exemptions under the provisions of this section may include, but not be limited to, the following instances: (1) If the work is to be or has been performed outside the state and no recruitment of workers within the limits of the state is involved; (2) those involving less than specified amounts of money or specified numbers of workers; (3) to the extent that they involve subcontracts below a specified tier. The commission may also exempt facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract, provided such an exemption shall not interfere with or impede the effectuation of the purposes of this section and sections 4a-60, 4a-60a, 4a-60g, 4a-62 and 46a-68b to 46a-68k, inclusive.

(c) If the commission determines through its monitoring and compliance procedures that a contractor or subcontractor is not complying with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a or the provisions of sections 46a-68c to 46a-68f, inclusive, the commission may issue a complaint pursuant to subsection (c) of section 46a-82. Such complaint shall be scheduled for a hearing before a hearing officer or human rights referee appointed to act as a presiding officer. Such hearing shall be held in accordance with chapter 54 and section 46a-84. If, after such hearing, the presiding officer makes a finding of noncompliance with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a or the provisions of sections 46a-68c to 46a-68f, inclusive, the presiding officer may: (1) Order the state to retain two per cent of the total contract price per month on any existing contract with such contractor; (2) prohibit the contractor from participation in any further contracts with state agencies until: (A) The expiration of a period of two years from the date of the finding of noncompliance, or (B) the presiding officer determines that the contractor has adopted policies consistent with such statutes, provided the presiding officer shall make such determination within forty-five days of such finding of noncompliance; (3) publish, or cause to be published, the names of contractors or unions that the presiding officer has found to be in noncompliance with such provisions; (4) notify the Attorney General that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in section 4a-60 or 4a-60a, appropriate proceedings should be brought to enforce such provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of section 4a-60 or 4a-60a; (5) recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964, when necessary; (6) recommend to the appropriate prosecuting authority that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the commission as the case may be; (7) order the contractor to bring itself into compliance with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a or sections 46a-68c to 46a-68f, inclusive, within a period of thirty days or, for good cause shown, within an additional period of thirty days, and, if such contractor fails to bring itself into such compliance within such time period and such noncompliance is substantial or material or there is a pattern of noncompliance, recommend to the contracting agency that such agency declare the contractor to be in breach of the contract and that such agency pursue all available remedies; or (8) order the contracting agency to refrain from entering into further contracts, or extensions or other

modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the commission that such contractor has established and will carry out personnel and employment policies in compliance with antidiscrimination statutes and the provisions of section 4a-60 or 4a-60a and sections 46a-68c to 46a-68f, inclusive. The commission shall adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

(d) If the commission determines, through its monitoring and compliance procedures and after a complaint is filed and a hearing is held pursuant to subsection (c) of this section, that, with respect to a state contract, a contractor, subcontractor or supplier of materials has (1) fraudulently qualified as a minority business enterprise, or (2) performed services or supplied materials on behalf of another contractor, subcontractor or supplier of materials knowing (A) that such other contractor, subcontractor or supplier has fraudulently qualified as a minority business enterprise in order to comply with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a, and (B) that such services or materials are to be used in connection with a contract entered into pursuant to subsection (b) of section 4a-60g, the hearing officer or human rights referee before whom such hearing was held shall assess a civil penalty of not more than ten thousand dollars upon such contractor, subcontractor or supplier of materials. The Attorney General, upon complaint of the commission, shall institute a civil action in the superior court for the judicial district of Hartford to recover such penalty. Any penalties recovered pursuant to this subsection shall be deposited in a special fund and shall be held by the State Treasurer separate and apart from all other moneys, funds and accounts. The resources in such fund shall, pursuant to regulations adopted by the commission in accordance with the provisions of chapter 54, be used to assist minority business enterprises. As used in this section, "minority business enterprise" means any contractor, subcontractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (i) Who are active in the daily affairs of the enterprise; (ii) who have the power to direct the management and policies of the enterprise; and (iii) who are members of a minority, as defined in subsection (a) of section 32-9n.

(P.A. 80-422, S. 5; P.A. 83-569, S. 10, 17; P.A. 88-230, S. 1, 12; 88-303, S. 5; 88-351, S. 7, 16; 88-364, S. 94, 123; P.A. 89-253, S. 5, 7; P.A. 90-98, S. 1, 2; P.A. 91-58, S. 22; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 07-142, S. 2.)

History: P.A. 83-569 amended prior provisions to require the commission to monitor state contracts and added Subsec. (b) to prohibit contractors who fail to comply with antidiscrimination statutes from entering into state contracts; P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 88-303 added new subsection requiring the commission to assess a penalty against certain contractors, subcontractors or suppliers of materials; P.A. 88-351 amended duties of commission in Subsec. (a) to include investigation of noncompliance with Sec. 4-114a and compilation of data re state contracts with female and minority business enterprises and submission of annual report, inserted new Subsec. (b) re exemption of contractor from certain affirmative action requirements in certain contracts and added provisions in former Subsec. (b), now Subsec. (c), re retention of 2% of contract price per month, prohibition from participation in further contracts and additional sanctions by commission for noncompliance; P.A. 88-364 amended Subsec. (c) by substituting "commission" for "commissioner" and deleting "subject to the recommendations and approval of the commission"; P.A. 89-253 changed reference to Sec. 4-114a to Sec. 4a-60 throughout section and in Subsec. (b) changed reference to Sec. 4-114c to Sec. 4a-62 and deleted provision re applicability of said sections in absence of exemption; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 91-58 added references to Sec. 4a-60a throughout section; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; (Revisor's note: In 1995 the Revisors made an editorial correction at the end of Subsec. (b) substituting "32-9e" for "32-9c", thereby correcting a longstanding clerical error in the codification of P.A. 88-351, S. 7); P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 07-142 amended Subsec. (c) to

revise procedures for issuance and hearing of complaints against contractors and subcontractors, add provision re ordering contractor to bring itself into compliance with antidiscrimination statutes, required contract provisions or Secs. 46a-68c to 46a-68f, inclusive, and make technical changes and amended Subsec. (d) to make conforming and technical changes, effective July 1, 2007.

See Sec. 4a-60g re commission's duties re set-aside program for small contractors, minority business enterprises, individuals with disabilities and nonprofit corporations.

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**Sec. 46a-57. (Formerly Sec. 31-124). Human rights referees: Appointment, term, removal, duties, qualifications. Chief Human Rights Referee. Regulations. Subpoena power. Expert witness fees.** (a)(1) The Governor shall appoint three human rights referees for terms commencing October 1, 1998, and four human rights referees for terms commencing January 1, 1999. The human rights referees so appointed shall serve for a term of one year.

(2) (A) On and after October 1, 1999, the Governor shall appoint seven human rights referees with the advice and consent of both houses of the General Assembly. The Governor shall appoint three human rights referees to serve for a term of two years commencing October 1, 1999. The Governor shall appoint four human rights referees to serve for a term of three years commencing January 1, 2000. Thereafter, human rights referees shall serve for a term of three years.

(B) On and after July 1, 2001, there shall be five human rights referees. Each of the human rights referees serving on July 1, 2001, shall complete the term to which such referee was appointed. Thereafter, human rights referees shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve for a term of three years.

(C) On and after July 1, 2004, there shall be seven human rights referees. Each of the human rights referees serving on July 1, 2004, shall complete the term to which such referee was appointed and shall serve until his successor is appointed and qualified. Thereafter, human rights referees shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve for a term of three years.

(D) On and after October 5, 2009, and until July 1, 2011, there shall be five human rights referees. Each of the human rights referees serving on October 5, 2009, shall serve until the term to which such referee was appointed is completed, or until July 1, 2011, whichever is earlier, and shall serve until a successor is appointed and qualified. In the case of a vacancy, a successor shall be appointed by the Governor, with the advice and consent of both houses of the General Assembly, to serve until July 1, 2011.

(E) On and after July 1, 2011, there shall be three human rights referees who shall (i) be appointed by the Governor with the advice and consent of both houses of the General Assembly, and (ii) serve for a term of three years.

(3) When the General Assembly is not in session, any vacancy shall be filled pursuant to the provisions of section 4-19. The Governor may remove any human rights referee for cause.

(b) Human rights referees shall serve full-time and shall conduct the settlement negotiations and hearings



authorized by the provisions of this chapter. A human rights referee shall have the powers granted to hearing officers and presiding officers by chapter 54 and this chapter. A human rights referee shall be an attorney admitted to the practice of law in this state. Any commissioner of the Superior Court who is able and willing to hear discriminatory practice complaints may submit his or her name to the Governor for consideration for appointment as a human rights referee. No human rights referee shall appear before the commission or another hearing officer for one year after leaving office.

(c) On or after October 1, 1998, the executive director shall designate one human rights referee to serve as Chief Human Rights Referee for a term of one year. The Chief Human Rights Referee, in consultation with the executive director, shall supervise and assign the human rights referees to conduct settlement negotiations and hearings on complaints, including complaints for which a trial on the merits has not commenced prior to October 1, 1998, on a rotating basis. The commission, in consultation with the executive director and Chief Human Rights Referee, shall adopt regulations and rules of practice, in accordance with chapter 54, to ensure consistent procedures governing contested case proceedings.

(d) When serving as a presiding officer as provided in section 46a-84, each human rights referee or hearing officer shall have the same subpoena powers as are granted to commissioners by subdivision (9) of section 46a-54. Each presiding officer shall also have the power to determine a reasonable fee to be paid to an expert witness, including, but not limited to, any practitioner of the healing arts, as defined in section 20-1, dentist, registered nurse or licensed practical nurse, as defined in section 20-87a, and real estate appraiser when any such expert witness is summoned by the commission to give expert testimony, in person or by deposition, in any contested case proceeding, pursuant to section 46a-84. Such fee shall be paid to the expert witness in lieu of all other witness fees.

(1949 Rev., S. 7403; 1969, P.A. 656, S. 1; 1971, P.A. 547, S. 2; P.A. 73-444, S. 1, 3; P.A. 74-44; 74-338, S. 13, 94; P.A. 80-422, S. 6; P.A. 83-569, S. 11, 17; P.A. 88-317, S. 98, 107; P.A. 89-332, S. 3, 7; P.A. 93-313, S. 2, 4; 93-362, S. 1; P.A. 98-245, S. 1, 14; P.A. 00-150, S. 2; June Sp. Sess. P.A. 01-9, S. 5, 131; May 9 Sp. Sess. P.A. 02-7, S. 94; May Sp. Sess. P.A. 04-2, S. 9; Sept. Sp. Sess. P.A. 09-7, S. 154.)

History: 1969 act increased number of examiners from 10 to 15, revising appointment provisions accordingly and increased per diem payment from \$25 to \$35; 1971 act made technical grammatical correction; P.A. 73-444 increased number of examiners to 25, revising appointment provisions accordingly, required that all examiners be admitted to practice law in state and increased per diem to \$75; P.A. 74-44 added provision re prorated payment for time when examiner or commissioner is engaged in preparation of findings, decisions etc.; P.A. 74-338 made technical correction in appointment provision; P.A. 80-422 divided section into Subsecs., deleted obsolete provision re original appointments and changed wording slightly; Sec. 31-124 transferred to Sec. 46a-57 in 1981; P.A. 83-569 added Subsec. (e) concerning selection of hearing examiners on a rotating basis and termination of appointments after three consecutive refusals to hear cases; P.A. 88-317 substituted hearing "officer" and "officers" for hearing "examiner" and "examiners" throughout the section and substituted "presiding" officer for "hearing" officer in Subsec. (d), effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 89-332 deleted former Subsecs. (a) and (b) and added new Subsec. (a) re procedure for appointment of hearing examiners and relettered remaining Subsecs.; (Revisor's note: In 1993 a reference in Subsec. (c) to "subdivision (8) of section 46a-54" was changed editorially by the Revisors to "subdivision (9) of section 46a-54" to reflect the renumbering of Sec. 46a-54 by P.A. 89-332, S. 2 in 1991); P.A. 93-313 amended Subsec. (b) by increasing per diem compensation for hearing officer from \$75 to \$125, effective July 1, 1993; P.A. 93-362 changed appointment procedure for hearing officers appointed by governor, increased minimum amount of time admitted to practice of law from two to five years, provided term of five years, provided for automatic appointment for hearing officers appointed prior to and serving on October 1, 1993, and amended Subsec. (c) re power of presiding officer to determine reasonable fee to be paid to expert witness; P.A. 98-245 revised Subsec. (a) to

provide for appointment of three human rights referees by Governor for terms commencing October 1, 1998, and four human rights referees for terms commencing January 1, 1999, all for terms of one year and for appointment, on and after October 1, 1999, of seven human rights referees with advice and consent of both houses of the General Assembly for staggered terms, with all eventually serving a term of three years, revised Subsec. (b), deleting provision re hearing officers and providing that human rights referees shall be full-time, shall not appear before commission or hearing officer for one year after leaving office, revised Subsec. (c) re annual salary, fringe benefits, cost of secretarial assistance, equipment and supplies of human rights referees, revised Subsec. (d) to provide for designation of chief human rights referee and revised Subsec. (e) providing for part-time hearing officers serving on July 1, 1998, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date; P.A. 00-150 amended Subsec. (d) to require the commission, in consultation with the executive director and Chief Human Rights Referee, to develop regulations and rules of practice to ensure consistent procedures governing contested case proceedings; June Sp. Sess. P.A. 01-9 amended Subsec. (a) to designate existing Subdiv. (2) as Subdiv. (2)(A), add new Subdiv. (2)(B) re number and terms of human rights referees and transfer language re the filling of a vacancy from Subdiv. (2)(A) to new Subdiv. (3), effective July 1, 2001; May 9 Sp. Sess. P.A. 02-7 amended Subsec. (a) to transfer from Subdiv. (2)(A) to Subdiv. (3) provision authorizing the Governor to remove any human rights referee for cause and to include in Subdiv. (2)(B) provision requiring human rights referees to be appointed by the Governor with the advice and consent of both houses of the General Assembly, amended Subsec. (b) to require human rights referees to conduct "settlement negotiations" and to make a technical change for purposes of gender neutrality, deleted former Subsec. (c) re salaries of Chief Human Rights Referee and each full-time human rights referee, payment for stenographic and clerical assistance, equipment and supplies and budget for human rights referees, redesignated existing Subsec. (d) as Subsec. (c) and amended said Subsec. to provide that supervision and assignment of human rights referees by Chief Human Rights Referee shall be "in consultation with the executive director", include "settlement negotiations" in the duties of human rights referees and make technical changes, deleted Subsec. (e) re continuation of service of part-time hearing officers serving on July 1, 1998, and transfer of their cases, deleted Subsec. (f) re per diem compensation of part-time hearing officers and commissioners and redesignated existing Subsec. (g) as Subsec. (d) and amended said Subsec. to make technical changes, effective August 15, 2002; May Sp. Sess. P.A. 04-2 amended Subsec. (a)(2) by adding Subpara. (C) requiring seven human rights referees on and after July 1, 2004, effective May 12, 2004; Sept. Sp. Sess. P.A. 09-7 amended Subsec. (a)(2) to add Subparas. (D) and (E) providing for 5 and 3 human rights referees, respectively, effective October 5, 2009.

See Sec. 4-61dd re duties of human rights referees in personnel actions involving state employees, employees of quasi-public agencies or employees of large state contractors.

Annotations to former section 31-124:

Cited. 153 C. 173. Cited. 163 C. 327.

Annotations to present section:

P.A. 89-332 Sec. 3 cited. 236 C. 681. P.A. 89-332 cited. Id.

Subsec. (c):

Cited. 3 CA 464.

Subsec. (d):

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## PART II\* DISCRIMINATORY PRACTICES

\*Cited. 196 C. 208.

**Sec. 46a-58. (Formerly Sec. 53-34). Deprivation of rights. Desecration of property. Placing of burning cross or noose on property. Penalty.** (a) It shall be a discriminatory practice in violation of this section for any person to subject, or cause to be subjected, any other person to the deprivation of any rights, privileges or immunities, secured or protected by the Constitution or laws of this state or of the United States, on account of religion, national origin, alienage, color, race, sex, sexual orientation, blindness or physical disability.

(b) Any person who intentionally desecrates any public property, monument or structure, or any religious object, symbol or house of religious worship, or any cemetery, or any private structure not owned by such person, shall be in violation of subsection (a) of this section. For the purposes of this subsection, "desecrate" means to mar, deface or damage as a demonstration of irreverence or contempt.

(c) Any person who places a burning cross or a simulation thereof on any public property, or on any private property without the written consent of the owner, shall be in violation of subsection (a) of this section.

(d) Any person who places a noose or a simulation thereof on any public property, or on any private property without the written consent of the owner, and with intent to intimidate or harass any other person on account of religion, national origin, alienage, color, race, sex, sexual orientation, blindness or physical disability, shall be in violation of subsection (a) of this section.

(e) Any person who violates any provision of this section shall be guilty of a class A misdemeanor, except that if property is damaged as a consequence of such violation in an amount in excess of one thousand dollars, such person shall be guilty of a class D felony.

(1949 Rev., S. 8374; P.A. 74-80; P.A. 77-278, S. 1; P.A. 80-54; 80-422, S. 7; P.A. 84-15; P.A. 05-288, S. 155; P.A. 07-62, S. 1; 07-217, S. 166; P.A. 08-49, S. 1.)

History: P.A. 74-80 applied penalty to discrimination based on sex and specified violation as class A misdemeanor, deleting penalty of maximum fine of \$1,000 and/or maximum imprisonment of one year; P.A. 77-278 applied penalty to discrimination based on blindness or physical disability; P.A. 80-54 applied penalty to discrimination based on religion or national origin and added Subsecs. (b) and (c) re desecration of property and burning crosses on property; P.A. 80-422 rephrased Subsec. (a) and designated penalty provision formerly in Subsec. (a) as Subsec. (d); Sec. 53-34 transferred to Sec. 46a-58 in 1981; P.A. 84-15 amended Subsec. (d) by increasing the penalty to a class D felony if property is damaged in an amount in excess of \$1,000; P.A. 05-288 made a technical change in Subsec. (c), effective July 13, 2005; P.A. 07-62 amended Subsec. (a) by applying penalty to discrimination based on sexual orientation; P.A. 07-217 made

technical changes in Subsec. (b), effective July 12, 2007; P.A. 08-49 added new Subsec. (d) re placing a noose or simulation thereof on property with intent to intimidate or harass another person and redesignated existing Subsec. (d) as Subsec. (e).

See Conn. Const. Art. I, Sec. 20 re equal protection of the law.

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 52-251b re costs and attorney's fees in civil action for deprivation of civil rights.

See Sec. 53-37a re deprivation of a person's civil rights by person wearing mask or hood.

Annotations to former section 53-34:

If no violation of enumerated rights under statute is alleged, then there is no basis for hearing. 160 C. 226.

Annotations to present section:

Cited. 204 C. 17. Cited. 216 C. 108. Cited. 232 C. 91. Cited. 238 C. 337.

Subsec. (a):

Cited. 216 C. 85. Cited. 220 C. 192. Commission on Human Rights and Opportunities had subject matter jurisdiction to adjudicate claim of racial discrimination brought by African-American senior student at a public high school against school principal and local board of education on the basis of a discrete course of allegedly discriminatory conduct by the principal. 270 C. 665. Trial court should not have remanded case to referee because employer was entitled to a judgment as a matter of law where plaintiff was denied promotion because of failure to obtain same license as required for prior job occupants and where license requirement was a legitimate, nondiscriminatory reason and not pretextual. 272 C. 457.

Cited. 18 CA 126. Cited. 38 CA 506. Cited. 44 CA 446. Subdiv. (1) cited. Id. Cited. Id., 677. Federal standards reviewed for guidance in enforcing state antidiscrimination statutes; court held that defendant had provided plaintiff with reasonable accommodation. 57 CA 767.

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**Sec. 46a-59. (Formerly Sec. 53-35a). Discrimination in associations of licensed persons prohibited.**

**Penalty.** (a) It shall be a discriminatory practice in violation of this section for any association, board or other organization the principal purpose of which is the furtherance of the professional or occupational interests of its members, whose profession, trade or occupation requires a state license, to refuse to accept a person as a member of such association, board or organization because of his race, national origin, creed, sex or color.

(b) Any association, board or other organization which violates the provisions of this section shall be fined not less than one hundred dollars nor more than five hundred dollars.

(February, 1965, P.A. 433, S. 1; 1967, P.A. 39; P.A. 80-422, S. 8.)

History: 1967 act applied penalty to refusal to accept person as a member because of national origin or sex; P.A. 80-422 divided section into Subsecs. and restated provisions; Sec. 53-35a transferred to Sec. 46a-59 in 1981.

Annotation to former section 53-35a:

Cited. 160 C. 226.

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**Sec. 46a-60. (Formerly Sec. 31-126). Discriminatory employment practices prohibited.** (a) It shall be a discriminatory practice in violation of this section:

(1) For an employer, by the employer or the employer's agent, except in the case of a bona fide occupational qualification or need, to refuse to hire or employ or to bar or to discharge from employment any individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment because of the individual's race, color, religious creed, age, sex, marital status, national origin, ancestry, present or past history of mental disability, mental retardation, learning disability or physical disability, including, but not limited to, blindness;

(2) For any employment agency, except in the case of a bona fide occupational qualification or need, to fail or refuse to classify properly or refer for employment or otherwise to discriminate against any individual because of such individual's race, color, religious creed, age, sex, marital status, national origin, ancestry, present or past history of mental disability, mental retardation, learning disability or physical disability, including, but not limited to, blindness;

(3) For a labor organization, because of the race, color, religious creed, age, sex, marital status, national origin, ancestry, present or past history of mental disability, mental retardation, learning disability or physical disability, including, but not limited to, blindness of any individual to exclude from full membership rights or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer, unless such action is based on a bona fide occupational qualification;

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

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

(6) For any person, employer, employment agency or labor organization, except in the case of a bona fide occupational qualification or need, to advertise employment opportunities in such a manner as to restrict such employment so as to discriminate against individuals because of their race, color, religious creed, age, sex, marital status, national origin, ancestry, present or past history of mental disability, mental retardation, learning disability or physical disability, including, but not limited to, blindness;

(7) For an employer, by the employer or the employer's agent: (A) To terminate a woman's employment because of her pregnancy; (B) to refuse to grant to that employee a reasonable leave of absence for disability resulting from her pregnancy; (C) to deny to that employee, who is disabled as a result of pregnancy, any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by the employer; (D) to fail or refuse to reinstate the employee to her original job or to an equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits and other service credits upon her signifying her intent to return unless, in the case of a private employer, the employer's circumstances have so changed as to make it impossible or unreasonable to do so; (E) to fail or refuse to make a reasonable effort to transfer a pregnant employee to any suitable temporary position which may be available in any case in which an employee gives written notice of her pregnancy to her employer and the employer or pregnant employee reasonably believes that continued employment in the position held by the pregnant employee may cause injury to the employee or fetus; (F) to fail or refuse to inform the pregnant employee that a transfer pursuant to subparagraph (E) of this subdivision may be appealed under the provisions of this chapter; or (G) to fail or refuse to inform employees of the employer, by any reasonable means, that they must give written notice of their pregnancy in order to be eligible for transfer to a temporary position;

(8) For an employer, by the employer or the employer's agent, for an employment agency, by itself or its agent, or for any labor organization, by itself or its agent, to harass any employee, person seeking employment or member on the basis of sex. "Sexual harassment" shall, for the purposes of this section, be defined as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

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

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

(11) For an employer, by the employer or the employer's agent, for an employment agency, by itself or its agent, or for any labor organization, by itself or its agent: (A) To request or require genetic information from an employee, person seeking employment or member, or (B) to discharge, expel or otherwise discriminate

against any person on the basis of genetic information. For the purpose of this subdivision, "genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or a family member.

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

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

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

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

(1949 Rev., S. 7405; 1955, S. 3035d; 1959, P.A. 145, S. 3; 1963, P.A. 261; 1967, P.A. 426, S. 2; P.A. 73-279, S. 14; 73-647; P.A. 75-350, S. 2; 75-446, S. 2; P.A. 78-148, S. 10; 78-350, S. 1, 6; P.A. 79-152; 79-303; 79-304, S. 1; 79-480, S. 1; P.A. 80-285; 80-422, S. 9; P.A. 81-382, S. 2; P.A. 82-196, S. 1; P.A. 86-381; P.A. 88-303, S. 3, 6; P.A. 89-147, S. 1, 3; P.A. 90-88, S. 3; 90-330, S. 3, 11; P.A. 98-180; P.A. 01-28, S. 8.)

History: 1959 act specified that discrimination based on age is unfair employment practice in Subdivs. (a), (b), (c) and (f), added exception re bona fide occupational qualification or need in Subdiv. (f) and added provision specifying when provisions of section are not applicable; 1963 act limited provision specifying when section does not apply to provisions "as to age"; 1967 act specified that discrimination based on sex is unfair employment practice in Subdivs. (a), (b), (c) and (f); P.A. 73-279 made discrimination based on

physical disability including blindness an unfair employment practice in Subdivs. (a), (b), (c) and (f); P.A. 73-647 added Subdiv. (g) re termination of employment because of pregnancy as unfair employment practice; P.A. 75-350 added proviso in Subdiv. (1) of provision specifying when section does not apply re new employees' inclusion in existing retirement or pension plans and collective bargaining agreements; P.A. 75-446 made discrimination because of marital status an unfair employment practice in Subdivs. (a), (b), (c) and (f); P.A. 78-148 made discrimination because of mental retardation an unfair employment practice in Subdivs. (a), (b), (c) and (f); P.A. 78-350 revised previous provision specifying inapplicability of section to delete inapplicability re termination of employment where employee is entitled to benefits under retirement or pension plan or collective bargaining agreement and re operation of terms of retirement or pension plan or group or employee insurance plan, inserting new provisions as Subdivs. (1) to (3); P.A. 79-152 divided section into Subsecs., replacing alphabetic Subdiv. indicators with numeric indicators accordingly and adding provision in Subsec. (a)(7), formerly Subdiv. (g), re transfer of pregnant employee to temporary position; P.A. 79-303 revised Subsec. (b)(1) to include retirement or pension plans for employees of higher education institution, and, in conjunction with P.A. 79-304, expanded Subsec. (b)(2) re age and level of position and added Subdiv. (b)(5); P.A. 79-480 specified discrimination based on present or past history of mental disorder as unfair employment practice in Subsec. (a); P.A. 80-285 added Subsec. (a)(8) re sexual harassment; P.A. 80-422 rephrased provisions, substituted "discriminatory" for "unfair" employment practices and added Subdivs. (2) to (4) in Subsec. (b); Sec. 31-126 transferred to Sec. 46a-60 in 1981; P.A. 81-382 added Subdivs. (9) and (10) as discriminatory practices; P.A. 82-196 amended Subsec. (b) to limit the allowable reduction in employee benefit plan insurance coverage provided to any employee who has reached the age of 65 to the amount of such coverage available under Medicare; P.A. 86-381 amended Subdiv. (1) of Subsec. (b)(1) to increase from \$27,000 to \$44,000 the threshold amount of annual retirement benefits receivable by certain employees which permit the termination of their employment; P.A. 88-303 amended Subsec. (b)(1) by deleting provisions re inapplicability of section to a person who has reached the age of 70 and is entitled to benefits under a pension or retirement plan for state or municipal employees or for certain teachers; inserting a provision specifying that the section is applicable to certain teachers at independent institutions of higher education who are mandatorily retired on or before December 31, 1993, after reaching age 70, removing the provision to limit the allowable reduction in employee benefit plan insurance coverage provided to any employee who has reached the age of 65 to the amount of such coverage available under Medicare; providing that the terms of health insurance plans must entitle all employees to coverage under the same conditions regardless of age; rewriting Subdiv. (2) to prohibit age-based pension plan provisions and substituting "normal retirement age in the applicable retirement or pension plan" for "date on which he becomes eligible for the maximum possible retirement benefit available to him" in Subdiv. (4); P.A. 89-147 substituted July 1, 1993, for December 1, 1993, in Subpara. (A) of Subdiv. (1) of Subsec. (b) as the date before which certain persons may be mandatorily retired after reaching age 70 and to which the section does not apply; P.A. 90-88 amended Subsec. (b)(1) to allow for the provision of reduced coverage for Medicare eligible employees of employers with less than 20 employees; P.A. 90-330 amended Subsec. (a) to include persons with learning disabilities; (Revisor's note: In 1995 the indicators (1), (2) and (3) in Subsec. (a)(8) were changed editorially by the Revisors to (A), (B) and (C) respectively for consistency with statutory usage); P.A. 98-180 added Subsec. (a)(11) making discrimination based on genetic information a discriminatory practice; P.A. 01-28 made technical changes for the purpose of gender neutrality in Subsecs. (a) and (b) and amended Subsec. (a) by changing "mental disorder" to "mental disability".

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g for definition of "mental retardation".

See Sec. 28-17 re prohibition against discharging employee for civil preparedness activity or eligibility for induction into armed services.



See Sec. 46a-61 re mental disorder exception concerning discriminatory employment practices.

Annotations to former section 31-126:

Cited. 140 C. 537. Cited. 153 C. 173; Id., 652. Final judgment by arbitrators as to employment discrimination bears action. 163 C. 309. Cited. Id., 327. Cited. 165 C. 318. Sex classification in help wanted advertising constitutes a per se violation. 168 C. 26. Cited. Id., 504. Failure to define specifications for position or to test capabilities of applicant resulting in blanket exclusion from position is unfair employment practice. 176 C. 88. Cited. Id., 291; Id., 533. Cited. 177 C. 75. Cited. 179 C. 471.

Purpose of statute is to eliminate discrimination in employment for specified reasons, and it is only within these prescribed reasons that the statute operates. 17 CS 93. See note to Sec. 46a-82. Not unfair employment practice for corporation employer to require complainant to work regular factory shifts although this would require work on a religious sabbath. 28 CS 341.

Subdiv. (a):

Sex discrimination is an unfair employment practice which newspapers are not allowed to promote. 168 C. 26. Cited. 170 C. 327. Cited. 172 C. 485. Cited. 198 C. 479. Cited. 211 C. 464.

Subdiv. (d):

Cited. 198 C. 479.

Subdiv. (e):

A newspaper aids and abets sex discrimination by offering sex classifications in help wanted advertisements and commits an unfair employment practice. Bona fide occupational qualification exceptions are rare. 168 C. 26.

Subdiv. (f):

A corporation is a "person" and a newspaper corporation publishing an advertising section in sex-segregated columns is guilty of promoting the unfair employment practice of sex discrimination in hiring. 168 C. 26.

Annotations to present section:

Cited. 188 C. 44. Cited. 193 C. 558. Cited. 195 C. 226. Cited. 202 C. 601; Id., 609. Cited. 211 C. 129. Cited. 226 C. 670. Cited. 232 C. 91. Cited. 236 C. 96; Id., 681. Cited. 238 C. 337. Sec. 46a-100 represents an unambiguous waiver of sovereign immunity, authorizing actions against the state for alleged discriminatory employment practices in violation of section; claims properly brought before the commission are outside the cognizance of the Claims Commissioner. 291 C. 384.

Cited. 16 CA 379. Cited. 40 CA 577. Plaintiff provided no authority or per se rule equating violation of section with intentional infliction of emotional distress and court was not inclined to create such a rule. 61 CA 108.

Cited. 39 CS 528. Actions brought under this section may include actions brought against police departments. 50 CS 420.

Subsec. (a):

Subdiv. (1): Good faith not exculpatory under the statute; target of fair employment legislation is the effect, not the purpose, of discrimination. 188 C. 44. Subdiv. (1) cited. 196 C. 208; 198 C. 479. Subdiv. (4) cited. Id; 202 C. 150. Subdiv. (1) cited. 211 C. 464; 220 C. 307; 228 C. 545; 231 C. 328. Subdiv. (1): Sec. 46a-86 does not authorize award of damages for emotional distress and attorneys' fees for violation of this section. 232 C. 91. Subdiv. (7) cited. Id., 117. Subdiv. (7)(E) cited. Id. Subdiv. (1) cited. 236 C. 250. Subdiv. (4) cited. Id. Subdiv. (1) cited. 237 C. 209. Section does not expressly obligate employer to accommodate employee's work-at-home requests, or to refrain from taking adverse action against employee who persists in efforts to secure such arrangement. 249 C. 766. Subdiv. (1) does not impose liability on individual employees. 259 C. 729. Because Fair Employment Practices Act clearly expresses a public policy determination by legislature that employers with fewer than three employees shall be exempt from liability for discrimination on the basis of sex, including pregnancy-related discrimination, a common-law claim for wrongful discharge on the basis of pregnancy will not lie against such employers. 260 C. 691. Trial court should not have remanded case to referee because employer was entitled to judgment as a matter of law where plaintiff was denied promotion because of failure to obtain same license as required for prior job occupants and where license requirement was a legitimate, nondiscriminatory reason and not pretextual. 272 C. 457. Subdiv. (1) imposes a duty on employers to provide reasonable accommodation to their disabled employees. 286 C. 390. Plaintiff had no standing under the statute because as a recipient of surviving spouse pension allowance, plaintiff was not within a class of persons statute was intended to protect. Section pertains only to those persons who have sought or obtained an employment relationship with the employer alleged to have engaged in a discriminatory employment practice. 287 C. 56.

Subdiv. (1) cited. 4 CA 423. Subdiv. (4) cited. 5 CA 643. Subdiv. (1) cited. 18 CA 241; 27 CA 635; 35 CA 474; 38 CA 506; 41 CA 1. Subdiv. (4) cited. 44 CA 446. Subdiv. (8) cited. Id. Cited. Id., 677. Subdiv. (1) cited. Id. Federal standards reviewed for guidance in enforcing state antidiscrimination statutes; court held that defendant had provided plaintiff with reasonable accommodation. 57 CA 767. Subdiv. (7): There is a public policy against sex discrimination in employment sufficiently expressed in statutory and constitutional law to permit a cause of action for wrongful discharge; although Sec. 46a-51(10) excludes many employers from the requirements of the act, the clear public policy against sex discrimination transcends the exclusion. 64 CA 573. Company may be held liable for discrimination even where decision-making official did not intentionally discriminate if information used by that official in deciding to terminate a worker's employment was filtered through another employee who had a discriminatory motive. 72 CA 212. Subdiv. (1): State's public policy prohibiting discrimination on the basis of disabilities is embodied in Subdiv. 81 CA 726. Subdiv. (7): Trial court's finding of discriminatory practice affirmed, contrary to defendant's assertions, plaintiff's claim of discriminatory practice does not fail merely because evidence offered to prove defendant's violation of that subparagraph arose out of an incident that is also arguably within purview of another subparagraph under same statutory subdivision. 88 CA 60.

Subsec. (b):

Subdiv. (1)(C) cited. 196 C. 208.

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**Sec. 46a-61. Discriminatory employment practices: Mental disorder exception.** The use of numerical

goals or quotas, or other types of affirmative action programs, in the administration or enforcement of the provisions of section 46a-60 relating to discrimination on account of a present or past history of mental disorder is prohibited.

(P.A. 79-480, S. 2.)

Cited. 195 C. 226.

Cited. 16 CA 379.

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**Sec. 46a-62. (Formerly Sec. 31-126a). Statutes re discrimination in compensation on the basis of sex not affected.** No provision of section 46a-52, 46a-56 or 46a-60 may be construed to void or supersede the provisions of section 31-75.

(1967, P.A. 426, S. 3; P.A. 73-89; P.A. 80-422, S. 10.)

History: P.A. 73-89 prohibited construction of Sec. 31-123 or 31-126 so as to void or supersede Sec. 31-75 rather than so as to void or supersede "any statute relating to the employment of women ..."; P.A. 80-422 added reference to new section codified as Sec. 46a-56 in 1981 and substituted "may" for "shall"; Sec. 31-126a transferred to Sec. 46a-62 in 1981 and internal references to Secs. 31-123 and 31-126 changed to reflect their transfer.

Annotation to former section 31-126a:

Cited. 27 CS 141.

Annotation to present section:

Cited. 195 C. 226.

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**Sec. 46a-63. Discriminatory public accommodation practices: Definitions.** As used in this chapter:

(1) "Place of public accommodation, resort or amusement" means any establishment which caters or offers its services or facilities or goods to the general public, including, but not limited to, any commercial property or building lot, on which it is intended that a commercial building will be constructed or offered for sale or rent;

(2) "Deaf person" means a person who cannot readily understand spoken language through hearing alone and who may also have a speech defect which renders his speech unintelligible to most people with normal hearing;

(3) "Lawful source of income" means income derived from Social Security, supplemental security income, housing assistance, child support, alimony or public or state-administered general assistance.

(P.A. 80-422, S. 11; June Sp. Sess. P.A. 83-3, S. 1; P.A. 89-288, S. 1; P.A. 90-246, S. 2; P.A. 91-58, S. 23; P.A. 04-76, S. 37.)

History: June Sp. Sess. P.A. 83-3 changed term "mobile home" to "mobile manufactured home"; P.A. 89-288 added Subdiv. (4) defining "lawful source of income"; P.A. 90-246 redefined "place of public accommodation, resort or amusement" to delete public housing projects, housing accommodations and mobile manufactured home parks and deleted definition of "mobile manufactured home park"; P.A. 91-58 made technical change extending the applicability of the definitions in this section to new Sec. 46a-81d; P.A. 04-76 amended Subdiv. (3) by replacing reference to "general assistance" with reference to "state-administered general assistance".

**Subdiv. (a):**

Denial of opportunity to serve as scoutmaster is not a deprivation of an "accommodation". 204 C. 287.

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**Sec. 46a-64. (Formerly Sec. 53-35). Discriminatory public accommodations practices prohibited.**

**Penalty.** (a) It shall be a discriminatory practice in violation of this section: (1) To deny any person within the jurisdiction of this state full and equal accommodations in any place of public accommodation, resort or amusement because of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, mental retardation, mental disability or physical disability, including, but not limited to, blindness or deafness of the applicant, subject only to the conditions and limitations established by law and applicable alike to all persons; (2) to discriminate, segregate or separate on account of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, mental retardation, mental disability, learning disability or physical disability, including, but not limited to, blindness or deafness; (3) for a place of public accommodation, resort or amusement to restrict or limit the right of a mother to breast-feed her child; (4) for a place of public accommodation, resort or amusement to fail or refuse to post a notice, in a conspicuous place, that any blind, deaf or mobility impaired person, accompanied by his guide dog wearing a harness or an orange-colored leash and collar, may enter such premises or facilities; or (5) to deny any blind, deaf or mobility impaired person or any person training a dog as a guide dog for a blind person or a dog to assist a deaf or mobility impaired person, accompanied by his guide dog or assistance dog, full and equal access to any place of public accommodation, resort or amusement. Any blind, deaf or mobility impaired person or any person training a dog as a guide dog for a blind person or a dog to assist a deaf or mobility impaired person may keep his guide dog or assistance dog with him at all times in such place of public accommodation, resort or amusement at no extra charge, provided the dog wears a harness or an orange-colored leash and collar and is in the direct custody of such person. The blind, deaf or mobility impaired person or person training a dog as a guide dog for a blind person or a dog to assist a deaf or mobility impaired person shall be liable for any damage done to the premises or facilities by his dog. For purposes of this subdivision, "guide dog" or "assistance dog" includes a dog being trained as a guide dog or assistance dog and "person training a dog as a guide dog for a blind person or a dog to assist a deaf or mobility impaired person" means a person who is employed by and authorized to engage in designated training activities by a guide dog organization or assistance dog organization that complies with the criteria for membership in a professional association of

guide dog or assistance dog schools and who carries photographic identification indicating such employment and authorization.

(b) (1) The provisions of this section with respect to the prohibition of sex discrimination shall not apply to (A) the rental of sleeping accommodations provided by associations and organizations which rent all such sleeping accommodations on a temporary or permanent basis for the exclusive use of persons of the same sex or (B) separate bathrooms or locker rooms based on sex. (2) The provisions of this section with respect to the prohibition of discrimination on the basis of age shall not apply to minors or to special discount or other public or private programs to assist persons sixty years of age and older. (3) The provisions of this section with respect to the prohibition of discrimination on the basis of physical disability shall not require any person to modify his property in any way or provide a higher degree of care for a physically disabled person, including, but not limited to blind or deaf persons, than for a person not physically disabled. (4) The provisions of this section with respect to the prohibition of discrimination on the basis of creed shall not apply to the practice of granting preference in admission of residents into a nursing home as defined in section 19a-490, if (A) the nursing home is owned, operated by or affiliated with a religious organization, exempt from taxation for federal income tax purposes and (B) the class of persons granted preference in admission is consistent with the religious mission of the nursing home. (5) The provisions of this section with respect to the prohibition of discrimination on the basis of lawful source of income shall not prohibit the denial of full and equal accommodations solely on the basis of insufficient income.

(c) Any person who violates any provision of this section shall be fined not less than twenty-five dollars or more than one hundred dollars or imprisoned not more than thirty days, or both.

(1949 Rev., S. 8375; 1949, 1953, S. 3267d; 1959, P.A. 113; 1961, P.A. 472; 1963, P.A. 594; February, 1965, P.A. 141; 1967, P.A. 177, S. 1; 1972, P.A. 186, S. 15; P.A. 73-119; 73-279, S. 6; P.A. 74-205; P.A. 75-323; P.A. 76-49, S. 3; P.A. 77-604, S. 37, 84; P.A. 78-148, S. 12; P.A. 79-186; P.A. 80-422, S. 12; 80-483, S. 135, 186; P.A. 85-289, S. 7; 85-512, S. 5; P.A. 88-114; 88-288; P.A. 89-21, S. 2; 89-288, S. 2; P.A. 90-230, S. 63, 101; 90-246, S. 3; 90-330, S. 4, 11; P.A. 94-238, S. 4, 6; P.A. 97-141, S. 2; 97-210, S. 1; P.A. 07-217, S. 167.)

History: 1959 act included as place of public accommodation housing which is one of five or more accommodations located on a single parcel or contiguous parcels of land and owned and controlled by any person; 1961 act included building lots as housing accommodations, reduced the number of accommodations to be subject to section from five to three and made person who owned or controlled the accommodations within one year prior to a violation liable and provided ownership or control by the same interests would be deemed to be by one person; 1963 act deleted the aforesaid provisions re accommodations on a single parcel of land making the statute applicable to a single accommodation or lot and added Subdivs. (1) and (2); 1965 act added prohibition against discrimination by reason of national origin or ancestry; 1967 act added commercial property and buildings; 1972 act included mobile home parks as place of public accommodation, resort or amusement in Subsec. (a); P.A. 73-119 specified discrimination based on sex as violation of section and specified inapplicability of section re sex discrimination to rental of sleeping accommodations by associations or organizations when rent accommodations for exclusive use of persons of same sex; P.A. 73-279 prohibited discrimination because of physical disability including blindness, inserted new Subsecs. (b) and (c) qualifying said prohibition, designated penalty provisions as Subsec. (d) and relettered former Subsec. (b) as (e); P.A. 74-205 prohibited discrimination based on marital status and added provision rendering that prohibition inapplicable to cases where housing accommodation denied to man and woman who are unrelated and not married to each other; P.A. 75-323 prohibited discrimination on basis of age and added provision limiting that prohibition with respect to minors, housing for elderly and housing exclusively for persons within specified age groups; P.A. 76-49 prohibited discrimination based on deafness, applied provisions of Subsecs. (b) and (c) to deaf persons and defined "deaf person" in Subsec. (b); P.A. 77-604 made technical

correction in Subsec. (a); P.A. 78-148 prohibited discrimination based on mental retardation in Subsec. (a); P.A. 79-186 required posting of notice re guide dogs in Subsec. (c); P.A. 80-422 rephrased and rearranged provisions, deleted provisions defining "place of public accommodation, resort or amusement" and "deaf person", deleted former Subsec. (e) which specified that section does not apply to proceedings pending before civil rights commission or any court on October 1, 1963, and extended provision limiting prohibition on age discrimination to include discount and other programs for persons 60 and older; P.A. 80-483 added feminine personal pronouns in Subsec. (c); Sec. 53-35 transferred to Sec. 46a-64 in 1981; P.A. 85-289 made Subsec. (a) applicable to mobility impaired persons; P.A. 85-512 amended section to provide for exemption from age discrimination prohibition for certain mobile manufactured home parks; P.A. 88-114 added Subsec. (b)(6) exempting practice of granting preference in admission of residents into a nursing home from provisions of section re discrimination on basis of creed if it is owned, operated by or affiliated with a religious organization, exempt from taxation and the class of persons granted preference in admission is consistent with religious mission of nursing home; P.A. 88-288 added reference to mental disability in Subsec. (a); P.A. 89-21 added option that guide dog wear an orange-colored leash and collar; P.A. 89-288 amended Subsec. (a) to prohibit discrimination in places of public accommodation based on lawful source of income and added new Subsec. (b)(7) rendering the prohibition inapplicable to cases where the denial of full and equal accommodations is solely based on insufficient income; P.A. 90-230 made a technical change in Subsec. (a); P.A. 90-246 amended Subsec. (b) by deleting references to housing accommodations or mobile manufactured home parks; P.A. 90-330 amended Subsec. (a) by adding reference to persons with "learning disability"; P.A. 94-238 amended Subsec. (b) by exempting separate bathrooms or locker rooms based on sex, effective July 1, 1994; P.A. 97-141 amended Subsec. (a) to make provisions applicable with respect to any person training a dog as a guide dog for a blind person or a dog to assist a deaf or mobility impaired person, and to add definitions of "assistance dog", "guide dog" and "person training a dog as a guide dog for a blind person or a dog to assist a deaf or mobility impaired person"; P.A. 97-210 added new Subsec. (a)(3) re breast-feeding and renumbering the remaining Subdivs; P.A. 07-217 made technical changes in Subsec. (c), effective July 12, 2007.

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g re definition of "mental retardation".

See Sec. 46a-42 re definition of "mobility impaired person".

See Sec. 46b-35a re denial of certain accommodations on religious grounds.

Annotations to former section 53-35:

Barbershop not a place of public accommodation. 79 C. 541. Wife could be enjoined from renting her interest in apartment owned jointly with her husband, where it was proven she refused rental because of plaintiff's race, but no proof was given that husband authorized discrimination. 157 C. 20. Cited. 160 C. 226. Cited. 165 C. 516.

Tavern operating under a permit comes within the statute. 7 CS 443. Cited. 20 CS 171. Hospital deemed public accommodation re constitutional discrimination. 30 CS 1. Cited. 35 CS 549; Id., 565.

Defendant owner of rental premises violated section by discriminating against complainant, a prospective tenant, in rental of apartment because of her Puerto Rican ancestry. 6 Conn. Cir. Ct. 179.

Subsec. (a):

Cited. 201 C. 350.

Subsec. (d):

Cited. 204 C. 287.

Annotations to present section:

Complainant at outset must establish a prima facie case of discrimination and as part of initial burden must introduce evidence that he was ready to accept the legitimate objective requirements of tenancy. 200 C. 261. Cited. 201 C. 350. Cited. 232 C. 645.

Fair Housing Act, Sec. 46a-63 et seq. cited. 45 CA 1.

Subsec. (a):

Subdiv. (1): Denial of opportunity to serve as scoutmaster is not a deprivation of an "accommodation". 204 C. 287. Subdiv. (1) cited. 220 C. 192. Subdiv. (2) cited. Id.

Subdiv. (1) cited. 18 CA 126. Subdiv. (2) cited. Id. Although no private organization is duty-bound to offer its services and facilities to all comers, once such an organization has determined to eschew selectivity, under statute it may not discriminate among the general public. Accordingly, coverage under this subsec. depends, in each case, upon extent to which a particular establishment has maintained a private relationship with its own constituency or a general relationship with the public at large. 99 CA 839. Connecticut's courts, in construing state antidiscrimination statutes that have similar federal counterparts, have looked to federal case law for guidance, even though federal and state statutes may differ somewhat. Under certain circumstances, federal law defines the beginning and not the end of state's approach to the subject. Consequently, on occasion, state courts have interpreted statutes even more broadly than their counterparts, to provide even greater protections to state citizens, especially in the area of civil rights. Id.

Subsec. (c):

Cited. 204 C. 287.

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**Sec. 46a-64a. (Formerly Sec. 47a-2a). Discrimination against families with children prohibited.**  
Section 46a-64a is repealed.

(P.A. 80-449, S. 1, 2, 6; P.A. 81-81, S. 1; P.A. 90-246, S. 15.)

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**Sec. 46a-64b. Discriminatory housing practices: Definitions.** As used in sections 46a-51 to 46a-99,

inclusive:

(1) "Discriminatory housing practice" means any discriminatory practice specified in section 46a-64c or section 46a-81e.

(2) "Dwelling" means any building, structure, mobile manufactured home park or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, mobile manufactured home park or portion thereof.

(3) "Fair Housing Act" means Title VIII of the Civil Rights Act of 1968, as amended, and known as the federal Fair Housing Act (42 USC 3600-3620).

(4) "Family" includes a single individual.

(5) "Familial status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals; or the designee of such parent or other person having such custody with the written permission of such parent or other person; or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.

(6) "Housing for older persons" means housing: (A) Provided under any state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or (B) intended for, and solely occupied by, persons sixty-two years of age or older; or (C) intended and operated for occupancy by at least one person fifty-five years of age or older per unit in accordance with the standards set forth in the Fair Housing Act and regulations developed pursuant thereto by the Secretary of the United States Department of Housing and Urban Development.

(7) "Mobile manufactured home park" means a plot of land upon which two or more mobile manufactured homes occupied for residential purposes are located.

(8) "Physical or mental disability" includes, but is not limited to, mental retardation, as defined in section 1-1g, and physical disability, as defined in subdivision (15) of section 46a-51 and also includes, but is not limited to, persons who have a handicap as that term is defined in the Fair Housing Act.

(9) "Residential-real-estate-related transaction" means (A) the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling, or secured by residential real estate; or (B) the selling, brokering or appraising of residential real property.

(10) "To rent" includes to lease, to sublease, to let and to otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(P.A. 90-246, S. 4; P.A. 91-58, S. 24; P.A. 92-257, S. 1; P.A. 00-195, S. 1.)

History: P.A. 91-58 added reference to Sec. 46a-81e in introductory clause and Subdiv. (1); P.A. 92-257 revised statutory cites in introductory language re applicability; P.A. 00-195 amended Subdiv. (3) to redefine "Fair Housing Act" to delete reference to the Fair Housing Amendments Act of 1988 and insert "and known as the federal Fair Housing Act", and made technical changes to Subdivs. (6) and (8).



Although state fair housing act, Sec. 46a-64b et seq., applies to servicing and enforcement of a mortgage, the statutory provision that governs discrimination in context of enforcement of mortgage loan agreements does not require that lender provide accommodations for borrower's disability by varying terms or conditions of an otherwise generally applicable mortgage policy. 265 C. 539.

Fair Housing Act, Sec. 46a-63 et seq. cited. 45 CA 1.

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**Sec. 46a-64c. Discriminatory housing practices prohibited. Disposition of complaints. Penalty.** (a) It shall be a discriminatory practice in violation of this section:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income or familial status.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income or familial status.

(3) To make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability, or an intention to make any such preference, limitation or discrimination.

(4) (A) To represent to any person because of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(B) It shall be a violation of this subdivision for any person to restrict or attempt to restrict the choices of any buyer or renter to purchase or rent a dwelling (i) to an area which is substantially populated, even if less than a majority, by persons of the same protected class as the buyer or renter, (ii) while such person is authorized to offer for sale or rent another dwelling which meets the housing criteria as expressed by the buyer or renter to such person and (iii) such other dwelling is in an area which is not substantially populated by persons of the same protected class as the buyer or renter. As used in this subdivision, "area" means municipality, neighborhood or other geographic subdivision which may include an apartment or condominium complex; and "protected class" means race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability.

(6) (A) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a learning disability or physical or mental disability of: (i) Such buyer or renter;

- (ii) a person residing in or intending to reside in such dwelling after it is so sold, rented, or made available; or
- (iii) any person associated with such buyer or renter.

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a learning disability or physical or mental disability of: (i) Such person; or (ii) a person residing in or intending to reside in such dwelling after it is so sold, rented, or made available; or (iii) any person associated with such person.

(C) For purposes of this subdivision, discrimination includes: (i) A refusal to permit, at the expense of a person with a physical or mental disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; (ii) a refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; (iii) in connection with the design and construction of covered multifamily dwellings for the first occupancy after March 13, 1991, a failure to design and construct those dwellings in such manner that they comply with the requirements of Section 804(f) of the Fair Housing Act or the provisions of the state building code as adopted pursuant to the provisions of sections 29-269 and 29-273, whichever requires greater accommodation. "Covered multifamily dwellings" means buildings consisting of four or more units if such buildings have one or more elevators, and ground floor units in other buildings consisting of four or more units.

(7) For any person or other entity engaging in residential real-estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability.

(8) To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation, on account of race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability.

(9) To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section.

(b) (1) The provisions of this section shall not apply to (A) the rental of a room or rooms in a single-family dwelling unit if the owner actually maintains and occupies part of such living quarters as his residence or (B) a unit in a dwelling containing living quarters occupied or intended to be occupied by no more than two families living independently of each other, if the owner actually maintains and occupies the other such living quarters as his residence. (2) The provisions of this section with respect to the prohibition of discrimination on the basis of marital status shall not be construed to prohibit the denial of a dwelling to a man or a woman who are both unrelated by blood and not married to each other. (3) The provisions of this section with respect to the prohibition of discrimination on the basis of age shall not apply to minors, to special discount or other public or private programs to assist persons sixty years of age and older or to housing for older persons as defined in section 46a-64b, provided there is no discrimination on the basis of age among older persons eligible for such housing. (4) The provisions of this section with respect to the prohibition of discrimination on the basis of familial status shall not apply to housing for older persons as

defined in section 46a-64b or to a unit in a dwelling containing units for no more than four families living independently of each other, if the owner of such dwelling resides in one of the units. (5) The provisions of this section with respect to the prohibition of discrimination on the basis of lawful source of income shall not prohibit the denial of full and equal accommodations solely on the basis of insufficient income. (6) The provisions of this section with respect to the prohibition of discrimination on the basis of sex shall not apply to the rental of sleeping accommodations to the extent they utilize shared bathroom facilities when such sleeping accommodations are provided by associations and organizations which rent such sleeping accommodations on a temporary or permanent basis for the exclusive use of persons of the same sex based on considerations of privacy and modesty.

(c) Nothing in this section limits the applicability of any reasonable state statute or municipal ordinance restricting the maximum number of persons permitted to occupy a dwelling.

(d) Nothing in this section or section 46a-64b shall be construed to invalidate or limit any state statute or municipal ordinance that requires dwellings to be designed and constructed in a manner that affords persons with physical or mental disabilities greater access than is required by this section or section 46a-64b.

(e) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, learning disability or physical or mental disability.

(f) Notwithstanding any other provision of this chapter, complaints alleging a violation of this section shall be investigated within one hundred days of filing and a final administrative disposition shall be made within one year of filing unless it is impracticable to do so. If the Commission on Human Rights and Opportunities is unable to complete its investigation or make a final administrative determination within such time frames, it shall notify the complainant and the respondent in writing of the reasons for not doing so.

(g) Any person who violates any provision of this section shall be fined not less than twenty-five dollars or more than one hundred dollars or imprisoned not more than thirty days, or both.

(P.A. 90-246, S. 5; P.A. 91-407, S. 1, 42; P.A. 92-257, S. 2; P.A. 07-217, S. 168.)

History: P.A. 91-407 added references to "learning disability" (Revisor's note: In Subsec. (a)(4)(B), numeric indicators within Subpara. (B) were changed editorially by the Revisors to lower case Roman numerals for consistency with usage elsewhere in section); P.A. 92-257 amended Subsec. (b) by adding "single-family" before "dwelling" and "unit" after "dwelling", adding "to the extent they utilize shared bathroom facilities when such sleeping accommodations are" after "sleeping accommodations" and adding phrase "based on considerations of privacy and modesty"; P.A. 07-217 made a technical change in Subsec. (g), effective July 12, 2007.

In light of the nondiscriminatory purpose for which statute was enacted, a landlord may not rely solely on section 8 eligibility as basis for turning potential tenants away nor may it apply more stringent income requirements to section 8 rental applicants than to other rental applicants. 250 C. 763. Federal law does not preempt statute; federal statute has no express preemption clause, does not occupy the field so comprehensively as to prohibit states from acting in the arena of low income housing assistance, and state program advances remedial purpose of the federal law. Id. Allowing an exception to antidiscrimination provisions for those landlords who refuse to use required section 8 lease would eviscerate the basic protection envisioned by statute. Id.

Fair Housing Act, Sec. 46a-63 et seq. cited. 45 CA 1.

Subsec. (b):

Exception provided in Subdiv. (5) for insufficient income affords a landlord opportunity to determine whether, for reasons extrinsic to the section 8 housing assistance, a potential tenant lacks income sufficient to assure that rent will be paid promptly and other obligations of tenancy will be met. 250 C. 763.

Subsec. (f):

Trial court improperly granted defendants' motions to dismiss for lack of jurisdiction, there being no evidence that legislature, in imposing time limitation in subsec., intended for time limitation to serve as a jurisdictional bar; although use of "shall" reflected legislature's intent to have Commission on Human Rights and Opportunities fulfill its obligation to investigate and issue final determination within time limitation set forth in subsec., that obligation must be read in conjunction with statutory proviso "unless it is impracticable to do so," an indication of legislature's intention to provide a condition under which commission's noncompliance is excused. 273 C. 373.

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**Sec. 46a-65. (Formerly Sec. 36-436). Discriminatory credit practices: Definitions.** As used in this section and sections 46a-66, 46a-67, 46a-81f and 46a-98:

(1) "Credit" means the right granted by a creditor to a person to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment therefor, including but not limited to the right to incur and defer debt which is secured by residential real property;

(2) "Creditor" means any person who regularly extends or arranges for the extension of credit for which the payment of a finance charge or interest is required whether in connection with loans, sale of property or services or otherwise;

(3) "Invitation to apply for credit" means any communication, oral or written, by a creditor which encourages or prompts an application for credit;

(4) "Application for credit" means any communication, oral or written, by a person to a creditor requesting an extension of credit to that person or to any other person, and includes any procedure involving the renewal or alteration of credit privileges or the changing of the name of the person to whom credit is extended;

(5) "Extension of credit" means all acts incident to the evaluation of an application for credit and the granting of credit;

(6) "Credit sale" means any transaction with respect to which credit is granted;

(7) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit or credit sale.

(P.A. 73-573, S. 1; P.A. 80-422, S. 13; P.A. 91-58, S. 25.)

History: P.A. 80-422 deleted definition of "commission", i.e. commission on human rights and opportunities, replaced alphabetic Subdiv. indicators with numeric indicators and substituted specific section references for "this chapter"; Sec. 36-436 transferred to Sec. 46a-65 in 1981; P.A. 91-58 added reference to Sec. 46a-81f in introductory clause.

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**Sec. 46a-66. (Formerly Sec. 36-437). Discriminatory credit practices prohibited.** (a) It shall be a discriminatory practice in violation of this section for any creditor to discriminate on the basis of sex, age, race, color, religious creed, national origin, ancestry, marital status, mental retardation, learning disability, blindness or physical disability against any person eighteen years of age or over in any credit transaction.

(b) No liability may be imposed under this section for an act done or omitted in conformity with a regulation or declaratory ruling of the Banking Commissioner, the Federal Reserve Board or any other governmental agency having jurisdiction under the Equal Credit Opportunity Act, notwithstanding that after the act or omission the regulation or declaratory ruling may be amended, repealed or determined to be invalid for any reason.

(P.A. 73-573, S. 2; P.A. 75-281; P.A. 76-75; 76-171, S. 3; P.A. 77-604, S. 23, 84; P.A. 78-148, S. 11; P.A. 80-422, S. 14; P.A. 87-9, S. 2, 3; P.A. 90-330, S. 5, 11; P.A. 03-84, S. 33.)

History: P.A. 75-281 prohibited age discrimination and qualified prohibition to apply to any person 18 years of age or over; P.A. 76-75 prohibited discrimination on basis of race, color, religious creed, national origin or ancestry; P.A. 76-171 prohibited discrimination on basis of blindness or physical disability; P.A. 77-604 deleted word "solely" following "discriminate"; P.A. 78-148 prohibited discrimination on basis of mental retardation; P.A. 80-422 substituted "a discriminatory practice in violation of this section" for "unlawful" in previous provision, designated as Subsec. (a), and added Subsec. (b) re liability; Sec. 36-437 transferred to Sec. 46a-66 in 1981; (Revisor's note: Pursuant to P.A. 87-9 "banking commissioner" was changed editorially by the Revisors to "commissioner of banking"); P.A. 90-330 amended Subsec. (a) to include persons with a learning disability; P.A. 03-84 changed "Commissioner of Banking" to "Banking Commissioner" in Subsec. (b), effective June 3, 2003.

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g for definition of "mental retardation".

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**Sec. 46a-67. (Formerly Sec. 36-439). Banking Commissioner to cooperate with commission. Regulations.** (a) The Banking Commissioner shall cooperate with the commission in its enforcement of sections 46a-65 to 46a-67, inclusive, 46a-81f and 46a-98.

(b) The Banking Commissioner shall comply with the commission's request for information, reasonable

investigatory assistance and the promulgation of regulations which may be required for the effective administration of sections 46a-65 to 46a-67, inclusive, 46a-81f and 46a-98.

(P.A. 73-573, S. 4; P.A. 76-171, S. 2; P.A. 77-614, S. 161, 610; P.A. 80-422, S. 15; P.A. 87-9, S. 2, 3; P.A. 91-58, S. 26; P.A. 03-84, S. 34.)

History: P.A. 76-171 required bank commissioner's compliance with request for "reasonable investigatory assistance and the promulgation of regulations"; P.A. 77-614 replaced bank commissioner with banking commissioner, effective January 1, 1979; P.A. 80-422 divided section into Subsecs. and replaced "this chapter" with listing of specific sections; Sec. 36-439 transferred to Sec. 46a-67 in 1981; (Revisor's note: Pursuant to P.A. 87-9 "banking commissioner" was changed editorially by the Revisors to "commissioner of banking"); P.A. 91-58 added references to Sec. 46a-81f; P.A. 03-84 changed "Commissioner of Banking" to "Banking Commissioner", effective June 3, 2003.

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**Sec. 46a-68. (Formerly Sec. 4-61s). State affirmative action plans; filing; monitoring; reports; affirmative action officers; review and investigation of discrimination complaints; regulations.** (a) Each state agency, department, board and commission shall develop and implement, in cooperation with the Commission on Human Rights and Opportunities, an affirmative action plan that commits the agency, department, board or commission to a program of affirmative action in all aspects of personnel and administration. Such plan shall be developed pursuant to regulations adopted by the Commission on Human Rights and Opportunities in accordance with chapter 54 to ensure that affirmative action is undertaken as required by state and federal law to provide equal employment opportunities and to comply with all responsibilities under the provisions of sections 4-61u to 4-61w, inclusive, sections 46a-54 to 46a-64, inclusive, section 46a-64c and sections 46a-70 to 46a-78, inclusive. The executive head of each such agency, department, board or commission shall be directly responsible for the development, filing and implementation of such affirmative action plan. The Metropolitan District of Hartford County shall be deemed to be a state agency for purposes of this section.

(b) (1) Each state agency, department, board or commission shall designate a full-time or part-time affirmative action officer. If such affirmative action officer is an employee of the agency, department, board or commission, the executive head of the agency, department, board or commission shall be directly responsible for the supervision of the officer.

(2) The Commission on Human Rights and Opportunities shall provide training and technical assistance to affirmative action officers in plan development and implementation.

(3) The Commission on Human Rights and Opportunities and the Permanent Commission on the Status of Women shall provide training concerning state and federal discrimination laws and techniques for conducting investigations of discrimination complaints to persons designated by state agencies, departments, boards or commissions as affirmative action officers and persons designated by the Attorney General or the Attorney General's designee to represent such agencies, departments, boards or commissions pursuant to subdivision (5) of this subsection. Such training shall be provided for a minimum of ten hours during the first year of service or designation, and a minimum of five hours per year thereafter.

(4) (A) Each person designated by a state agency, department, board or commission as an affirmative

action officer shall (i) be responsible for mitigating any discriminatory conduct within the agency, department, board or commission, (ii) investigate all complaints of discrimination made against the state agency, department, board or commission, and (iii) report all findings and recommendations upon the conclusion of an investigation to the commissioner or director of the state agency, department, board or commission for proper action.

(B) Notwithstanding the provisions of subparagraphs (A)(i), (A)(ii) and (A)(iii) of this subdivision, if a discrimination complaint is made against the executive head of a state agency or department, any member of a state board or commission or any affirmative action officer alleging that the executive head, member or officer directly or personally engaged in discriminatory conduct, or if a complaint of discrimination is made by the executive head of a state agency, any member of a state board or commission or any affirmative action officer, the complaint shall be referred to the Commission on Human Rights and Opportunities for review and, if appropriate, investigation by the Department of Administrative Services. If the discrimination complaint is made by or against the executive head, any member or the affirmative action officer of the Commission on Human Rights and Opportunities alleging that the executive head, member or officer directly or personally engaged in discriminatory conduct, the commission shall refer the complaint to the Department of Administrative Services for review and, if appropriate, investigation. If the complaint is by or against the executive head or affirmative action officer of the Department of Administrative Services, the complaint shall be referred to the Commission on Human Rights and Opportunities for review and, if appropriate, investigation. Each person who conducts an investigation pursuant to this subparagraph shall report all findings and recommendations upon the conclusion of such investigation to the appointing authority of the individual who was the subject of the complaint for proper action. The provisions of this subparagraph shall apply to any such complaint pending on or after July 5, 2007.

(5) Each person designated by a state agency, department, board or commission as an affirmative action officer, and each person designated by the Attorney General or the Attorney General's designee to represent an agency pursuant to subdivision (6) of this subsection, shall complete training provided by the Commission on Human Rights and Opportunities and the Permanent Commission on the Status of Women pursuant to subdivision (3) of this subsection.

(6) No person designated by a state agency, department, board or commission as an affirmative action officer shall represent such agency, department, board or commission before the Commission on Human Rights and Opportunities or the Equal Employment Opportunity Commission concerning a discrimination complaint. If a discrimination complaint is filed with the Commission on Human Rights and Opportunities or the Equal Employment Opportunity Commission against a state agency, department, board or commission, the Attorney General, or the Attorney General's designee, other than the affirmative action officer for such agency, department, board or commission, shall represent the state agency, department, board or commission before the Commission on Human Rights and Opportunities or the Equal Employment Opportunity Commission. In the case of a discrimination complaint filed against the Metropolitan District of Hartford County, the Attorney General, or the Attorney General's designee, shall not represent such district before the Commission on Human Rights and Opportunities or the Equal Employment Opportunity Commission.

(c) Each state agency, department, board and commission shall file an affirmative action plan developed in accordance with subsection (a) of this section, with the Commission on Human Rights and Opportunities, semiannually, except that any state agency, department, board or commission which has an affirmative action plan approved by the commission may be permitted to file its plan on an annual basis in a manner prescribed by the commission and any state agency, department, board or commission that employs twenty or fewer full-time employees shall file its affirmative action plan biennially.

(d) The Commission on Human Rights and Opportunities shall review and formally approve,

conditionally approve or disapprove the content of such affirmative action plans within ninety days of the submission of each plan to the commission. If the commissioners, by a majority vote of those present and voting, fail to approve, conditionally approve or disapprove a plan within that period, the plan shall be deemed to be approved.

(e) The Commissioner of Administrative Services and the Secretary of the Office of Policy and Management shall cooperate with the Commission on Human Rights and Opportunities to insure that the State Personnel Act and personnel regulations are administered, and that the process of collective bargaining is conducted by all parties in a manner consistent with the affirmative action responsibilities of the state.

(f) The Commission on Human Rights and Opportunities shall monitor the activity of such plans within each state agency, department, board and commission and report to the Governor and the General Assembly on or before April first of each year concerning the results of such plans.

(g) The Commission on Human Rights and Opportunities shall adopt regulations, in accordance with chapter 54, to carry out the requirements of this section. Such regulations shall include a schedule for semiannual, annual and biennial filing of plans.

(P.A. 75-536, S. 1-3; P.A. 77-614, S. 66, 610; P.A. 79-255; P.A. 80-422, S. 16; P.A. 83-569, S. 12, 17; P.A. 84-41, S. 1, 2; P.A. 87-255; P.A. 90-246, S. 7; P.A. 99-233, S. 6, 7; P.A. 01-53, S. 1, 2; P.A. 03-151, S. 1; P.A. 05-287, S. 54; P.A. 07-181, S. 1; P.A. 09-87, S. 1.)

History: P.A. 77-614 replaced department of personnel and administration, i.e. personnel department, with department of administrative services in Subsec. (a); P.A. 79-255 replaced department of administrative services with commission on human rights and opportunities, added exception re annual filing and required approval of plan within 75 rather than 60 days in Subsec. (b) and added Subsec. (d) re adoption of regulations; P.A. 80-422 updated section listing in Subsec. (a), designated provision re deadline for approval as Subsec. (c), deleted provisions re proceedings upon commission's issuance of complaint for failure to submit plan or submission of plan which violates laws and redesignated former Subsecs. (c) and (d) accordingly; Sec. 4-61s transferred to Sec. 46a-68 in 1981; P.A. 83-569 amended section to require designation of full or part-time affirmative action officers trained by commission, to eliminate specified filing dates for plans, to require formal approval or disapproval of plans within 75 days and to require the commissioner of administrative services and the secretary of the office of policy and management to cooperate with the commission to insure that state personnel act and regulations and the collective bargaining process are administered and conducted in a manner consistent with the affirmative action responsibilities of the state; P.A. 84-41 amended Subsec. (d) increasing length of time for commission to review plans from 75 to 90 days and providing if commissioners, by a majority of those "present and voting", fail to approve or disapprove plan, the plan shall be deemed approved; P.A. 87-255 added provisions in Subsec. (a) re direct responsibility for development, filing and implementation of affirmative action plan and added provisions in Subsec. (b) re direct responsibility for supervision of affirmative action officer; P.A. 90-246 amended Subsec. (a) by adding reference to Sec. 46a-64c; P.A. 99-233 amended Subsec. (d) to provide for conditional approval of plans, effective June 29, 1999; P.A. 01-53 amended Subsec. (c) by adding provision re biennial filing of affirmative action plans by state agency or department with twenty or fewer full-time employees and amended Subsec. (g) by adding reference to biennial filing of plans; P.A. 03-151 amended Subsec. (b) by dividing existing provisions into Subdivs. (1) and (2) and adding new Subdivs. (3) to (5), inclusive, requiring CHRO and PCSW to annually provide at least 10 hours of discrimination training to affirmative action officers and other persons designated to represent state agencies, boards, departments and commissions before the EEOC or CHRO, and specifying duties, responsibilities and proscriptions for affirmative action officers; P.A. 05-287 amended Subsec. (b)(3) to apply 10-hour training requirement to first year of service only and to require a minimum of 5 hours of training per year thereafter; P.A. 07-181 amended Subsec. (b) by



designating existing Subparas. in Subdiv. (4) as clauses within Subpara. (A) and adding new Subpara. (B) requiring that discrimination complaints by or against executive heads of state agencies or departments, members of state boards or commissions or affirmative action officers be referred to Commission on Human Rights and Opportunities and may be investigated by Department of Administrative Services, that discrimination complaints by or against executive head, member or affirmative action officer of Commission on Human Rights and Opportunities be referred to Department of Administrative Services, that discrimination complaints by or against executive head or affirmative action officer of Department of Administrative Services be referred to Commission on Human Rights and Opportunities, by replacing existing Subdiv. (5) with new Subdiv. (5) requiring that affirmative action officers of state agencies, departments, boards or commissions and persons designated by Attorney General to represent agencies pursuant to new Subdiv. (6) complete training specified in Subdiv. (3), and by adding new Subdiv. (6) prohibiting affirmative action officers from representing agencies, departments, boards or commissions before Commission on Human Rights and Opportunities or Equal Employment Opportunity Commission and requiring Attorney General or designee to make such representations, effective July 5, 2007; P.A. 09-87 amended Subsec. (a) by adding provision re Metropolitan District of Hartford County deemed a state agency for purposes of section and amended Subsec. (b)(6) by adding provision prohibiting Attorney General from representing district re discrimination complaints filed against it.

See Sec. 46a-68a re issuance of and effect of certificate of noncompliance.

Cited. 233 C. 28.

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**Sec. 46a-68a. Certificate of noncompliance. Hiring freeze; exceptions.** (a) The commission may issue a certificate of noncompliance if the affirmative action plan required by section 46a-68 is disapproved.

(b) The issuance of a certificate of noncompliance shall bar the agency, department, board or commission in noncompliance with section 46a-68 from filling a position or position classification by hire or promotion upon receipt of the certificate, the provisions of any state law or regulation to the contrary notwithstanding, until: (1) The commission determines that the agency has achieved compliance with section 46a-68 and withdraws the certificate; or (2) the commission, at a hearing requested by the agency, department, board or commission receiving the certificate and conducted by a presiding officer appointed by the chairperson of the commission, is unable to show cause why the certificate of noncompliance should not be rescinded or a court, upon appeal, so determines; or (3) the Commissioner of Administrative Services and the Secretary of the Office of Policy and Management certify to the commission that the agency in noncompliance with section 46a-68 requires immediate filling of the vacancy because failure to fill the position or position classification will cause an emergency situation to exist jeopardizing the public welfare. A separate certificate of exemption shall be required for each vacancy in a position or position classification with respect to which the Commissioner of Administrative Services and the Secretary of the Office of Policy and Management certify that an emergency situation exists.

(c) Hearings under this section shall be conducted in accordance with sections 4-176e to 4-182, inclusive.

(d) The commission shall adopt regulations in accordance with chapter 54 to implement this section.

(P.A. 83-569, S. 14, 17; P.A. 87-303; P.A. 88-317, S. 95, 99, 107.)

History: P.A. 87-303 amended Subsec. (a) by deleting requirement that two consecutive disapprovals be required for issuance of certificate of noncompliance; P.A. 88-317 substituted "presiding officer" for "hearing officer" in Subsec. (b), and amended reference to Secs. 4-177 to 4-182 in Subsec. (c) to include new sections added to Ch. 54, effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date.

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**Sec. 46a-68b. Definition of public works contract.** As used in this section and sections 4a-60, 4a-60a, 4a-60g, 4a-62, 46a-56 and 46a-68c to 46a-68k, inclusive: "Public works contract" means any agreement between any individual, firm or corporation and the state or any political subdivision of the state other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

(P.A. 88-351, S. 1, 16; P.A. 89-253, S. 1, 7; P.A. 91-58, S. 27.)

History: P.A. 88-351, S. 1 effective April 1, 1989; P.A. 89-253 changed references to Secs. 4-114a and 4-114c to Secs. 4a-60 and 4a-62, deleted definition of "commission", amended definition of "public works contract" by adding "or any political subdivision of the state other than a municipality" and deleted definition of "contractor"; P.A. 91-58 added reference to Sec. 4a-60a.

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**Sec. 46a-68c. Contractors required to file affirmative action plan. Certificate of compliance issued by commission. Revocation.** In addition to the provisions of section 4a-60, each contractor with fifty or more employees awarded a public works contract in excess of fifty thousand dollars in any fiscal year, but not subject to the provisions of section 46a-68d, shall develop and file with the commission an affirmative action plan which shall comply with regulations adopted by said commission. Failure to develop an approved affirmative action plan pursuant to this section shall act as a bar to bidding on or the award of future contracts until such requirement has been met. When the commission approves an affirmative action plan pursuant to this section, it shall issue a certificate of compliance to the contractor. This certificate shall be prima facie proof of the contractor's eligibility to bid or be awarded contracts for a period of two years from the date of the certificate. Such certificate shall not excuse the contractor from monitoring by the commission or from the reporting and record-keeping requirements of sections 46a-68e and 46a-68f. The commission may revoke the certificate of a contractor if the contractor does not implement its affirmative action plan in compliance with this section and sections 4a-60, 4a-60g, 4a-62, 46a-56, 46a-68b, 46a-68d, and 46a-68e to 46a-68k, inclusive.

(P.A. 88-351, S. 3, 16; P.A. 89-253, S. 3, 7.)

History: P.A. 88-351, S. 3 effective April 1, 1989; P.A. 89-253 changed reference from Sec. 4-114a to Sec. 4a-60, added "in any fiscal year", deleted former references to sections re reporting and record-keeping and substituted reference to Secs. 46a-68e and 46a-68f and added references to Secs. 4a-60, 4a-62, 32-9e,

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**Sec. 46a-68d. Public works contracts subject to affirmative action requirements. Conditional acceptance by commission. Advance filing of plan.** In addition to the provisions of section 4a-60, every public works contract subject to the provisions of part II of chapter 60 shall also be subject to the provisions of this section. After a bid has been accepted but before a contract is awarded, the successful bidder shall file and have approved by the commission an affirmative action plan. The commission may provide for conditional acceptance of an affirmative action plan provided written assurances are given by the contractor that it will amend its plan to conform to affirmative action requirements. The state shall withhold two per cent of the total contract price per month from any payment made to such contractor until such time as the contractor has developed an affirmative action plan, and received the approval of the commission. Notwithstanding the provisions of this section, a contractor subject to the provisions of this section may file a plan in advance of or at the same time as its bid. The commission shall review plans submitted pursuant to this section within sixty days of receipt and either approve, approve with conditions or reject such plan. When the commission approves an affirmative action plan pursuant to this section, it shall issue a certificate of compliance to the contractor as provided in section 46a-68c.

(P.A. 88-351, S. 4, 16; P.A. 89-253, S. 4, 7.)

History: P.A. 88-351, S. 4 effective April 1, 1989; P.A. 89-253 changed reference to Sec. 4-114a to 4a-60 and added provision requiring commission to issue certificate of compliance upon approval of affirmative action plan.

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**Sec. 46a-68e. Contractors and subcontractors required to file compliance reports.** Each contractor shall file, and shall cause each of his subcontractors to file, with the commission such compliance reports at such times as the commission may direct. Compliance reports shall contain such information as to the practices, policies, programs and employment policies, employment programs, and employment statistics of the contractor and each subcontractor and be in such form as the commission may prescribe.

(P.A. 88-351, S. 5, 16.)

History: P.A. 88-351, S. 5 effective April 1, 1989.

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**Sec. 46a-68f. Compliance reports to include labor union practices.** Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or

an agency referring workers or providing or supervising apprenticeship or training for such workers, the compliance report shall include information pertaining to such labor union's or agency's practices and policies affecting compliance, as the commission may prescribe; provided, to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency refuses to furnish information to the contractor, the contractor shall so certify to the commission as part of its compliance report and shall set forth what efforts have been made to obtain such information.

(P.A. 88-351, S. 6, 16.)

History: P.A. 88-351, S. 6 effective April 1, 1989.

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**Sec. 46a-68g. Prohibition re contractors who have not satisfactorily complied with affirmative action requirements.** Contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of sections 4a-60, 4a-60g, 46a-56 and 46a-68c to 46a-68f, inclusive, or submits a program for compliance acceptable to the commission.

(P.A. 88-351, S. 8, 16; P.A. 89-253, S. 6, 7.)

History: P.A. 88-351, S. 8 effective April 1, 1989; P.A. 89-253 deleted reference to Sec. "4-114a, 4-114c" and inserted "4a-60" in lieu thereof and deleted reference to Sec. 46a-68d.

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**Sec. 46a-68h. Hearing re noncompliance.** Section 46a-68h is repealed, effective July 1, 2007.

(P.A. 88-351, S. 9, 16; P.A. 90-271, S. 21, 24; P.A. 98-245, S. 10, 14; P.A. 07-142, S. 11.)

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**Sec. 46a-68i. Right of appeal.** The commission or any contractor or subcontractor aggrieved by a decision of the hearing officer or human rights referee following a hearing held pursuant to subsection (c) of section 46a-56 shall have a right of appeal to the Superior Court as provided for in section 4-183. Such appeal shall be privileged in order of assignment of trial.

(P.A. 88-351, S. 10, 16; P.A. 90-271, S. 22, 24; P.A. 98-245, S. 11, 14; P.A. 07-142, S. 3.)

History: P.A. 88-351, S. 10 effective April 1, 1989; P.A. 90-271 substituted "hearing officer" for "hearing

examiner"; P.A. 98-245 added reference to human rights referee, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date; P.A. 07-142 inserted "following a hearing held" and replaced reference to Sec. 46a-68h with reference to Sec. 46a-56(c), effective July 1, 2007.

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**Sec. 46a-68j. Regulations.** The commission shall adopt regulations in accordance with the provisions of chapter 54 for the purposes of sections 4a-60, 46a-56 and 46a-68b to 46a-68i, inclusive.

(P.A. 88-351, S. 12, 16.)

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**Sec. 46a-68k. State agency may use own compliance program. Approval by commission. Regulations.** (a) If the commission determines an agency of the state has a contract compliance program which is at least equivalent to the requirements and responsibilities of sections 4a-60 and 46a-68c to 46a-68f, inclusive, such agency, subject to the approval of the commission, may use its own compliance program. Any contractor who is a party to a public works contract with such agency may be relieved of the requirements and responsibilities of said sections, provided such contractor complies with the requirements of such agency's contract compliance program.

(b) The commission shall adopt regulations in accordance with chapter 54 to carry out the purposes of this section, including, but not limited to, establishing a procedure for such determination and approval.

(P.A. 88-351, S. 14, 16.)

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**Sec. 46a-69. Discriminatory practices by state.** It shall be a discriminatory practice to violate any of the provisions of sections 46a-70 to 46a-78, inclusive.

(P.A. 80-422, S. 17.)

Cited. 16 CA 379.

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**Sec. 46a-70. (Formerly Sec. 4-61c). Guarantee of equal employment in state agencies.** (a) State officials and supervisory personnel shall recruit, appoint, assign, train, evaluate and promote state personnel on the basis of merit and qualifications, without regard for race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, learning disability or physical disability, including but not limited to, blindness, unless it is shown by such state officials or supervisory personnel that such disability prevents performance of the work involved.

(b) All state agencies shall promulgate written directives to carry out this policy and to guarantee equal employment opportunities at all levels of state government. They shall regularly review their personnel practices to assure compliance.

(c) All state agencies shall conduct continuing orientation and training programs with emphasis on human relations and nondiscriminatory employment practices.

(d) The Commissioner of Administrative Services shall insure that the entire examination process, including qualifications appraisal, is free from bias.

(e) Appointing authorities shall exercise care to insure utilization of minority group persons.

(1969, P.A. 790, S. 1; P.A. 73-279, S. 7; P.A. 77-614, S. 66, 610; P.A. 78-148, S. 2; P.A. 80-422, S. 18; P.A. 90-330, S. 6, 11; P.A. 01-28, S. 2; P.A. 04-171, S. 2; May Sp. Sess. P.A. 04-2, S. 37.)

History: P.A. 73-279 prohibited discrimination on basis of physical disability including blindness unless it is shown that nature of work required sighted person or person without disability; P.A. 77-614 replaced personnel commissioner with commissioner of administrative services; P.A. 78-148 prohibited discrimination on basis of mental retardation; P.A. 80-422 created Subsecs. (b), (c) and (d) from former Subsec. (b), changing wording slightly and designated former Subsec. (c) as (e); Sec. 4-61c transferred to Sec. 46a-70 in 1981; P.A. 90-330 amended Subsec. (a) to include persons with learning disabilities; P.A. 01-28 amended Subsec. (a) by adding references to "marital status" and "mental disability"; P.A. 04-171 added new Subsec. (d) re confidentiality of the name and address of a sexual harassment complainant in an internal sexual harassment investigation conducted on behalf of a state agency and redesignated existing Subsecs. (d) and (e) as new Subsecs. (e) and (f), respectively, effective June 1, 2004; May Sp. Sess. P.A. 04-2 repealed provisions enacted by P.A. 04-171, effective May 12, 2004.

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g for definition of "mental retardation".

Cited. 16 CA 379.

Subsec. (a):

Cited. 38 CA 506.

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**Sec. 46a-70a. Judicial Branch equal employment opportunities plan. Compliance by Judicial**

**Branch and Criminal Justice Commission.** (a) The Judicial Branch shall develop and implement an equal employment opportunities plan pursuant to federal law that commits the Judicial Branch to a program of equal employment opportunities in all aspects of personnel and administration. The Chief Court Administrator shall be responsible for developing, implementing and filing the plan with the Commission on Human Rights and Opportunities.

(b) The Judicial Branch shall comply with the provisions of subsection (b) of section 46a-68, section 46a-68g, subsections (a), (b) and (c) of section 46a-70, subsections (a), (b) and (d) of section 46a-71, subsections (a) and (c) of section 46a-77, subsections (a), (b) and (c) of section 46a-81h and section 46a-81i.

(c) The Criminal Justice Commission shall comply with the provisions of subsections (a) and (b) of section 46a-68, sections 46a-68g, 46a-70 and 46a-71, subsections (a) and (c) of section 46a-77 and sections 46a-81h and 46a-81i.

(P.A. 84-435, S. 5, 6; P.A. 06-152, S. 11.)

History: P.A. 84-435 effective July 1, 1985; P.A. 06-152 replaced former provisions with Subsec. (a) re judicial branch equal employment opportunities plan, Subsec. (b) re compliance by judicial branch and Subsec. (c) re compliance by Criminal Justice Commission, effective June 6, 2006.

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**Sec. 46a-71. (Formerly Sec. 4-61d). Discriminatory practices by state agencies prohibited.** (a) All services of every state agency shall be performed without discrimination based upon race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, learning disability or physical disability, including, but not limited to, blindness.

(b) No state facility may be used in the furtherance of any discrimination, nor may any state agency become a party to any agreement, arrangement or plan which has the effect of sanctioning discrimination.

(c) Each state agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of sections 46a-70 to 46a-78, inclusive, and shall initiate comprehensive programs to remedy any defect found to exist.

(d) Every state contract or subcontract for construction on public buildings or for other public work or for goods and services shall conform to the intent of section 4a-60.

(1969, P.A. 790, S. 2, 3; P.A. 73-279, S. 8; P.A. 78-148, S. 3; P.A. 80-422, S. 19; P.A. 90-330, S. 7, 11; P.A. 01-28, S. 3.)

History: P.A. 73-279 prohibited discrimination based on physical disability including blindness; P.A. 78-148 prohibited discrimination based on mental retardation; P.A. 80-422 rephrased provisions, created Subsecs. (b) and (c) from provisions of Subsec. (a), redesignating former Subsec. (b) as (d), and substituted Sec. 4-61k for Sec. 4-61l in Subsec. (c); Sec. 4-61d transferred to Sec. 46a-71 in 1981 and internal section references changed to reflect their transfer when necessary; P.A. 90-330 amended Subsec. (a) to include discrimination based upon learning disability; P.A. 01-28 amended Subsec. (a) by adding references to "marital status" and "mental disability".

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g for definition of "mental retardation".

Annotation to former section 4-61d:

Cited. 165 C. 516.

Annotations to present section:

Cited. 236 C. 453.

Cited. 30 CA 463.

Subsec. (a):

Cited. 39 CA 216.

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**Sec. 46a-72. (Formerly Sec. 4-61e). Discrimination in job placement by state agencies prohibited.** (a)

All state agencies, including educational institutions, which provide employment referrals or placement services to public or private employers, shall accept job orders on a nondiscriminatory basis.

(b) Any job request indicating an intention to exclude any person because of race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, learning disability or physical disability, including, but not limited to, blindness shall be rejected, unless it is shown by such public or private employers that such disability prevents performance of the work involved.

(c) All state agencies shall cooperate in programs developed by the Commission on Human Rights and Opportunities initiated for the purpose of broadening the base for job recruitment and shall further cooperate with all employers and unions providing such programs.

(d) The Labor Department shall encourage and enforce employers and labor unions to comply with the policy of sections 46a-70 to 46a-78, inclusive, and promote equal employment opportunities.

(1969, P.A. 790, S. 4; P.A. 73-279, S. 9; P.A. 78-148, S. 4; P.A. 79-631, S. 1, 111; P.A. 80-422, S. 20; P.A. 90-330, S. 8, 11; P.A. 01-28, S. 4.)

History: P.A. 73-279 prohibited discrimination based on physical disability including blindness and qualified that prohibition by adding "unless it is shown ... that such disability prevents performance of the work involved"; P.A. 78-148 prohibited discrimination on basis of mental retardation; P.A. 79-631 replaced Sec. 4-61b with Sec. 4-61c in Subsec. (c); P.A. 80-422 substituted "nondiscriminatory" for "fair practice" in Subsec. (a), created new Subsec. (b) from provisions formerly in (a) and relettered former Subsecs. (b) and (c) accordingly, substituting Sec. 4-61k for Sec. 4-61l where occurring; Sec. 4-61e transferred to Sec. 46a-72 in 1981 and other section numbers referred to in section changed as necessary to reflect their transfer; P.A.



90-330 amended Subsec. (b) to include reference to learning disabilities; P.A. 01-28 amended Subsec. (b) by adding references to "marital status" and "mental disability".

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g for definition of "mental retardation".

Cited. 236 C. 453.

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**Sec. 46a-73. (Formerly Sec. 4-61f). Discrimination in state licensing and charter procedures prohibited.** (a) No state department, board or agency may grant, deny or revoke the license or charter of any person on the grounds of race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, learning disability or physical disability, including, but not limited to, blindness, unless it is shown by such state department, board or agency that such disability prevents performance of the work involved.

(b) Each state agency shall take such appropriate action in the exercise of its licensing or regulatory power as will assure equal treatment of all persons and eliminate discrimination and enforce compliance with the policy of sections 46a-70 to 46a-78, inclusive.

(1969, P.A. 790, S. 5; P.A. 73-279, S. 10; P.A. 78-148, S. 5; P.A. 79-631, S. 2, 111; P.A. 80-422, S. 21; P.A. 01-28, S. 5.)

History: P.A. 73-279 prohibited discrimination in licensing matters on basis of physical disability including blindness and qualified prohibition by adding "unless it is shown ... that such disability prevents performance of the work involved"; P.A. 78-148 prohibited discrimination on basis of mental retardation; P.A. 79-631 substituted Sec. 4-61c for Sec. 4-61b; P.A. 80-422 divided section into Subsecs. and substituted Sec. 4-61k for Sec. 4-61l; Sec. 4-61f transferred to Sec. 46a-73 in 1981 and internal section references changed as necessary to reflect their transfer; P.A. 01-28 amended Subsec. (a) by adding references to "marital status", "mental disability" and "learning disability".

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g for definition of "mental retardation".

Annotation to former section 4-61f:

Cited. 165 C. 516.

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**Sec. 46a-74. (Formerly Sec. 4-61g). State agencies not to permit discriminatory practices in**

**professional or occupational associations, public accommodations or housing.** No state department, board or agency may permit any discriminatory practice in violation of section 46a-59, 46a-64 or 46a-64c.

(1969, P.A. 790, S. 6; P.A. 80-422, S. 22; P.A. 90-246, S. 8.)

History: P.A. 80-422 rephrased section; Sec. 4-61g transferred to Sec. 46a-74 in 1981; P.A. 90-246 deleted reference to the Public Accommodations Act and substituted reference to Sec. 49a-59, 46a-64 or 46a-64c.

See Sec. 46a-59 prohibiting discrimination in associations of licensed persons.

See Sec. 46a-64 prohibiting discriminatory public accommodation practices.

See Secs. 46a-89, 46a-89a, 46a-90a re injunctive relief and damages in cases involving discriminatory public accommodation practices.

See Sec. 46a-89 re jurisdiction of court and hearings in cases involving discriminatory public accommodation practices.

See Sec. 46a-94 re appeals.

Annotation to former section 4-61g:

Cited. 165 C. 516.

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**Sec. 46a-75. (Formerly Sec. 4-61h). Discrimination in educational and vocational programs prohibited.** (a) All educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state agencies, or in which state agencies participate, shall be open to all qualified persons, without regard to race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, learning disability or physical disability, including, but not limited to, blindness.

(b) Such programs shall be conducted to encourage the fullest development of the interests, aptitudes, skills, and capacities of all students and trainees, with special attention to the problems of culturally deprived, educationally handicapped, learning disabled, economically disadvantaged, or physically disabled, including, but not limited to, blind persons.

(c) Expansion of training opportunities under these programs shall be encouraged so as to involve larger numbers of participants from those segments of the labor force where the need for upgrading levels of skill is greatest.

(1969, P.A. 790, S. 7; P.A. 73-279, S. 11; P.A. 78-148, S. 6; P.A. 80-422, S. 23; P.A. 90-330, S. 9, 11; P.A. 01-28, S. 6.)

History: P.A. 73-279 prohibited discrimination based on physical disability including blindness; P.A. 78-

148 prohibited discrimination based on mental retardation; P.A. 80-422 divided section into Subsecs. and made slight change in wording of Subsec. (c); Sec. 4-61h transferred to Sec. 46a-75 in 1981; P.A. 90-330 added references to persons with learning disabilities in Subsecs. (a) and (b); P.A. 01-28 amended Subsec. (a) by adding references to "marital status" and "mental disability".

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g for definition of "mental retardation".

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**Sec. 46a-76. (Formerly Sec. 4-61i). Discrimination in allocation of state benefits prohibited.** (a) Race, color, religious creed, sex, marital status, age, national origin, ancestry, mental retardation, mental disability, learning disability or physical disability, including, but not limited to, blindness shall not be considered as limiting factors in state-administered programs involving the distribution of funds to qualify applicants for benefits authorized by law.

(b) No state agency may provide grants, loans or other financial assistance to public agencies, private institutions or organizations which discriminate.

(1969, P.A. 790, S. 8; P.A. 73-279, S. 12; P.A. 78-148, S. 7; P.A. 80-422, S. 24; P.A. 90-330, S. 10, 11; P.A. 01-28, S. 7.)

History: P.A. 73-279 prohibited discrimination on basis of physical disability including blindness; P.A. 78-148 prohibited discrimination on basis of mental retardation; P.A. 80-422 divided section into Subsecs. and restated provisions; Sec. 4-61i transferred to Sec. 46a-76 in 1981; P.A. 90-330 added reference to "learning disability"; P.A. 01-28 amended Subsec. (a) by adding references to "marital status" and "mental disability".

See Sec. 1-1f for definitions of "blind" and "physically disabled".

See Sec. 1-1g for definition of "mental retardation".

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**Sec. 46a-77. (Formerly Sec. 4-61j). Cooperation with commission required of state agencies. Compliance with Americans with Disabilities Act.** (a) All state agencies shall cooperate with the Commission on Human Rights and Opportunities in their enforcement and educational programs.

(b) All state agencies shall comply with the commission's request for information concerning practices inconsistent with the state policy against discrimination and shall consider its recommendations for effectuating and implementing that policy.

(c) Each state agency shall comply in all of its services, programs and activities with the provisions of the

Americans with Disabilities Act (42 USC 12101) to the same extent that it provides rights and protections for persons with physical or mental disabilities beyond those provided for by the laws of this state.

(d) The commission shall continue to augment its enforcement and education programs which seek to eliminate all discrimination.

(1969, P.A. 790, S. 9; P.A. 80-422, S. 25; P.A. 01-28, S. 9.)

History: P.A. 80-422 divided section into Subsecs. and made minor changes in wording; Sec. 4-61j transferred to Sec. 46a-77 in 1981; P.A. 01-28 added new Subsec. (c) requiring state agencies to comply with the Americans with Disabilities Act and redesignated existing Subsec. (c) as Subsec. (d).

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**Sec. 46a-78. (Formerly Sec. 4-61k). Annual agency reports to Governor. Review by commission.** (a) All departments, agencies, commissions and other bodies of the state government shall include in their annual report to the Governor, activities undertaken in the past year to effectuate sections 46a-70 to 46a-78, inclusive.

(b) Such reports shall cover both internal activities and external relations with the public or with other state agencies and shall contain other information as specifically requested by the Governor.

(c) The information in the annual reports required under the provisions of this section shall be reviewed by the Commission on Human Rights and Opportunities for the purpose of monitoring compliance with the provisions of sections 46a-70 to 46a-78, inclusive.

(1969, P.A. 790, S. 10; P.A. 78-14; P.A. 79-631, S. 3, 111; P.A. 80-422, S. 26.)

History: P.A. 78-14 required that commission on human rights and opportunities review annual report information to monitor compliance with Secs. 4-61b to 4-61l; P.A. 79-631 substituted Sec. 4-61c for Sec. 4-61b; P.A. 80-422 divided section into Subsecs. and substituted Sec. 4-61k for Sec. 4-61l; Sec. 4-61k transferred to Sec. 46a-78 in 1981 and internal section references changed to reflect their transfer as necessary.

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**Sec. 46a-79. (Formerly Sec. 4-61n). State policy re employment of criminal offenders.** The General Assembly finds that the public is best protected when criminal offenders are rehabilitated and returned to society prepared to take their places as productive citizens and that the ability of returned offenders to find meaningful employment is directly related to their normal functioning in the community. It is therefore the policy of this state to encourage all employers to give favorable consideration to providing jobs to qualified individuals, including those who may have criminal conviction records.

(P.A. 73-347, S. 1, 7; P.A. 80-422, S. 27.)

History: P.A. 80-422 substituted "therefore" for "therefor"; Sec. 4-61n transferred to Sec. 46a-79 in 1981.

Cited. 43 CS 13.

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**Sec. 46a-80. (Formerly Sec. 4-61o). Denial of employment based on prior conviction of crime.**

**Inquiry re prospective employee's past convictions. Dissemination of arrest record prohibited.** (a)

Except as provided in subsection (c) of this section, subsection (b) of section 46a-81 and section 36a-489, and notwithstanding any other provisions of law to the contrary, a person shall not be disqualified from employment by the state or any of its agencies, nor shall a person be disqualified to practice, pursue or engage in any occupation, trade, vocation, profession or business for which a license, permit, certificate or registration is required to be issued by the state or any of its agencies solely because of a prior conviction of a crime.

(b) Except for a position for which any provision of the general statutes specifically disqualifies a person from employment by the state or any of its agencies because of a prior conviction of a crime, no employer, as defined in section 5-270, shall inquire about a prospective employee's past convictions until such prospective employee has been deemed otherwise qualified for the position.

(c) A person may be denied employment by the state or any of its agencies, or a person may be denied a license, permit, certificate or registration to pursue, practice or engage in an occupation, trade, vocation, profession or business by reason of the prior conviction of a crime if after considering (1) the nature of the crime and its relationship to the job for which the person has applied; (2) information pertaining to the degree of rehabilitation of the convicted person; and (3) the time elapsed since the conviction or release, the state, or any of its agencies determines that the applicant is not suitable for the position of employment sought or the specific occupation, trade, vocation, profession or business for which the license, permit, certificate or registration is sought.

(d) If a conviction of a crime is used as a basis for rejection of an applicant, such rejection shall be in writing and specifically state the evidence presented and reasons for rejection. A copy of such rejection shall be sent by registered mail to the applicant.

(e) In no case may records of arrest, which are not followed by a conviction, or records of convictions, which have been erased, be used, distributed or disseminated by the state or any of its agencies in connection with an application for employment or for a permit, license, certificate or registration.

(P.A. 73-347, S. 3, 7; P.A. 80-422, S. 28; P.A. 09-209, S. 24; P.A. 10-142, S. 1.)

History: P.A. 80-422 rephrased provisions and rearranged Subsecs.; Sec. 4-61o transferred to Sec. 46a-80 in 1981; P.A. 09-209 amended Subsec. (a) by adding exception for Sec. 36a-489; P.A. 10-142 made technical changes in Subsec. (a), added new Subsec. (b) prohibiting inquiry about prospective employee's past convictions until employee is deemed qualified for position unless statutes specifically disqualify persons with criminal convictions and redesignated existing Subsecs. (b) to (d) as Subsecs. (c) to (e).

Cited. 43 CS13.

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**Sec. 46a-81. (Formerly Sec. 4-61r). Statutes controlling law enforcement agencies excepted.** (a)

Except as provided in section 36a-489, the provisions of sections 46a-79 to 46a-81, inclusive, shall prevail over any other provisions of law which purport to govern the denial of licenses, permits, certificates, registrations, or other means to engage in an occupation, trade, vocation, business or profession, on the grounds of a lack of good moral character, or which purport to govern the suspension or revocation of a license, permit, certificate or registration on the grounds of conviction of a crime.

(b) Sections 46a-79 to 46a-81, inclusive, shall not be applicable to any law enforcement agency, provided nothing herein shall be construed to preclude a law enforcement agency in its discretion from adopting the policy set forth in said sections.

(P.A. 73-347, S. 6, 7; P.A. 80-422, S. 29; P.A. 09-209, S. 25.)

History: P.A. 80-422 made minor changes in wording and added Subsec. (b) re applicability of Secs. 4-61n, 4-61o and 4-61r to law enforcement agencies; Sec. 4-61r transferred to Sec. 46a-81 in 1981 and internal section references changed as necessary to reflect their transfer; P.A. 09-209 amended Subsec. (a) by adding exception for Sec. 36a-489.

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**Sec. 46a-81a. Sexual orientation discrimination: Definitions.** For the purposes of sections 4a-60a, 45a-726a and 46a-81b to 46a-81q, inclusive, "sexual orientation" means having a preference for heterosexuality, homosexuality or bisexuality, having a history of such preference or being identified with such preference, but excludes any behavior which constitutes a violation of part VI of chapter 952.

(P.A. 91-58, S. 1; P.A. 09-13, S. 14.)

History: P.A. 09-13 replaced reference to Sec. 46a-81r with reference to Sec. 46a-81q, effective April 23, 2009.

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81b. Sexual orientation discrimination: Associations of licensed persons.** (a) It shall be a discriminatory practice in violation of this section for any association, board or other organization the principal purpose of which is the furtherance of the professional or occupational interests of its members, whose profession, trade or occupation requires a state license, to refuse to accept a person as a member of

such association, board or organization because of such person's sexual orientation.

(b) Any association, board or other organization which violates the provisions of this section shall be fined not less than one hundred dollars or more than five hundred dollars.

(P.A. 91-58, S. 2; P.A. 07-217, S. 169.)

History: P.A. 07-217 made a technical change in Subsec. (b), effective July 12, 2007.

Cited. 232 C. 91. Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81c. Sexual orientation discrimination: Employment.** It shall be a discriminatory practice in violation of this section: (1) For an employer, by himself or his agent, except in the case of a bona fide occupational qualification or need, to refuse to hire or employ or to bar or to discharge from employment any individual or to discriminate against him in compensation or in terms, conditions or privileges of employment because of the individual's sexual orientation or civil union status, (2) for any employment agency, except in the case of a bona fide occupational qualification or need, to fail or refuse to classify properly or refer for employment or otherwise to discriminate against any individual because of the individual's sexual orientation or civil union status, (3) for a labor organization, because of the sexual orientation or civil union status of any individual to exclude from full membership rights or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer, unless such action is based on a bona fide occupational qualification, or (4) for any person, employer, employment agency or labor organization, except in the case of a bona fide occupational qualification or need, to advertise employment opportunities in such a manner as to restrict such employment so as to discriminate against individuals because of their sexual orientation or civil union status.

(P.A. 91-58, S. 3; P.A. 07-245, S. 3.)

History: P.A. 07-245 added references to "civil union status", effective July 10, 2007.

Cited. 226 C. 670. Cited. 232 C. 91. Cited. 236 C. 96; Id., 453. Gay rights law cited. Id.

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**Sec. 46a-81d. Sexual orientation discrimination: Public accommodations.** (a) It shall be a discriminatory practice in violation of this section: (1) To deny any person within the jurisdiction of this state full and equal accommodations in any place of public accommodation, resort or amusement because of such person's sexual orientation or civil union status, subject only to the conditions and limitations established by law and applicable alike to all persons; or (2) to discriminate, segregate or separate on account of sexual orientation or civil union status.

(b) Any person who violates any provision of this section shall be fined not less than twenty-five dollars

or more than one hundred dollars or imprisoned not more than thirty days, or both.

(P.A. 91-58, S. 4; P.A. 07-217, S. 170; 07-245, S. 4.)

History: P.A. 07-217 made technical changes in Subsec. (b), effective July 12, 2007; P.A. 07-245 amended Subsec. (a) to add references to "civil union status", effective July 10, 2007.

Cited. 232 C. 91. Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81e. Sexual orientation discrimination: Housing.** (a) It shall be a discriminatory practice in violation of this section:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of sexual orientation or civil union status.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sexual orientation or civil union status.

(3) To make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on sexual orientation or civil union status, or an intention to make any such preference, limitation or discrimination.

(4) (A) To represent to any person because of sexual orientation or civil union status, that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available. (B) It shall be a violation of this subdivision for any person to restrict or attempt to restrict the choices of any buyer or renter to purchase or rent a dwelling (i) to an area which is substantially populated, even if less than a majority, by persons of the same sexual orientation or civil union status as the buyer or renter, (ii) while such person is authorized to offer for sale or rent another dwelling which meets the housing criteria as expressed by the buyer or renter to such person and (iii) such other dwelling is in an area which is not substantially populated by persons of the same sexual orientation or civil union status as the buyer or renter. As used in this subdivision, "area" means municipality, neighborhood or other geographic subdivision which may include an apartment or condominium complex.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular sexual orientation or civil union status.

(6) For any person or other entity engaging in residential-real-estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of sexual orientation or civil union status.

(7) To deny any person access to or membership or participation in any multiple-listing service, real estate



brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation, on account of sexual orientation or civil union status.

(8) To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section.

(b) The provisions of this section shall not apply to (1) the rental of a room or rooms in a unit in a dwelling if the owner actually maintains and occupies part of such unit as his residence, or (2) a unit in a dwelling containing not more than four units if the owner actually maintains and occupies one of such other units as his residence.

(c) Nothing in this section limits the applicability of any reasonable state statute or municipal ordinance restricting the maximum number of persons permitted to occupy a dwelling.

(d) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than sexual orientation or civil union status.

(e) Notwithstanding any other provision of this chapter, complaints alleging a violation of this section shall be investigated within one hundred days of filing and a final administrative disposition shall be made within one year of filing unless it is impracticable to do so. If the Commission on Human Rights and Opportunities is unable to complete its investigation or make a final administrative determination within such time frames, it shall notify the complainant and the respondent in writing of the reasons for not doing so.

(f) Any person who violates any provision of this section shall be fined not less than twenty-five dollars or more than one hundred dollars or imprisoned not more than thirty days, or both.

(P.A. 91-58, S. 5; P.A. 07-217, S. 171; 07-245, S. 5.)

History: P.A. 07-217 made a technical change in Subces. (f), effective July 12, 2007; P.A. 07-245 amended Subsecs. (a) and (b) to add references to "civil union status" and made a technical change in Subsec. (b), effective July 10, 2007.

Cited. 232 C. 91. Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81f. Sexual orientation discrimination: Credit practices.** (a) It shall be a discriminatory practice in violation of this section for any creditor to discriminate on the basis of sexual orientation or civil union status, against any person eighteen years of age or over in any credit transaction.

(b) No liability may be imposed under this section for an act done or omitted in conformity with a regulation or declaratory ruling of the Banking Commissioner, the Federal Reserve Board or any other governmental agency having jurisdiction under the Equal Credit Opportunity Act, notwithstanding that after the act or omission the regulation or declaratory ruling may be amended, repealed or determined to be invalid for any reason.

(P.A. 91-58, S. 6; P.A. 03-84, S. 35; P.A. 07-245, S. 6.)

History: P.A. 03-84 changed "Commissioner of Banking" to "Banking Commissioner" in Subsec. (b), effective June 3, 2003; P.A. 07-245 amended Subsec. (a) to add reference to "civil union status", effective July 10, 2007.

Cited. 232 C. 91. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81g. Sexual orientation discrimination: State practices.** It shall be a discriminatory practice to violate any of the provisions of sections 46a-81h to 46a-81n, inclusive.

(P.A. 91-58, S. 7.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81h. Sexual orientation discrimination: Equal employment in state agencies.** (a) State officials and supervisory personnel shall recruit, appoint, assign, train, evaluate and promote state personnel on the basis of merit and qualifications, without regard for sexual orientation.

(b) All state agencies shall promulgate written directives to carry out this policy and to guarantee equal employment opportunities at all levels of state government. They shall regularly review their personnel practices to assure compliance.

(c) All state agencies shall conduct continuing orientation and training programs with emphasis on human relations and nondiscriminatory employment practices.

(d) The Commissioner of Administrative Services shall insure that the entire examination process, including qualifications appraisal, is free from bias.

(P.A. 91-58, S. 8.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81i. Sexual orientation discrimination: Services of state agencies.** (a) All services of every

state agency shall be performed without discrimination based upon sexual orientation.

(b) No state facility may be used in the furtherance of any discrimination, nor may any state agency become a party to any agreement, arrangement or plan which has the effect of sanctioning discrimination.

(c) Each state agency shall analyze all of its operations to ascertain possible instances of noncompliance with the policy of sections 46a-81h to 46a-81n, inclusive, and shall initiate comprehensive programs to remedy any defect found to exist.

(d) Every state contract or subcontract for construction on public buildings or for other public work or for goods and services shall conform to the intent of section 4a-60a.

(P.A. 91-58, S. 9.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81j. Sexual orientation discrimination: Job recruitment and placement services provided by state agencies.** (a) All state agencies, including educational institutions, which provide employment referrals or placement services to public or private employers, shall accept job orders on a nondiscriminatory basis.

(b) Any job request indicating an intention to exclude any person because of sexual orientation shall be rejected.

(c) All state agencies shall cooperate in programs developed by the Commission on Human Rights and Opportunities initiated for the purpose of broadening the base for job recruitment and shall further cooperate with all employers and unions providing such programs.

(d) The Labor Department shall encourage and enforce employers and labor unions to comply with the policy of sections 46a-81h to 46a-81n, inclusive, and promote equal employment opportunities.

(P.A. 91-58, S. 10.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81k. Sexual orientation discrimination: Licensing practices of state agencies.** (a) No state department, board or agency may grant, deny or revoke the license or charter of any person on the grounds of sexual orientation.

(b) Each state agency shall take such appropriate action in the exercise of its licensing or regulatory

power as will assure equal treatment of all persons and eliminate discrimination and enforce compliance with the policy of sections 46a-81h to 46a-81n, inclusive.

(P.A. 91-58, S. 11.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81l. Sexual orientation discrimination: State agencies not to permit in professional or occupational associations, public accommodations or housing.** No state department, board or agency may permit any discriminatory practice in violation of section 46a-81b, 46a-81d or 46a-81e.

(P.A. 91-58, S. 12.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81m. Sexual orientation discrimination: Educational and vocational programs of state agencies.** All educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state agencies, or in which state agencies participate, shall be open to all qualified persons, without regard to sexual orientation.

(P.A. 91-58, S. 13.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81n. Sexual orientation discrimination: Allocation of state benefits.** (a) Sexual orientation shall not be considered as a limiting factor in state-administered programs involving the distribution of funds to qualify applicants for benefits authorized by law.

(b) No state agency may provide grants, loans or other financial assistance to public agencies, private institutions or organizations which discriminate, unless exempted as provided in section 46a-81p.

(P.A. 91-58, S. 14.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81o. Sexual orientation discrimination: Reports to Governor by state agencies.** (a) All departments, agencies, commissions and other bodies of the state government shall include in their annual report to the Governor, activities undertaken in the past year to effectuate sections 46a-81h to 46a-81n, inclusive.

(b) Such reports shall cover both internal activities and external relations with the public or with other state agencies and shall contain other information as specifically requested by the Governor.

(c) The information in the annual reports required under the provisions of this section shall be reviewed by the Commission on Human Rights and Opportunities for the purpose of monitoring compliance with the provisions of sections 46a-81h to 46a-81n, inclusive.

(P.A. 91-58, S. 15.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81p. Sexual orientation discrimination: Religious organizations.** The provisions of sections 4a-60a and 46a-81a to 46a-81o, inclusive, shall not apply to a religious corporation, entity, association, educational institution or society with respect to the employment of individuals to perform work connected with the carrying on by such corporation, entity, association, educational institution or society of its activities, or with respect to matters of discipline, faith, internal organization or ecclesiastical rule, custom or law which are established by such corporation, entity, association, educational institution or society.

(P.A. 91-58, S. 17.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81q. Sexual orientation discrimination: ROTC programs.** The provisions of sections 4a-60a and 46a-81a to 46a-81o, inclusive, shall not apply to the conduct and administration of a ROTC program established and maintained pursuant to 10 USC Sections 2101 to 2111, inclusive, as amended from time to time, and the regulations thereunder, at an institution of higher education. For purposes of this section, "ROTC" means the Reserve Officers' Training Corps.

(P.A. 91-58, S. 19.)

Cited. 236 C. 453. Gay rights law cited. Id.

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**Sec. 46a-81r. Sexual orientation discrimination: Construction of statutes.** Section 46a-81r is repealed, effective April 23, 2009.

(P.A. 91-58, S. 36; P.A. 07-142, S. 4; P.A. 09-13, S. 20.)

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## **PART III\***

### **DISCRIMINATORY PRACTICE COMPLAINT PROCEDURE**

\*Cited. 196 C. 208. Secs. 46a-82-46a-96 cited. 231 C. 328; 236 C. 681.

**Sec. 46a-82. (Formerly Sec. 31-127). Complaint: Filing.** (a) Any person claiming to be aggrieved by an alleged discriminatory practice, except for an alleged violation of section 4a-60g or 46a-68 or the provisions of sections 46a-68c to 46a-68f, inclusive, may, by himself or herself or by such person's attorney, make, sign and file with the commission a complaint in writing under oath, which shall state the name and address of the person alleged to have committed the discriminatory practice, and which shall set forth the particulars thereof and contain such other information as may be required by the commission. After the filing of a complaint pursuant to this subsection, the commission shall serve upon the person claiming to be aggrieved a notice that: (1) Acknowledges receipt of the complaint; and (2) advises of the time frames and choice of forums available under this chapter.

(b) The commission, whenever it has reason to believe that any person has been engaged or is engaged in a discriminatory practice, may issue a complaint, except for a violation of subsection (a) of section 46a-80.

(c) The commission, whenever it has reason to believe that any contractor or subcontractor is not complying with antidiscrimination statutes or contract provisions required under section 4a-60, 4a-60a or 4a-60g or the provisions of sections 46a-68c to 46a-68f, inclusive, may issue a complaint.

(d) The commission may issue a complaint if: (1) An affirmative action plan filed pursuant to section 46a-68 is in violation of any of the provisions of section 4-61u or 4-61w, sections 46a-54 to 46a-64, inclusive, section 46a-64c or sections 46a-70 to 46a-78, inclusive; or (2) an agency, department, board or commission fails to submit an affirmative action plan required under section 46a-68.

(e) Any employer whose employees, or any of them, refuse or threaten to refuse to comply with the provisions of section 46a-60 or 46a-81c may file with the commission a written complaint under oath asking for assistance by conciliation or other remedial action.

(f) Any complaint filed pursuant to this section must be filed within one hundred and eighty days after the alleged act of discrimination, except that any complaint by a person claiming to be aggrieved by a violation

of subsection (a) of section 46a-80 must be filed within thirty days of the alleged act of discrimination.

(1949 Rev., S. 7406; 1959, P.A. 334; February, 1965, P.A. 576; 1967, P.A. 715, S. 3; 1971, P.A. 547, S. 1; P.A. 74-54; P.A. 75-27; 75-214, S. 1, 2; P.A. 76-141, S. 1, 2; P.A. 80-422, S. 30; P.A. 83-569, S. 13, 17; P.A. 90-246, S. 9; P.A. 91-58, S. 28; P.A. 07-142, S. 5.)

History: 1959 act authorized the ordering of affirmative action and shortened period for filing complaint; 1965 act authorized commission to issue subpoenas requiring production of employment records related to complaint under investigation; 1967 act authorized commission counsel to present case supporting complaint at hearing; 1971 act changed composition of hearing tribunal from three commission members or a panel of hearing examiners to one commission member or one hearing examiner; P.A. 74-54 changed deadline for filing complaint from ninety to 180 days after alleged discriminatory act; P.A. 75-27 added provisos re liability for back pay and effect of interim earnings on award of back pay; P.A. 75-214 added provisions re effect of submission of claim to arbitration on filing of complaint and re use of arbitration decision as evidence; P.A. 76-141 deleted references to "preliminary" investigations; P.A. 80-422 substituted "discriminatory" for "unfair employment" practice where occurring, deleted detailed provisions re investigation and hearing procedures and orders made on basis of findings, designated remaining provisions as Subsecs. (a), (b), (d) and (e), inserted new Subsec. (c) re plans which fail to meet criteria or state agencies, etc. which fail to file plans, added exception re Sec. 4-61o(a) in Subsecs. (b) and (e) and substituted reference to Sec. 31-126 for "this chapter" in Subsec. (d); Sec. 31-127 transferred to Sec. 46a-82 in 1981 and internal section references changed as necessary to reflect their transfer; P.A. 83-569 amended Subsec. (c) to include references to violations of Secs. 4-61u and 4-61w; P.A. 90-246 amended Subsec. (a) by adding requirement that commission serve upon aggrieved person notice acknowledging receipt of complaint and advising of time frames and choice of forums available, and amended Subsec. (c) by adding reference to Sec. 46a-64c; P.A. 91-58 amended Subsec. (d) to add reference to Sec. 46a-81c; P.A. 07-142 amended Subsec. (a) by adding reference to Sec. 4a-60g and Secs. 46a-68c to 46a-68f, inclusive, added new Subsec. (c) re issuance of complaint whenever contractor or subcontractor is not complying with antidiscrimination statutes, required contract provisions or Secs. 46a-68c to 46a-68f, inclusive, redesignated existing Subsecs. (c), (d) and (e) as Subsecs. (d), (e) and (f) and made technical changes, effective July 1, 2007.

#### Annotations to former section 31-127:

Former limitation period of six months did not begin to run until expiration of period within which it could reasonably be expected that application would be acted upon. 140 C. 537. Where nothing in the record indicated consideration of commission's complaint by commission members, complaint did not contain the date of the alleged unfair practice as required by regulation and nowhere in the statement of facts, finding or conclusion of the hearing tribunal did it appear when the plaintiff was alleged to have committed the act charged, held the complaint and findings were defective and plaintiff's appeal from cease and desist order of commission's hearing tribunal should be sustained. 153 C. 174-176. Cited. Id., 652. Cited. 163 C. 327. Cited. 165 C. 318. Cited. 170 C. 327. Cited. 176 C. 291. Cited. 178 C. 700. Cited. 198 C. 479. Cited. 211 C. 464.

Order must be limited to unfair practice found to exist and should leave applicant free to determine whether or not he still seeks that employment; it should not be an affirmative order to employ the applicant. 17 CS 93. Former six months period of limitation cannot begin until the discrimination is established. 18 CS 131. Legislative intent was to impose mere administrative duty on chairman to appoint hearing tribunal after certification of complaint; no discretion involved; and only hearing tribunal can determine whether unfair employment practice exists. 27 CS 147. Attorney general has no authority to overrule investigator's certification. Id. Cited. 28 CS 344. Statute contemplates no determination of probable cause until after an investigation has been completed. 35 CS 565.

Annotations to present section:

Cited. 195 C. 226; Id., 543. Cited. 198 C. 479. Cited. 202 C. 601. Cited. 232 C. 91. Cited. 236 C. 250.

Cited. 3 CA 464.

Subsec. (a):

Cited. 202 C. 609.

Cited. 44 CA 446.

Statute does not require that specific statutory reference be stated in complaint. 46 CS 153.

Subsec. (b):

Cited. 211 C. 464.

Subsec. (c):

Cited. 211 C. 464.

Subsec. (e):

Cited. 211 C. 464. Filing requirement is not pure statute of limitations which may be raised only by a party as a special defense. Commission has standing to raise time limit issue due to its institutional responsibilities in the petition process, which are different from those of a court. 257 C. 258. Filing requirement is not subject matter jurisdictional; it is mandatory and subject to consent, waiver or equitable tolling. Id.

Subsec. is a mandatory time limitation and is jurisdictional. 54 CA 251. Filing period commences upon actual cessation of employment, rather than notice thereof. 103 CA 188.

Subsec. (f):

Statute of limitations began to run on the last day the plaintiff worked, not on the date of notice thereof. 289 C. 57.

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**Sec. 46a-82a. Resolution for complaints pending on January 1, 1990.** Any complaint filed pursuant to section 46a-82 and pending on January 1, 1990, shall be resolved not later than July 1, 1992, pursuant to sections 46a-82 to 46a-96, inclusive, of the general statutes, revision of 1958, revised to January 1, 1989.

(P.A. 89-332, S. 6, 7; P.A. 90-330, S. 1, 11.)

History: P.A. 90-330 amended section to change date of resolution of complaints from July 1, 1991, to



P.A. 89-332 Sec. 6 cited. 236 C. 681. P.A. 89-332 cited. Id.

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**Sec. 46a-82b. Jurisdiction over complaints filed on or before January 1, 1996. Release of complaint if failure to issue determination re reasonable cause not later than January 1, 1997.** (a) Notwithstanding any provision of the general statutes to the contrary, the Commission on Human Rights and Opportunities shall have jurisdiction over any complaint filed pursuant to section 46a-82 on or before January 1, 1996, which has not been finally adjudicated or resolved by action of the commission, that the commission would have had jurisdiction over but for the failure of the Commission on Human Rights and Opportunities to comply with the time requirements of chapter 814c.

(b) If the commission fails to issue a determination of reasonable cause or no reasonable cause on any such complaint not later than January 1, 1997, the executive director of the commission shall issue forthwith a release of the complaint from the commission, allowing the complainant to bring a civil action. Upon receipt of a release pursuant to this section, the complainant may bring a civil action in accordance with the provisions of sections 46a-100, 46a-101, 46a-103 and 46a-104, notwithstanding the statute of limitations pursuant to section 46a-102.

(P.A. 96-241, S. 1, 7.)

History: P.A. 96-241 effective June 6, 1996.

P.A. 96-241 intends that commission be provided with authority to proceed on all complaints in which it had not complied with deadlines set forth in of Sec. 46a-83(b) and Sec. 46a-84(b). 248 C. 392. P.A. 96-241 affects only choice of forum and does not affect substantive rights to a claim or defense. Id.

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**Sec. 46a-82c. Jurisdiction over complaints filed after January 1, 1996. Compliance with time requirements by June 30, 1996. Review time tolled if answer not timely received.** (a) Notwithstanding any provision of the general statutes to the contrary, the Commission on Human Rights and Opportunities shall have jurisdiction over any complaint filed pursuant to section 46a-82 after January 1, 1996, that the commission would have had but for the failure of the Commission on Human Rights and Opportunities to comply with the time requirements of section 46a-83 provided the commission takes action to comply with such time requirements with respect to such complaints not later than June 30, 1996.

(b) The time frame contained in subsection (b) of section 46a-83 to conduct a review of the file shall be tolled if an answer is not timely received from the date the respondent's answer is due pursuant to subsection (a) of section 46a-83 until the date the answer is actually received by the commission.

(P.A. 96-241, S. 2, 7.)

History: P.A. 96-241 effective June 6, 1996.

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**Sec. 46a-82d. Validation of actions filed on or before January 1, 1996, in which final judgment not entered. Petition to reopen action on or before October 1, 1996.** (a) Any action filed pursuant to section 46a-94a, 46a-95 or 4-183 concerning a complaint filed pursuant to section 46a-82 on or before January 1, 1996, in which a final judgment has not been entered prior to June 6, 1996, otherwise valid except for the failure of the Commission on Human Rights and Opportunities to comply with the time requirements of chapter 814c is validated.

(b) If any action filed pursuant to section 46a-94a, 46a-95 or 4-183 concerning a complaint filed pursuant to section 46a-82 on or before January 1, 1996, has failed to be tried on its merits because the action has been dismissed by the Superior Court for want of jurisdiction due to the failure of the Commission on Human Rights and Opportunities to comply with the time requirements of chapter 814c, a party to the action may, on or before October 1, 1996, petition the court to reopen such action. The court shall set aside the judgment and reinstate the case on the docket.

(P.A. 96-241, S. 3, 7.)

History: P.A. 96-241 effective June 6, 1996.

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**Sec. 46a-82e. Jurisdiction over complaints despite failure to comply with time requirements. Annual report. Delay in issuance of finding. Remedies. Court order.** (a) Notwithstanding the failure of the Commission on Human Rights and Opportunities to comply with the time requirements of sections 46a-83 and 46a-84 with respect to a complaint before the commission, the jurisdiction of the commission over any such complaint shall be retained.

(b) The commission shall report annually to the judiciary committee of the General Assembly and the Governor: (1) The number of cases in the previous fiscal year that exceeded the time frame, including authorized extensions, set forth in subsection (d) of section 46a-83; (2) the reasons for the failure to comply with the time frame; (3) the number of actions brought pursuant to subsection (d) of this section and the results thereof; and (4) the commission's recommendations for legislative action, if any, necessary for the commission to meet the statutory time frame.

(c) If a complaint has been pending for more than twenty-one months from the date of filing and the commission has not issued a finding of reasonable cause or no reasonable cause, the executive director shall send a notice by certified mail, return receipt requested, advising the complainant of his right to request a release of jurisdiction in accordance with section 46a-101. The executive director or his designee shall investigate the cause for the delay in issuing a finding. After such investigation, the executive director may, given the facts and circumstances of the case, schedule a date certain for issuance of a finding of reasonable

cause or no reasonable cause.

(d) (1) If a complaint has been pending for more than two years after the date of filing pursuant to section 46a-82, and if the investigator fails to issue a finding of reasonable cause or no reasonable cause by the date ordered by the executive director of the commission pursuant to subsection (c) of this section, the complainant or respondent may petition the superior court for the judicial district of Hartford for an order requiring the commission to issue a finding of reasonable cause or no reasonable cause by a date certain. The petitioner shall submit the petition on forms prescribed by the Office of the Chief Court Administrator.

(2) The clerk, upon receipt of the petition and if the clerk finds it to be in the proper form, shall fix a date for the hearing and sign the notice of hearing. The hearing date shall be no more than thirty days after the clerk signs the notice. Service shall be made on the commission and all persons named in the discriminatory practice complaint at least twenty days prior to the date of hearing by United States mail, certified or registered, postage prepaid, return receipt requested, without the use of a state marshal or other officer. Service on the commission shall be made on the executive director of the commission or a commission legal counsel. Within five days of service, the petitioner shall file with the court an affidavit stating the date and manner in which a copy of the petition was served and attach to the affidavit the return receipts indicating delivery of the petition.

(3) Within ten days after receipt of the petition, any party, including the commission, may file an answer. The commission and all persons named in the discriminatory practice complaint shall have the right to appear and be heard at the hearing.

(4) If the commission and parties agree on a date certain, the court shall order the commission to issue a finding by said date. If the allegations of the petition are contested, the court shall hold a hearing on the petition and issue an appropriate order. Hearing of oral argument on the petition shall take precedence over other matters in the court, as provided in section 46a-96. The court shall award court costs and attorney's fees to the petitioner, provided such party is a "person", as defined in section 4-184a, unless the commission shows good cause for not issuing the finding of reasonable cause or no reasonable cause within two years of the date of filing or the date ordered by the executive director for the investigator to issue such finding, whichever is later. An award of court costs and attorney's fees shall be subject to the court's discretion, but shall not exceed a total of five hundred dollars.

(5) This subsection shall not apply to complaints initiated by the commission or to pattern or practice or systemic cases.

(P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 98-245, S. 8, 14; P.A. 00-99, S. 89, 154; June 30 Sp. Sess. P.A. 03-6, S. 192; P.A. 05-288, S. 156.)

History: P.A. 98-245 effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date (Revisor's note: P.A. 88-230, 90-98, 93-142 and 95-220 authorized substitution of "judicial district of Hartford" for "judicial district of Hartford-New Britain at Hartford" in public and special acts of the 1998 regular and special sessions of the General Assembly, effective September 1, 1998); P.A. 00-99 amended Subsec. (d)(2) by replacing reference to sheriff with state marshal, effective December 1, 2000; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (d)(2) to replace "the commission counsel" with "a commission legal counsel", effective August 20, 2003; P.A. 05-288 made a technical change in Subsec. (d)(4), effective July 13, 2005.

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**Sec. 46a-83. Complaint: Review; dismissal; investigation; finding; reconsideration; attempt to eliminate discriminatory practice; default order.** (a) Within twenty days after the filing of any discriminatory practice complaint pursuant to subsection (a) or (b) of section 46a-82, or an amendment to such complaint adding an additional respondent, the commission shall cause the complaint to be served upon the respondent together with a notice (1) identifying the alleged discriminatory practice, and (2) advising of the procedural rights and obligations of a respondent under this chapter. The respondent shall file a written answer to the complaint under oath with the commission within thirty days of receipt of the complaint, provided a respondent may request, and the commission may grant, for good cause shown, one extension of time of fifteen days within which to file an answer to a complaint. The answer to any complaint alleging a violation of section 46a-64c or 46a-81e shall be filed within ten days of receipt.

(b) Within ninety days of the filing of the respondent's answer to the complaint, the executive director or the executive director's designee shall review the file. The review shall include the complaint, the respondent's answer and the responses to the commission's requests for information, if any, and the complainant's comments, if any, to the respondent's answer and information responses. If the executive director or the executive director's designee determines that the complaint fails to state a claim for relief or is frivolous on its face, that the respondent is exempt from the provisions of this chapter or that there is no reasonable possibility that investigating the complaint will result in a finding of reasonable cause, the complaint shall be dismissed. This subsection shall not apply to any complaint alleging a violation of section 46a-64c or 46a-81e. The executive director shall report the results of the executive director's determinations pursuant to this subsection to the commission quarterly during each year.

(c) The executive director of the commission or his designee shall determine the most appropriate method for processing any complaint pending after review in accordance with subsection (b) of this section. The commission may conduct mandatory mediation sessions, expedited or extended fact-finding conferences or complete investigations or any combination thereof during the investigatory process for the purpose of finding facts, promoting the voluntary resolution of complaints or determining if there is reasonable cause for believing that a discriminatory practice has been or is being committed as alleged in the complaint. As used in this section and section 46a-84, reasonable cause means a bona fide belief that the material issues of fact are such that a person of ordinary caution, prudence and judgment could believe the facts alleged in the complaint. A complaint may be dismissed if a complainant, after notice and without good cause, fails to attend a mandatory mediation session. A mediator may recommend, but not order, a resolution of the complaint. A complaint may be dismissed if the respondent has eliminated the discriminatory practice complained of, taken steps to prevent a like occurrence in the future and offered full relief to the complainant, even though the complainant has refused such relief.

(d) (1) Before issuing a finding of reasonable cause or no reasonable cause, the investigator shall afford each party and his representative an opportunity to provide written or oral comments on all evidence in the commission's file, except as otherwise provided by federal law or any other provision of the general statutes. The investigator shall consider such comments in making his determination. The investigator shall make a finding of reasonable cause or no reasonable cause in writing and shall list the factual findings on which it is based not later than one hundred ninety days from the date of the determination based on the review of the complaint, conducted pursuant to subsection (b) of this section, except that for good cause shown, the executive director or his designee may grant no more than two extensions of the investigation of three months each.

(2) If the investigator makes a determination that there is reasonable cause to believe that a violation of

section 46a-64c has occurred, the complainant and the respondent shall have twenty days from receipt of notice of the reasonable cause finding to elect a civil action in lieu of an administrative hearing pursuant to section 46a-84. If either the complainant or the respondent requests a civil action, the commission, through the Attorney General or a commission legal counsel, shall commence an action pursuant to subsection (b) of section 46a-89 within ninety days of receipt of the complainant's or the respondent's notice of election of a civil action. If the Attorney General or a commission legal counsel, and a commissioner, believe that injunctive relief, punitive damages or a civil penalty would be appropriate, such relief, damages or penalty may also be sought pursuant to said subsection. Any civil action brought under this subdivision shall be limited to such claims, counterclaims, defenses or the like that would be required for the commission to have jurisdiction over the complaint had the complaint remained with the commission for disposition. If the Attorney General or a commission legal counsel determines that a material mistake of law or fact has been made in such finding of reasonable cause, the Attorney General or a commission legal counsel may decline to bring a civil action and, in such case, shall remand the file to the investigator for further action. The investigator shall complete any such action not later than ninety days after receipt of such file.

(e) If the investigator issues a finding of no reasonable cause or if the complaint is dismissed (1) for failure to state a claim for relief, (2) because it is frivolous on its face, (3) because the respondent is exempt from the provisions of this chapter, or (4) because there is no reasonable possibility that investigating the complaint will result in a finding of reasonable cause or if the complaint is dismissed pursuant to subsection (c) of this section, the complainant may request reconsideration of such finding or dismissal with the executive director of the commission, or the executive director's designee, not later than fifteen days from the issuance of such finding or dismissal. The executive director of the commission, or the executive director's designee, shall reconsider or reject within ninety days of the issuance of such finding or dismissal. The executive director of the commission, or the executive director's designee, shall conduct such additional proceedings as may be necessary to render a decision on the request for reconsideration.

(f) Upon a determination that there is reasonable cause to believe that a discriminatory practice has been or is being committed as alleged in the complaint, an investigator shall attempt to eliminate the practice complained of by conference, conciliation and persuasion within fifty days of a finding of reasonable cause. The refusal to accept a settlement shall not be grounds for dismissal of any complaint.

(g) No commissioner or employee of the commission may disclose, except to the parties or their representatives, what has occurred in the course of such endeavors provided the commission may publish the facts in the case and any complaint which has been dismissed and the terms of conciliation when a complaint has been adjusted. Each party and his representative shall have the right to inspect and copy documents, statements of witnesses and other evidence pertaining to his complaint, except as otherwise provided by federal law or any other provision of the general statutes.

(h) In the investigation of any complaint filed pursuant to this chapter, the commission may issue subpoenas requiring the production of records and other documents relating to the complaint under investigation.

(i) The executive director of the commission or his designee may enter an order of default against a respondent (1) who, after notice, fails to answer a complaint in accordance with subsection (a) of this section or within such extension of time as may have been granted or (2) who fails to answer interrogatories issued pursuant to subdivision (11) of section 46a-54 or fails to respond to a subpoena issued pursuant to subsection (h) of this section and subdivision (9) of section 46a-54, provided the executive director or his designee shall consider any timely filed objection or (3) who, after notice and without good cause, fails to attend a mandatory mediation session. Upon entry of an order of default, the executive director or his designee shall appoint a presiding officer to enter, after notice and hearing, an order eliminating the discriminatory practice

complained of and making the complainant whole. The commission or the complainant may petition the Superior Court for enforcement of any order for relief pursuant to section 46a-95.

(P.A. 80-422, S. 31; P.A. 89-332, S. 4, 7; P.A. 90-246, S. 10; P.A. 91-58, S. 29; 91-302, S. 3, 5; P.A. 92-257, S. 3; P.A. 94-238, S. 1, 6; May 25 Sp. Sess. P.A. 94-1, S. 114, 130; P.A. 96-241, S. 4, 7; P.A. 98-245, S. 2, 14; P.A. 00-12, S. 1, 2; June 30 Sp. Sess. P.A. 03-6, S. 193; P.A. 05-201, S. 3; P.A. 07-142, S. 6.)

History: P.A. 89-332 revised entire section to provide for service of complaint upon respondent, fact-finding conferences during investigatory process, definition of "reasonable cause", opportunity for written or oral comments on all evidence in commission's file, finding of reasonable cause within 9 months of filing of complaint, with single 3-month extension for good cause shown, reconsideration of finding of no reasonable cause within 90 days of finding, conciliation attempts within 60 days of finding of reasonable cause and disclosure of evidence pertaining to complaint to party or his representative; P.A. 90-246 amended Subsec. (a) by adding requirement that commission serve upon respondent, within 10 days of receipt of complaint or amendment adding additional respondent, notice identifying alleged discriminatory practice and advising re procedural rights and obligations of respondent, and requiring that the answer to any complaint alleging violation of Sec. 46a-64c may be filed within 10 days of receipt; P.A. 91-58 amended Subsec. (a) to add reference to a violation of Sec. 46a-81e; P.A. 91-302 amended Subsec. (a) by changing "may" to "shall" after "respondent", increasing the amount of time to file an answer to complaint from 15 to 30 days after receipt, changing "chairman of the commission" to "executive director of the commission" and deleting "a commissioner or" before "investigator", amended Subsec. (b) by deleting "commissioner or" before "investigator" and changing "commission" to "executive director or his designee", amended Subsecs. (c), (d) and (e) by deleting "commissioner or" before "investigator", and added a new Subsec. (g) re entry of order of default by executive director against respondent who fails to answer complaint or interrogatories or fails to respond to subpoena, entry of order by presiding officer eliminating discriminatory practice and enforcement by superior court; P.A. 92-257 amended Subsec. (b) by adding provision re election of civil action in lieu of administrative hearing; P.A. 94-238 inserted new Subsec. (b) re review of complaint by executive director or his designee and dismissal of claim if finding that claim fails to state claim for relief or is frivolous or that no reasonable possibility that investigation will result in reasonable cause, exempting provisions of Subsec. (b) from alleged violations of Sec. 46a-64c or 46a-81e and making provisions applicable to complaints pending assignment to investigator on or before January 1, 1995, created new Subsec. (c) from existing provisions formerly in Subsec. (a), adding provisions re (1) determining most appropriate method for processing complaint, including mandatory mediation sessions, expedited or extended fact-finding, complete investigations or combination thereof and (2) grounds for dismissal, relettering former Subsecs. (b) to (g), accordingly, amended Subsec. (e) by adding provision re request for reconsideration of dismissal and amended Subsec. (i) by adding failure to attend mandatory mediation session as grounds for order of default against respondent, effective July 1, 1994; May 25 Sp. Sess. P.A. 94-1 amended Subsec. (e) by making technical change in Subsec. (e), effective July 1, 1994; P.A. 96-241 amended Subsec. (d) by changing 9 to 12 months for finding of reasonable cause and changed single extension to no more than two extensions, effective June 6, 1996; P.A. 98-245 amended Subsec. (a) changing 10 days to 20 days and providing for extension for good cause shown for 15 days within which to file an answer to the complaint, amended Subsec. (b) by adding "the respondent's answer to the complaint", amended Subsec. (d) reduced 12 months to 190 days from the date of determination based on review of the complaint, amended Subsec. (e) re reconsideration by executive director or his designee and amended Subsec. (i) permitting complainant to petition court for enforcement of order for relief, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date; P.A. 00-12 amended Subsec. (b) to require the complaint be dismissed if the respondent is exempt from the provisions of this chapter and to make technical changes for purposes of gender neutrality and amended Subsec. (e) to add new Subdiv. (3) re the dismissal of the complaint because the respondent is exempt from the provisions of this chapter, redesignating former Subdiv. (3) as new Subdiv. (4), and to make technical changes for purposes of gender

neutrality; June 30 Sp. Sess. P.A. 03-6 amended Subsec.(d) to replace "the commission counsel" with "a commission legal counsel", effective August 20, 2003; P.A. 05-201 amended Subsec. (d) by dividing provisions into Subdivs. (1) and (2) and, in Subdiv. (2), increasing time period for commencing action from within 45 days to within 90 days of receipt of notice of election and adding provisions re injunctive relief, punitive damages and civil penalty, limitation of civil action to jurisdictional claims, counterclaims and defenses and remand of file to investigator for further action, effective July 6, 2005; P.A. 07-142 amended Subsec. (a) by adding reference to complaint filed pursuant to Sec. 46a-82(a) or (b) and inserting "to such complaint", effective July 1, 2007.

Cited. 220 C. 307. Cited. 228 C. 545. Cited. 231 C. 328. Cited. 232 C. 91; Id., 117. Cited. 233 C. 28. Cited. 236 C. 96; Id., 250; Id., 681. P.A. 89-332 Sec. 4 cited. Id. P.A. 89-332 cited. Id. Cited. 237 C. 209.

Cited. 3 CA 464. Cited. 15 CA 569. Cited. 35 CA 474. As previously held, "reasonable cause" is synonymous with the term "probable cause". 57 CA 767.

Subsec. (a):

Cited. 196 C. 208. Cited. 202 C. 601. Cited. 220 C. 192.

Cited. 4 CA 423.

Subsec. (b):

Cited. 220 C. 192.

Cited. 38 CA 506.

Subsec. (c):

Cited. 211 C. 129.

Subsec. (d):

Cited (as Subsec. (b) and as section in effect in `93 throughout). 236 C. 681. Time limits set forth in section are mandatory. Id.

Complainant has right to intervene in action brought by commission under Subdiv. (2). 117 CA 30.

Subsec. (f):

Cited. 45 CA 476.

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**Sec. 46a-83a. Right of appeal by complainant. Request for reconsideration by complainant.** (a) If a complaint is dismissed pursuant to subsection (b) of section 46a-83, or is dismissed for failure to accept full relief pursuant to subsection (c) of said section, and the complainant does not request reconsideration of such

dismissal as provided in subsection (e) of said section, the executive director of the commission shall issue a release and the complainant may, within ninety days of receipt of the release from the commission, bring an action in accordance with sections 46a-100 and 46a-102 to 46a-104, inclusive.

(b) The executive director of the commission may, upon the complainant's request, issue a release from the commission if (1) a complaint is dismissed pursuant to subsection (b) of section 46a-83, and (2) the complainant requests reconsideration of the dismissal and the reconsideration request has been granted or denied, or the reconsideration request has not yet been acted upon in accordance with subsection (e) of section 46a-83. Whenever a reconsideration request has been granted or denied, a request for a release from the commission shall be made within fifteen days of receipt of the notice granting or denying such reconsideration request. The complainant may, within ninety days of receipt of the release from the commission, bring an action in accordance with section 46a-100 and sections 46a-102 to 46a-104, inclusive.

(P.A. 94-238, S. 3, 6; P.A. 98-245, S. 3, 14; P.A. 01-95, S. 1, 4; P.A. 06-196, S. 217.)

History: P.A. 94-238 effective July 1, 1994 (Revisor's note: In 1995 an incorrect reference to Sec. 4-181 was changed editorially by the Revisors to Sec. 4-183); P.A. 98-245 added provisions that complaint may be dismissed for failure to accept full relief and if complainant does not request reconsideration, the executive director shall issue a release and complainant may bring an action within 90 days of receipt of release, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date; P.A. 01-95 designated existing provisions as Subsec. (a) and added Subsec. (b) re reconsideration requests by the complainant and time limitations for complainant to request a release from the commission and to bring an action, effective July 1, 2001; P.A. 06-196 made technical changes in Subsec. (a), effective June 7, 2006.

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**Sec. 46a-83b. Alternative dispute resolution. Procedure. Binding arbitration. Voluntary mediation. Costs. Regulations.** (a) After the filing of a discriminatory employment practice complaint, the Commission on Human Rights and Opportunities shall advise the complainant and the respondent of the availability of alternate dispute resolution, including but not limited to, voluntary mediation or binding arbitration.

(b) If both parties agree to enter into alternate dispute resolution, they shall file with the commission a signed agreement stating (1) their intention to utilize alternate dispute resolution, (2) the type of alternate dispute resolution they intend to use and (3) the name of the alternate dispute resolution service provider or company. If the parties have agreed to submit the complaint to binding arbitration, the complainant shall attach a signed withdrawal of the complaint with prejudice.

(c) Within ten days of the receipt of the signed agreement to submit the complaint to binding arbitration and of the withdrawal, the commission shall notify the parties of its agreement to accept such arbitration or of its intention to pursue the complaint for public policy reasons. Upon the completion of the arbitration proceedings, the commission shall accept the withdrawal by the complainant and dismiss the complaint.

(d) Within ten days of receipt of a signed agreement to submit the complaint to voluntary mediation, the commission shall notify the parties of its suspension of processing of the complaint for no more than three months to allow the parties to pursue voluntary mediation or of its intention to pursue the complaint for public policy reasons.



(e) The costs of alternate dispute resolution shall be borne by the complainant or the respondent or both and not by the commission.

(f) The commission may adopt regulations, in accordance with chapter 54, to implement this section and to establish procedures and standards for alternate dispute resolution.

(P.A. 94-113, S. 1, 2; P.A. 03-143, S. 1.)

History: P.A. 94-113 effective May 25, 1994; P.A. 03-143 amended Subsec. (f) by changing "shall" to "may" and making technical changes.

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**Sec. 46a-84. Complaint: Certification; hearing; settlement or alternate dispute resolution endeavors; default order.** (a) If the investigator fails to eliminate a discriminatory practice complained of pursuant to subsection (a) or (b) of section 46a-82 within fifty days of a finding of reasonable cause, the investigator shall, within ten days, certify the complaint and the results of the investigation to the executive director of the commission and to the Attorney General.

(b) Upon certification of a complaint filed pursuant to subsection (a) or (b) of section 46a-82, or upon the filing of a complaint pursuant to subsection (c) of said section, the Chief Human Rights Referee shall appoint, for a complaint filed pursuant to said subsection (a) or (b), a hearing officer, hearing adjudicator or human rights referee, and for a complaint filed pursuant to said subsection (c), a hearing officer or human rights referee, to act as a presiding officer to hear the complaint or to conduct settlement negotiations and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the presiding officer or hearing adjudicator at a time and place to be specified in the notice. A hearing on a complaint filed pursuant to subsection (a) or (b) of section 46a-82 shall be commenced by convening a hearing conference not later than forty-five days after the certification of the complaint. Such hearing shall be a de novo hearing on the merits of the complaint and not an appeal of the commission's processing of the complaint prior to its certification. A hearing on a complaint filed pursuant to subsection (c) of section 46a-82 shall be commenced by convening a hearing conference not later than twenty days after the date of notice of such complaint. Hearings shall proceed with reasonable dispatch and be concluded in accordance with the provisions of section 4-180.

(c) The place of any hearing may be the office of the commission or another place designated by the commission.

(d) The case in support of the complaint shall be presented at the hearing by the Attorney General, who shall be counsel for the commission, or by a commission legal counsel as provided in section 46a-55, as the case may be. If the Attorney General or the commission legal counsel determines that a material mistake of law or fact has been made in the finding of reasonable cause on a complaint filed pursuant to subsection (a) or (b) of section 46a-82, the Attorney General or the commission legal counsel may withdraw the certification of the complaint and remand the file to the investigator for further action. The complainant may be represented by an attorney of the complainant's own choice. If the Attorney General or the commission legal counsel, as the case may be, determines that the interests of the state will not be adversely affected, the

attorney for the complainant shall present all or part of the case in support of the complaint. No commissioner may participate in the deliberations of the presiding officer in the case.

(e) A hearing officer, hearing adjudicator, human rights referee or attorney who volunteers service pursuant to subdivision (18) of section 46a-54 may supervise settlement endeavors, or, in employment discrimination cases only, the complainant and respondent, with the permission of the commission, may engage in alternate dispute resolution endeavors for not more than three months. The cost of such alternate dispute resolution endeavors shall be borne by the complainant or the respondent, or both, and not by the commission. Any endeavors or negotiations for conciliation, settlement or alternate dispute resolution shall not be received in evidence.

(f) The respondent may file a written answer to the complaint under oath and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. If the respondent fails to file a written answer prior to the hearing within the time limits established by regulation adopted by the commission in accordance with chapter 54 or fails to appear at the hearing after notice in accordance with section 4-177, the presiding officer or hearing adjudicator may enter an order of default and order such relief as is necessary to eliminate the discriminatory practice and make the complainant whole. The commission or the complainant may petition the Superior Court for enforcement of any such order for relief pursuant to the provisions of section 46a-95.

(g) The presiding officer or hearing adjudicator conducting any hearing shall permit reasonable amendment to any complaint or answer and the testimony taken at the hearing shall be under oath and be transcribed at the request of any party.

(P.A. 80-422, S. 32; P.A. 88-317, S. 100, 107; P.A. 89-332, S. 5, 7; P.A. 91-302, S. 4, 5; P.A. 93-362, S. 3; P.A. 94-238, S. 2, 6; P.A. 96-241, S. 5, 7; P.A. 98-245, S. 4, 14; P.A. 03-19, S. 100; 03-143, S. 2; June 30 Sp. Sess. P.A. 03-6, S. 194; P.A. 07-142, S. 7.)

History: P.A. 88-317 substituted "hearing officer" for "hearing examiner" in Subsec. (b) and "presiding officer" for "hearing officer" in Subsecs. (b), (d) and (g), effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 89-332 amended Subsec. (a) to require commissioner or investigator to certify complaint if he fails to eliminate discriminatory practice within 45 days of finding of reasonable cause, amended Subsec. (b) to require hearing to be held not later than 90 days of finding of reasonable cause, amended Subsec. (d) to provide complainant may be represented by attorney of own choice, and amended Subsec. (f) to require respondent's written answer to be under oath; P.A. 91-302 amended Subsec. (a) by deleting "commissioner or" before "investigator" and changing "chairman" to "executive director", amended Subsec. (b) by changing "chairman" to "executive director or his designee" and deleting "or one member of the commission" after "hearing officer", amended Subsec. (d) by deleting "who previously made the investigation or caused the notice to be issued may participate in the hearing except as a witness, nor" after "commissioner", amended Subsec. (f) by adding provision re entry of order of default and order of such relief as necessary to eliminate discriminatory practice by presiding officer if respondent fails to file written answer or fails to appear and enforcement of order by superior court, and amended Subsec. (g) by changing "may" to "shall" before "permit"; P.A. 93-362 added "or hearing adjudicator" after "hearing officer", added provision that hearing shall be de novo hearing on the merits of complaint and not appeal of commission's processing of complaint prior to its certification, added provision that attorney general or commission counsel may allow attorney for complainant to present all or part of the case in support of the complaint, if interests of state will not be adversely affected, and added Subsec. (e) re supervision of settlement endeavors and alternative dispute resolution endeavors in employment discrimination cases only, where complainant and respondent agree; P.A. 94-238 amended Subsec. (d) by adding provision re determination of material mistake of law or fact and withdrawal of certification, effective

July 1, 1994; P.A. 96-241 amended Subsec. (b) changing reference to hearings "held" to hearings "commenced by convening a hearing conference" and added provision that hearing shall proceed with reasonable dispatch and conclude in accordance with 4-180, effective June 6, 1996; P.A. 98-245 amended Subsec. (a) changing 45 to 50 days and providing 10 days to certify the complaint and amended Subsec. (b) to provide for hearing conference not later than 45 days after certification of the complaint, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date; P.A. 03-19 made a technical change in Subsec. (e), effective May 12, 2003; P.A. 03-143 amended Subsec. (d) by replacing provision re complainant's attorney may be allowed to present all or part of case with provision re complainant's attorney shall present all or part of case; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (d) to authorize presentation of case by "a commission legal counsel" rather than "the commission counsel" and replace subsequent references to "the commission counsel" with "the commission legal counsel", effective August 20, 2003; P.A. 07-142 amended Subsecs. (a), (b) and (d) to distinguish between procedures for complaints filed pursuant to Sec. 46a-82(a) or (b) and procedures for complaints filed pursuant to Sec. 46a-82(c), replaced "executive director of the commission or his designee" with "Chief Human Rights Referee" in Subsec. (b) and made technical changes, effective July 1, 2007.

Cited. 196 C. 208. Cited. 220 C. 307. Cited. 228 C. 545. Cited. 236 C. 96; Id., 250. P.A. 89-332 cited. Id., 681. Cited. 237 C. 209.

Cited. 3 CA 464. Cited. 4 CA 423. Cited. 5 CA 643. Cited. 15 CA 569.

Subsec. (a):

Cited. 220 C. 192.

Subsec. (b):

Cited. 205 C. 324. Cited. 232 C. 181. Time limits set forth in section are mandatory. 236 C. 681.

Subsec. (d):

Cited. 205 C. 324.

Subsec. (e):

Cited. 220 C. 192.

Subsec. (f):

Cited. 18 CA 126.

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**Sec. 46a-85. Complaint: Effect of arbitration proceeding.** (a) The submission of a claim to the arbitration process shall not bar a person from filing a complaint under this chapter.

(b) The commission and the presiding officer may admit in evidence any decision resulting from such

arbitration and accord it the weight appropriate under the facts and circumstances of the case.

(P.A. 80-422, S. 33; P.A. 88-317, S. 101, 107.)

History: P.A. 88-317 substituted "presiding officer" for "hearing officer" in Subsec. (b), effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date.

Cited. 3 CA 464.

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**Sec. 46a-86. Complaint: Determination; orders; dismissal. Treatment of discrimination awards.** (a)

If, upon all the evidence presented at the hearing conducted pursuant to section 46a-84, the presiding officer finds that a respondent has engaged in any discriminatory practice, the presiding officer shall state the presiding officer's findings of fact and shall issue and file with the commission and cause to be served on the respondent an order requiring the respondent to cease and desist from the discriminatory practice and further requiring the respondent to take such affirmative action as in the judgment of the presiding officer will effectuate the purpose of this chapter.

(b) In addition to any other action taken under this section, upon a finding of a discriminatory employment practice, the presiding officer may order the hiring or reinstatement of employees, with or without back pay, or restoration to membership in any respondent labor organization, provided, liability for back pay shall not accrue from a date more than two years prior to the filing or issuance of the complaint and, provided further, interim earnings, including unemployment compensation and welfare assistance or amounts which could have been earned with reasonable diligence on the part of the person to whom back pay is awarded shall be deducted from the amount of back pay to which such person is otherwise entitled. The amount of any such deduction for interim unemployment compensation or welfare assistance shall be paid by the respondent to the commission which shall transfer such amount to the appropriate state or local agency.

(c) In addition to any other action taken under this section, upon a finding of a discriminatory practice prohibited by section 46a-58, 46a-59, 46a-64, 46a-64c, 46a-81b, 46a-81d or 46a-81e, the presiding officer shall determine the damage suffered by the complainant, which damage shall include, but not be limited to, the expense incurred by the complainant for obtaining alternate housing or space, storage of goods and effects, moving costs and other costs actually incurred by the complainant as a result of such discriminatory practice and shall allow reasonable attorney's fees and costs.

(d) In addition to any other action taken under this section, upon a finding of a discriminatory practice prohibited by section 46a-66 or 46a-81f, the presiding officer shall issue and file with the commission and cause to be served on the respondent an order requiring the respondent to pay the complainant the damages resulting from the discriminatory practice.

(e) In addition to any other action taken under this section, upon a finding of noncompliance with antidiscrimination statutes or contract provisions required under section 4a-60 or 4a-60a or the provisions of sections 46a-68c to 46a-68f, inclusive, the presiding officer shall issue and file with the commission and cause to be served on the respondent an order with respect to any remedial action imposed by the presiding officer pursuant to subsection (c) or (d) of section 46a-56.

(f) If, upon all the evidence and after a complete hearing, the presiding officer finds that the respondent has not engaged in any alleged discriminatory practice, the presiding officer shall state the presiding officer's findings of fact and shall issue and file with the commission and cause to be served on the respondent an order dismissing the complaint.

(g) Any payment received by a complainant under this chapter or under any equivalent federal antidiscrimination law, either as a settlement of a claim or as an award made in a judicial or administrative proceeding, shall not be considered as income, resources or assets for the purpose of determining the eligibility of or amount of assistance to be received by such person in the month of receipt or the three months following receipt under the state supplement program, Medicaid or any other medical assistance program, temporary family assistance program, state-administered general assistance program, or the temporary assistance for needy families program. After such time period, any remaining funds shall be subject to state and federal laws governing such programs, including, but not limited to, provisions concerning individual development accounts, as defined in section 31-51ww.

(P.A. 80-422, S. 34; 80-449, S. 4, 6; P.A. 81-81, S. 5; P.A. 85-179; P.A. 88-317, S. 102, 107; P.A. 90-246, S. 11; P.A. 91-58, S. 30; P.A. 93-362, S. 4; P.A. 05-280, S. 45; June Sp. Sess. P.A. 05-3, S. 80; P.A. 07-142, S. 8.)

History: P.A. 80-449 made technical changes in Subsec. (c); P.A. 81-81 amended subsec. (c) by adding reference to Sec. "47a-2a" which was subsequently transferred and redesignated Sec. 46a-64a; P.A. 85-179 amended Subsec. (b) by adding provision requiring the respondent to pay the amount of any deduction for interim unemployment compensation or welfare assistance to the commission for transfer to the appropriate agency; P.A. 88-317 substituted "presiding officer" for "hearing officer" throughout the section, effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 90-246 amended Subsec. (c) by deleting reference to Sec. 46a-64a and adding reference to Sec. 46a-64c and changing provision that damage shall include attorney's fees actually incurred to allowing reasonable attorney's fees and costs; P.A. 91-58 amended Subsec. (c) to add reference to Secs. 46a-81b, 46a-81d and 46a-81e and amended Subsec. (d) to add reference to Sec. 46a-81f; P.A. 93-362 amended Subsec. (e) by adding "and after a complete hearing" after "evidence"; P.A. 05-280, S. 45 re treatment of discrimination payment awards by Department of Social Services in determining eligibility of or amount of assistance to be received by complainant under chapter was added editorially by the Revisors as Subsec. (f); June Sp. Sess. P.A. 05-3 changed effective date of P.A. 05-280, S. 45 from October 1, 2005, to July 1, 2005, effective July 1, 2005; P.A. 07-142 added new Subsec. (e) re order with respect to remedial action imposed pursuant to Sec. 46a-56(c) or (d), redesignated existing Subsecs. (e) and (f) as Subsecs. (f) and (g) and made technical changes, effective July 1, 2007.

See Sec. 17b-93 re claim of the state for repayment of aid.

Cited. 188 C. 44. Cited. 196 C. 208. Cited. 202 C. 609. Cited. 204 C. 287. Cited. 211 C. 464. Section does not authorize award of damages for emotional distress and attorney's fees for violation of Sec. 46a-60(a)(1). 232 C. 91. Cited. Id., 117. Cited. 237 C. 209. Cited. 238 C. 337.

Cited. 3 CA 464. Cited. 4 CA 423. Cited. 5 CA 643. Cited. 44 CA 446.

Subsec. (a):

Cited. 205 C. 324. Cited. 236 C. 681.

Cited. 15 CA 569.

Hearing officer's remedy went far beyond intent of legislature. 39 CS 528.

Subsec. (b):

Statute authorizes award of back pay regardless of whether reinstatement is ordered, and since primary purpose of subsection is to make whole an employee who has suffered economic harm as a result of workplace discrimination, award of prejudgment and postjudgment interest is also authorized. 265 C. 127.

Subsec. (c):

Cited. 201 C. 350. Commission on Human Rights and Opportunities had authority to vindicate African-American senior student's rights against racial discrimination in the public schools. In the event that such discrimination was found contrary to defendant's claim, jurisdiction to adjudicate claim of racial discrimination in a public school is not vested exclusively in state board of education pursuant to Secs. 10-4b and 10-15c. 270 C. 665. Award of compensatory damages for a violation of Sec. 46a-58 authorized. Id. The right to litigate fully the reasonableness of attorney's fees entitles opposing party to question under oath billing attorney who has submitted an affidavit in support of the requested fees in order to challenge reasonableness of those fees. 285 C. 208.

Subsec. (d):

Cited. 205 C. 324.

Subsec. (e):

Cited. 205 C. 324. Cited. 232 C. 181.

Cited. 15 CA 569.

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**Sec. 46a-86a. Notice of any action or proceeding concerning complaint.** The Commission on Human Rights and Opportunities shall inform a complainant of any finding, closure, dismissal or other determination or proceeding concerning the complaint filed by such complainant by mail.

(P.A. 94-238, S. 5, 6.)

History: P.A. 94-238 effective July 1, 1994.

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**Sec. 46a-87. Enforcement of subpoena.** (a) Contumacy or refusal to obey subpoena issued pursuant to this chapter shall constitute contempt punishable, upon the application of the authority issuing such subpoena,

by the Superior Court for the judicial district in which the hearing is held or in which the witness resides or transacts business.

(b) No person may be excused from attending and testifying or from producing records, correspondence, documents or other evidence in obedience to subpoena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

(P.A. 80-422, S. 35.)

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**Sec. 46a-88. Enforcement of interrogatories.** (a) Upon failure of any person to answer interrogatories issued pursuant to subsection (11) of section 46a-54, the commission may file a petition with the interrogatories attached with the Superior Court of the judicial district in which the violation is alleged to have occurred or where such person resides or transacts business, requesting the court to order that an answer be filed.

(b) The commission shall cause a copy of the petition provided for in subsection (a) of this section to be sent by registered or certified mail to the person from whom such answers are sought or his legal representative.

(c) The court shall assume jurisdiction over the proceedings provided for in this section and may, after hearing, or in the absence of objection, enter an order which it deems appropriate.

(d) The proceedings provided for in this section shall conform to the rules of practice of the Superior Court.

(P.A. 80-422, S. 36.)

History: (Revisor's note: In 1993 a reference in Subsec. (a) to "subsection (10) of section 46a-54" was changed editorially by the Revisors to "subsection (11) of section 46a-54" to reflect the renumbering of Sec. 46a-54 by P.A. 89-332, S. 2 in 1991).

Cited. 202 C. 601; Id., 609.

Cited. 18 CA 126.

Subsec. (a):

Cited. 211 C. 129.

**Sec. 46a-89. (Formerly Sec. 31-127a). Petition for temporary injunctive relief re discriminatory employment practices. Petition for injunctive relief, punitive damages or civil penalty re discriminatory housing or public accommodations practices.** (a)(1) Whenever a complaint is filed with or by the commission pursuant to section 46a-82 alleging a violation of section 46a-60 or 46a-81c, and a commissioner believes, upon review and the recommendation of the investigator assigned, that equitable relief is required to prevent irreparable harm to the complainant, the commissioner may bring a petition in equity in the superior court for the judicial district in which the discriminatory practice which is the subject of the complaint occurred or the judicial district in which the respondent resides, provided this subdivision shall not apply to complaints against employers with less than fifty employees.

(2) The petition shall seek appropriate temporary injunctive relief against the respondent pending final disposition of the complaint pursuant to the procedures set forth in this chapter. The injunctive relief may include an order temporarily restraining the respondent from doing any act that would render ineffectual any order a presiding officer may render with respect to the complaint.

(3) Upon service on the respondent of notice pursuant to section 46a-89a, the respondent shall be temporarily restrained from taking any action that would render ineffectual the temporary injunctive relief prayed for in the petition, provided nothing in this section shall be construed to prevent the respondent from having any employment duties, enjoined under this section and section 46a-89a, from being carried out by another employee and the notice shall so provide.

(b) (1) Whenever a complaint filed pursuant to section 46a-82 alleges a violation of section 46a-64, 46a-64c, 46a-81d or 46a-81e, and a commissioner believes that injunctive relief is required or that the imposition of punitive damages or a civil penalty would be appropriate, the commission may bring a petition in the superior court for the judicial district in which the discriminatory practice which is the subject of the complaint occurred or the judicial district in which the respondent resides.

(2) The petition shall seek: (A) Appropriate injunctive relief, including temporary or permanent orders or decrees restraining and enjoining the respondent from selling or renting to anyone other than the complainant or otherwise making unavailable to the complainant any dwelling or commercial property with respect to which the complaint is made, pending the final determination of such complaint by the commission or such petition by the court; (B) an award of damages based on the remedies available under subsection (c) of section 46a-86; (C) an award of punitive damages payable to the complainant, not to exceed fifty thousand dollars; (D) a civil penalty payable to the state against the respondent to vindicate the public interest: (i) In an amount not exceeding ten thousand dollars if the respondent has not been adjudged to have committed any prior discriminatory housing practice; (ii) in an amount not exceeding twenty-five thousand dollars if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period prior to the date of the filing of this complaint; and (iii) in an amount not exceeding fifty thousand dollars if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period prior to the date of the filing of the complaint; except that if the acts constituting the discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in clauses (ii) and (iii) of this subparagraph may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred; or (E) two or more of such remedies.



(3) Upon service on the respondent of notice pursuant to section 46a-89a, the respondent shall be temporarily restrained from selling or renting the dwelling or commercial property which is the subject of the complaint to anyone other than the complainant, or from otherwise making such dwelling or commercial property unavailable to the complainant, until the court or judge has decided the petition for temporary injunctive relief and the notice shall so provide.

(P.A. 77-531; P.A. 80-422, S. 37; P.A. 88-241, S. 3; 88-317, S. 103, 107; P.A. 90-246, S. 12; P.A. 91-58, S. 31; P.A. 05-201, S. 4.)

History: P.A. 80-422 created new Subsecs. (b) to (d) from parts of Subsec. (a), changing wording slightly, and deleted provision formerly in Subsec. (a) which gave hearings precedence over other matters and former Subsecs. (b) and (c) re hearing procedure and court action upon finding that respondent has engaged in unfair employment practice; Sec. 31-127a transferred to Sec. 46a-89 in 1981 and internal section references changed as necessary to reflect their transfer; P.A. 88-241 deleted Subsec. (c) re the authority of a court or judge to grant a temporary injunction, redesignated Subsec. (b) as Subsec. (a)(2), redesignated Subsec. (c) as Subsec. (a)(1) and rephrased subdivision, added Subsec. (b) re the filing of a petition for a temporary injunction against a discriminatory practice in the sale or rental of residential or commercial property, the relief sought in such petition and the temporary restraint on the respondent from selling or renting the housing accommodations or commercial property, which provisions were derived from former Sec. 46a-91(a) and (b) and 46a-92(c), and added Subsec. (c) requiring the commission to incorporate in and make a part of its petition its complaint and prayers for relief, which provision was formerly Sec. 46a-91(c); P.A. 88-317 substituted "presiding officer" for "hearing officer", effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 90-246 amended Subsec. (b) by adding reference to Sec. 46a-64c, changing "housing accommodations" to "dwelling" and added provisions re punitive damages and civil penalty (Revisor's note: An erroneous reference in Subdiv. (2) to section "46a-86c" was changed editorially by the Revisors to "subsection (c) of section 46a-86"); P.A. 91-58 amended Subsec. (a)(1) to add reference to a violation of Sec. 46a-81c and amended Subsec. (b)(1) to add reference to a violation of Sec. 46a-81d or 46a-81e; P.A. 05-201 made technical changes in Subsec. (a), amended Subsec. (b)(1) by deleting provisions re sale or rental of dwelling or commercial property and review and recommendation of assigned investigator, (b)(2) by adding provision re temporary or permanent orders and replacing provision re determination of proceedings on complaint with provision re determination of complaint by commission or petition by the court, (b)(3) by adding provision re otherwise making dwelling or commercial property unavailable to complainant, making technical changes throughout subsec., and deleted Subsec. (c) re petition in equity, effective July 6, 2005.

See Sec. 51-164s re Superior Court's status as sole court of original jurisdiction.

Cited. 196 C. 208.

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**Sec. 46a-89a. Granting of temporary injunction re discriminatory employment practice or discriminatory practice in sale or rental of residential or commercial property.** (a) The court, or any judge of the court when such court is not actually in session, may grant an injunction forthwith, if the circumstances of the case demand it, or the court or judge may cause immediate notice of the petition to be given to the adverse party, that he may show cause why such injunction should not be granted; but no temporary injunction may be granted without notice to the adverse party unless it clearly appears from the

specific facts shown by affidavit or by verified complaint that irreparable loss or damage will result to the complainant before the matter can be heard.

(b) The court, or any judge thereof, after hearing, shall issue a temporary injunction upon a finding that irreparable loss or damage will result to the complainant in that (1) there is a substantial probability of loss of meaningful relief including but not limited to the availability of an employment opportunity or the rental or sale of a dwelling or commercial property or (2) there is a substantial probability of interference with the ability of the commission to provide meaningful relief as authorized by this chapter.

(c) Upon rendering a decision in favor of the commission on the petition for temporary injunctive relief, the court or judge shall simultaneously enter an order granting temporary injunctive relief and such other relief as deemed necessary and remand the complaint to the commission for further proceedings pursuant to this chapter.

(d) Upon rendering a decision in favor of the respondent on the petition for temporary injunctive relief, the court or judge shall simultaneously enter an order dissolving any injunctive relief, order, decree, temporary relief or restraining order theretofore issued against the respondent in the matter and remand the matter to the commission.

(e) Commencement of proceedings pursuant to section 46a-89, this section or section 46a-90a shall not bar the commission from processing the complaint pursuant to the procedures set forth in this chapter.

(P.A. 88-241, S. 4; P.A. 92-257, S. 4; May Sp. Sess. P.A. 92-11, S. 34, 70.)

History: P.A. 92-257 and May Sp. Sess. P.A. 92-11 amended Subsec. (b) by substituting "dwelling" for "housing accommodation".

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**Sec. 46a-90. Commission hearings re injunction concerning discriminatory employment practice. Removal to Superior Court.** Section 46a-90 is repealed.

(P.A. 80-422, S. 38; P.A. 88-241, S. 9; 88-317, S. 104, 107.)

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**Sec. 46a-90a. Commission action after granting of temporary injunction. Duration of temporary injunction. Permanent injunction.** (a) The chairperson of the commission shall schedule a date for a hearing pursuant to section 46a-84 to be held within forty-five days of any temporary injunctive relief or restraining order issued pursuant to section 46a-89a. Such temporary injunctive relief or restraining order shall remain in effect until the presiding officer renders his decision on the complaint. If the commission does not conduct its hearing procedure with reasonable dispatch, the court, on the motion of the respondent and for good cause shown, shall remove such temporary injunction and assume jurisdiction of all civil proceedings arising out of the complaint and shall set the matter for hearing on the merits. The presiding officer shall

render his decision within twenty days after the close of evidence and the filing of briefs.

(b) When the presiding officer finds that the respondent has engaged in any discriminatory practice prohibited by section 46a-60, 46a-64, 46a-64c, 46a-81c, 46a-81d or 46a-81e and grants relief on the complaint, which relief requires that such temporary injunction remain in effect, the commission chairperson may, through the procedure outlined in subsection (a) of section 46a-95, petition the court which granted the original temporary injunction to make the injunction permanent.

(c) Upon issuance of a permanent injunction, the case shall be returned to the commission for such further action as is authorized by this chapter.

(d) Any temporary injunction issued under the provisions of section 46a-89a shall remain in effect during any appeal under section 46a-94a, or any enforcement procedure under section 46a-95, unless removed by the court or a judge thereof.

(P.A. 88-241, S. 5; P.A. 90-230, S. 92, 101; 90-246, S. 13; P.A. 91-58, S. 32.)

History: P.A. 90-230 changed "hearing officer" to "presiding officer" in Subsecs. (a) and (b); P.A. 90-246 amended Subsec. (b) by deleting reference to Sec. 46a-64a and adding reference to Sec. 46a-64c; P.A. 91-58 amended Subsec. (b) by adding reference to Secs. 46a-81c, 46a-81d and 46a-81e.

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**Secs. 46a-91 to 46a-93. Discriminatory practice in sale or rental of residential or commercial property; injunctive relief; damages. Injunction concerning discriminatory practice in sale or rental of residential or commercial property; notice, stay, bond. Injunction: Jurisdiction of court; hearing.** Sections 46a-91 to 46a-93, inclusive, are repealed.

(February, 1965, P.A. 543, S. 1-3; 1967, P.A. 38; 177, S. 2, 3; 756, S. 2; P.A. 74-183, S. 120, 121, 291; P.A. 76-436, S. 510, 511, 681; P.A. 78-280, S. 1, 127; P.A. 80-422, S. 39-41; 80-449, S. 5, 6; P.A. 81-81, S. 6; P.A. 86-193; P.A. 86-206; P.A. 88-241, S. 9.)

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**Sec. 46a-94. (Formerly Sec. 53-36d). Appeal to Appellate Court from Superior Court action re injunction against discriminatory employment practice or discriminatory practice in sale or rental of residential or commercial property.** (a) An appeal to the Appellate Court shall lie from any judgment, injunctive relief, order or decree entered pursuant to section 46a-89, 46a-89a or 46a-90a.

(b) In any appeal to the Appellate Court under the provisions of this section, any judge of the Appellate Court, on written application, after oral hearing: (1) May order a party who has filed a notice of intent to appeal either to appeal or withdraw such notice of appeal, and (2) may make such orders as will expedite the appeal.

(February, 1965, P.A. 543, S. 5; P.A. 80-422, S. 42; June Sp. Sess. P.A. 83-29, S. 16, 82; P.A. 88-241, S. 6.)

History: P.A. 80-422 designated former provisions as Subsec. (b), making minor changes, and inserted new Subsec. (a) containing provision formerly found in Sec. 53-36b; Sec. 53-36d transferred to Sec. 46a-94 in 1981 and internal section references changed as necessary to reflect their transfer; June Sp. Sess. P.A. 83-29 deleted reference to supreme court and substituted appellate court in lieu thereof, and deleted provisions re preparation of record and appeal and use of typewritten copies of papers in Subsec. (b); P.A. 88-241 amended Subsec. (a) to revise statutory references.

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**Sec. 46a-94a. Appeal to Superior Court from order of presiding officer. Reopening of matters.** (a)

The Commission on Human Rights and Opportunities, any respondent or any complainant aggrieved by a final order of a presiding officer or any complainant aggrieved by the dismissal of his complaint by the commission for failure to attend a mandatory mediation session as provided in subsection (c) of section 46a-83, a finding of no reasonable cause as provided in subsection (d) of said section 46a-83 or rejection of reconsideration of any dismissal as provided in subsection (e) of said section 46a-83, may appeal therefrom in accordance with section 4-183. The court on appeal shall also have jurisdiction to grant to the commission, respondent or complainant such temporary relief or restraining order as it deems just and suitable, and in like manner to make and enter a decree enforcing or modifying and enforcing as so modified or setting aside, in whole or in part, the order sought to be reviewed.

(b) Notwithstanding the provisions of subsection (a) of this section, a complainant may not appeal the dismissal of his complaint if he has been granted a release pursuant to section 46a-101.

(c) The commission on its own motion may, whenever justice so requires, reopen any matter previously closed by the commission in accordance with the provisions of this subsection, provided such matter has not been appealed to the Superior Court pursuant to section 4-183. Notice of such reopening shall be given to all parties. A complainant or respondent may, for good cause shown, in the interest of justice, apply in writing for the reopening of a previously closed proceeding provided such application is filed with the commission within two years of the commission's final decision.

(d) The standards for reopening a matter may include, but are not limited to: (1) A material mistake of fact or law has occurred; (2) the finding is arbitrary or capricious; (3) the finding is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; and (4) new evidence has been discovered which materially affects the merits of the case and which, for good reasons, was not presented during the investigation.

(P.A. 88-241, S. 1; P.A. 90-230, S. 93, 101; P.A. 91-331, S. 6; P.A. 98-245, S. 5, 14; P.A. 00-199, S. 2, 3; P.A. 01-95, S. 2-4; 01-195, S. 99, 181.)

History: P.A. 90-230 changed "hearing officer" to "presiding officer"; P.A. 91-331 designated existing section as Subsec. (a) and added Subsec. (b) re the appeal of complaints released pursuant to Sec. 46a-101; P.A. 98-245 amended Subsec. (a) to provide appeal for dismissal for failure to attend a mandatory mediation session, a finding of no reasonable cause or rejection of reconsideration of any dismissal and deleted provision re venue for such appeal, effective July 1, 1998, and applicable to all cases pending with the

commission or in the courts and cases filed on or after said date; P.A. 00-199 added Subsec. (c) authorizing the commission to reopen previously closed matters provided they have not been appealed to the Superior Court, effective June 1, 2000; P.A. 01-95 amended Subsec. (c) to require application for reopening to be in writing and delete obsolete language re time for filing such application and added Subsec. (d) re standards for reopening a matter, effective July 1, 2001; P.A. 01-195 made a technical change in Subsec. (c), effective July 11, 2001.

Cited. 220 C. 192; Id., 307. Cited. 231 C. 328. Cited. 232 C. 91; Id., 117; Id., 181. Cited. 236 C. 250. Cited. 238 C. 337.

Cited. 41 CA 1.

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**Sec. 46a-95. (Formerly Sec. 31-128). Enforcement by Superior Court of order of presiding officer.**

(a) The commission through the Attorney General, a commission legal counsel, or the complainant may petition the court within the judicial district wherein any discriminatory practice occurred or in which any person charged with a discriminatory practice resides or transacts business, for the enforcement of any order issued by a presiding officer under the provisions of this chapter and for appropriate temporary relief or a restraining order.

(b) The commission shall certify and file in the court a transcript of the entire record of the proceedings sought to be enforced including the pleadings and testimony upon which the order was made and the finding and orders of the presiding officer.

(c) Within five days after filing such petition in court, the commission shall cause a notice of the petition to be sent by registered or certified mail to all parties or their representatives.

(d) The court shall: (1) Have jurisdiction of the proceedings and of the questions determined thereon, (2) have the power to grant such relief by injunction or otherwise, including temporary relief, as it deems just and suitable, and (3) enter, based on the pleadings, testimony and proceedings set forth in the transcript, a decree enforcing, modifying and enforcing as so modified, or remanding to the commission or presiding officer, in whole or in part, any order of the commission or presiding officer.

(e) No objection or defense that has not been urged before the presiding officer or that was raised or could have been raised on appeal under section 46a-94a, may be considered by the court, unless the failure to urge such objection is excused because of extraordinary circumstances.

(f) If either party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing, the court may order the additional evidence to be taken before the presiding officer and to be made part of the transcript.

(g) The presiding officer may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken, and shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of the original order.

(h) The findings of the presiding officer as to the facts, if supported by substantial and competent evidence, shall be conclusive.

(i) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Appellate Court, on appeal by either party, irrespective of the nature of the decree or judgment. Such appeal shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases of appeal to the Appellate Court, and the record so certified shall contain all that was before the lower court in accordance with section 51-197b.

(j) Petitions filed under this section shall be heard expeditiously and determined upon the transcript filed, without requirement of printing.

(1949 Rev., S. 7407; 1963, P.A. 472; 1967, P.A. 715, S. 4; 1971, P.A. 870, S. 89; P.A. 76-436, S. 619, 681; P.A. 77-603, S. 124, 125; P.A. 78-280, S. 1, 127; P.A. 80-422, S. 43; 80-483, S. 92, 186; P.A. 83-496; June Sp. Sess. P.A. 83-29, S. 35, 82; P.A. 88-241, S. 2; 88-317, S. 105, 107; P.A. 93-362, S. 5; June 30 Sp. Sess. P.A. 03-6, S. 195.)

History: 1963 act authorized complainants to obtain review of order in superior court in Subsec. (d); 1967 act authorized commission counsel to petition court when respondent is a state agency or officer in Subsec. (a); 1971 act replaced superior court with court of common pleas in Subsec. (d), effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending matters deemed transferable; P.A. 76-436 added references to judicial districts in Subsecs. (a) and (d), added reference to Sec. 52-7 in Subsec. (c) and replaced court of common pleas with superior court in Subsec. (d), effective July 1, 1978; P.A. 77-603 replaced provisions re review of orders by court with provision requiring that appeals be made in accordance with Sec. 4-183, retaining venue as before and jurisdictional powers; P.A. 78-280 deleted references to counties; P.A. 80-422 restated and reorganized provisions, creating new Subsecs. (b) to (h) from provisions formerly included in Subsec. (a), redesignating former Subsecs. (c) to (f) accordingly, and deleting provision granting hearings precedence over all other matters before court; P.A. 80-483 made technical correction in Subsec. (d); Sec. 31-128 transferred to Sec. 46a-95 in 1981; P.A. 83-496 amended Subsec. (j) to authorize the commission to appeal a final order of a hearing officer; June Sp. Sess. P.A. 83-29 substituted appellate court for supreme court in Subsec. (i); P.A. 88-241 amended Subsec. (d) to replace court authority to set aside any order with court authority to remand any order to the commission or hearing officer, amended Subsec. (e) to prohibit the court considering a defense that was not urged before the hearing officer or an objection or defense that was raised or could have been raised on appeal under Sec. 46a-94a, deleted Subsec. (j) re the appeal of a final order of a hearing officer to the superior court and Subsec. (k) re an automatic stay of enforcement of any order upon commencement of review proceedings, and relettered the remaining Subsec. accordingly; P.A. 88-317 substituted "presiding officer" for "hearing officer", effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 93-362 amended Subsec. (a) by deleting "or, where the respondent is an agency or officer of the state" and adding "or the complainant may" before "petition"; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (a) to replace "the commission counsel" with "a commission legal counsel", effective August 20, 2003.

#### Annotations to former section 31-128:

Substantial and competent evidence requires that evidence be such as would, in a jury trial, justify a refusal to direct a verdict. 140 C. 537. Cited. 153 C. 171, 173. Substantial evidence means something more than a mere scintilla and must do more than create a suspicion of the existence of the fact to be established. Id., 652, 661. Substantial and competent evidence discussed. 163 C. 309, 327. Cited. 165 C. 318.

Employee applicant not a necessary party on appeal; he can just set the statutory machinery in motion. 17

CS 96. "Substantial and competent evidence" discussed. Id., 99; 18 CS 129; 20 CS 172. Superior court has jurisdiction to hear appeal from order dismissing complainant's complaint of discrimination against her. 28 CS 341.

Subsec. (b):

Cited. 168 C. 26. Cited. 176 C. 88; Id., 291; Id., 533. Cited. 188 C. 44.

Annotations to present section:

Cited. 196 C. 208.

Subsec. (a):

Cited. 3 CA 464.

Subsec. (j):

Cited. 195 C. 543. Cited. 207 C. 547. Cited. 211 C. 464.

Cited. 3 CA 464; Id., 484. Cited. 4 CA 423. Cited. 5 CA 643. Cited. 15 CA 569.

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**Sec. 46a-96. Hearings take precedence.** Hearings in the court under this chapter shall take precedence over all other matters, except matters of the same character.

(P.A. 80-422, S. 44.)

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## PART IV PRIVATE RIGHTS OF ACTION. NOTICE POSTING PENALTIES

**Sec. 46a-97. Failure to post notices. Penalty.** (a) Any employer, employment agency or labor organization which fails to post such notices of statutory provisions as the commission may require pursuant to subsection (13) of section 46a-54 shall be subject to a fine of not more than two hundred fifty dollars.

(b) Any person who fails to post such notices of statutory provisions as the commission may require pursuant to subsection (14) of section 46a-54 shall be fined not more than two hundred fifty dollars.

(P.A. 80-422, S. 45.)

History: (Revisor's note: In 1993 references to "subsection (12) of section 46a-54" in Subsec. (a) and to "subsection (13) of section 46a-54" in Subsec. (b) were changed editorially by the Revisors to "subsection (13) of section 46a-54" and "subsection (14) of section 46a-54", respectively, to reflect the renumbering of Sec. 46a-54 by P.A. 89-332, S. 2 in 1991).

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**Sec. 46a-98. (Formerly Sec. 36-438a). Discriminatory credit practice: Cause of action; damages; statute of limitations.** (a) In lieu of, but not in addition to, filing a complaint with the Commission on Human Rights and Opportunities pursuant to section 46a-82, any person claiming to be aggrieved by a violation of section 46a-66 or 46a-81f may bring an action under this section against a creditor, as defined in section 46a-65, in the superior court for the judicial district in which such aggrieved person resides or in which the alleged violation took place.

(b) Any such creditor who fails to comply with any requirement of section 46a-66 or 46a-81f or the regulations adopted pursuant to section 46a-67 shall be liable to an aggrieved person in an amount equal to the sum of any actual damages sustained by such person.

(c) Any such creditor who fails to comply with any requirement of section 46a-66 or 46a-81f or the regulations adopted pursuant to section 46a-67 shall be liable to an aggrieved person for punitive damages in an amount not greater than one thousand dollars, as determined by the court, in addition to any actual damages provided in subsection (b) of this section.

(d) Any such creditor who fails to comply with any requirement of section 46a-66 or 46a-81f or the regulations adopted pursuant to section 46a-67 may be liable for punitive damages in the case of a class action in such amount as the court may allow, provided the total recovery of punitive damages shall not exceed the lesser of five thousand dollars or one per cent of the net worth of the creditor. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(e) No action may be brought under this section except within one year from the date of the occurrence of the violation.

(P.A. 76-171, S. 1; P.A. 77-452, S. 63, 72; P.A. 78-280, S. 1, 127; P.A. 80-422, S. 46; P.A. 91-58, S. 33.)

History: P.A. 77-452 replaced court of common pleas with superior court and added reference to judicial districts in Subsec. (a); P.A. 78-280 deleted reference to counties; P.A. 80-422 deleted former Subsec. (e) which had specified that there is no liability for acts done or omitted in conformity with commissioner's regulations or opinions, relettering Subsec. (f) accordingly, and made minor wording changes; Sec. 36-438a transferred to Sec. 46a-98 in 1981 and internal section references revised as necessary to reflect their transfer; P.A. 91-58 added references to Sec. 46a-81f.

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**Sec. 46a-98a. Discriminatory housing practice or breach of conciliation agreement: Cause of action; relief.** Any person claiming to be aggrieved by a violation of section 46a-64c or 46a-81e or by a breach of a conciliation agreement entered into pursuant to this chapter, may bring an action in the Superior Court, or the housing session of said court if appropriate within one year of the date of the alleged discriminatory practice or of a breach of a conciliation agreement entered into pursuant to this chapter. No action pursuant to this section may be brought in the Superior Court regarding the alleged discriminatory practice after the commission has obtained a conciliation agreement pursuant to section 46a-83 or commenced a hearing pursuant to section 46a-84, except for an action to enforce the conciliation agreement. The court shall have the power to grant relief, by injunction or otherwise, as it deems just and suitable. In addition to the penalties provided for under subsection (g) of section 46a-64c or subsection (f) of section 46a-81e, the court may grant any relief which a presiding officer may grant in a proceeding under section 46a-86 or which the court may grant in a proceeding under section 46a-89. The commission, through its counsel or the Attorney General, may intervene as a matter of right in any action brought pursuant to this section.

(P.A. 81-81, S. 2; P.A. 88-241, S. 7; 88-364, S. 57, 123; P.A. 90-246, S. 14; P.A. 91-58, S. 34; May Sp. Sess. P.A. 92-11, S. 35, 70.)

History: P.A. 88-241 revised a statutory reference and made a technical change; P.A. 88-364 corrected a reference to Sec. 46-64a to Sec. 46a-64a; P.A. 90-246 amended section by deleting reference to Sec. 46a-64a and adding reference to Sec. 46a-64c, and adding provision permitting person claiming to be aggrieved by violation of Sec. 46a-64c or breach of a conciliation agreement to bring action within one year of alleged discriminatory practice or breach of conciliation agreement, and permitting commission to intervene in any such action; P.A. 91-58 added a reference to a violation of Sec. 46a-81e and added a reference to the penalties provided for under Sec. 46a-81e(f); May Sp. Sess. P.A. 92-11 replaced "hearing officer" with "presiding officer".

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**Sec. 46a-99. (Formerly Sec. 4-61I). Discriminatory state practice: Cause of action; relief.** Any person claiming to be aggrieved by a violation of any provision of sections 46a-70 to 46a-78, inclusive, or sections 46a-81h to 46a-81o, inclusive, may petition the Superior Court for appropriate relief and said court shall have the power to grant such relief, by injunction or otherwise, as it deems just and suitable.

(1969, P.A. 790, S. 11; P.A. 76-436, S. 249, 681; P.A. 77-551; P.A. 79-631, S. 4, 111; P.A. 80-422, S. 47; 80-483, S. 10, 186; P.A. 91-58, S. 35.)

History: P.A. 76-436 replaced court of common pleas with superior court, effective July 1, 1978; P.A. 77-551 authorized aggrieved person to file complaint with commission on human rights and opportunities and specified commission's right to issue and proceed upon complaint as provided in chapter 563; P.A. 79-631 substituted Sec. 4-61c for Sec. 4-61b; P.A. 80-422 substituted Sec. 4-61k for Sec. 4-61I and deleted provisions added by P.A. 77-551; P.A. 80-483 made technical grammatical correction; Sec. 4-61I transferred to Sec. 46a-99 in 1981 and internal section references revised as necessary to reflect their transfer; P.A. 91-58 added reference to a violation of any provision of Secs. 46a-81h to 46a-81o, inclusive.

[Annotation to former section 4-61I:](#)

The issuance of an injunction requires allegations and proof that the plaintiffs are aggrieved and that their aggrievement constitutes a justiciable interest in the controversy in question. 165 C. 516, 521.

Annotations to present section:

Cited. 196 C. 208. Cited. 236 C. 453. Cited. 243 C. 1.

Cited. 4 CA 423. Cited. 5 CA 643. Cited. 44 CA 446. The provisions of section do not constitute a waiver of state's sovereign immunity with respect to claims for money damages. 104 CA 547.

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**Sec. 46a-100. Discriminatory practice: Cause of action upon release from commission.** Any person who has timely filed a complaint with the Commission on Human Rights and Opportunities in accordance with section 46a-82 and who has obtained a release from the commission in accordance with section 46a-83a or 46a-101, may also bring an action in the superior court for the judicial district in which the discriminatory practice is alleged to have occurred or in which the respondent transacts business, except any action involving a state agency or official may be brought in the superior court for the judicial district of Hartford.

(P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 91-331, S. 1; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 98-245, S. 6, 14.)

History: (Revisor's note: P.A. 88-230 and P.A. 90-98 authorized substitution of "judicial district of Hartford" for "judicial district of Hartford-New Britain" in the general statutes and in the public and special acts of the 1991 session of the general assembly, effective September 1, 1993); P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 98-245 deleted phrase "alleging a violation of section 46a-60" and added reference to Sec. 46a-83a, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date.

Section represents an unambiguous waiver of sovereign immunity, authorizing actions against the state for alleged discriminatory employment practices in violation of Sec. 46a-60. 291 C. 384.

Cited. 44 CA 446. The provisions of section do not constitute a waiver of the state's immunity. 104 CA 547; judgment reversed, see 291 C. 384.

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**Sec. 46a-101. Release of pending complaint alleging discriminatory practice. Time period for bringing action after release.** (a) No action may be brought in accordance with section 46a-100 unless the complainant has received a release from the commission in accordance with the provisions of this section.

(b) The complainant and the respondent, by themselves or their attorneys, may jointly request that the complainant receive a release from the commission at any time from the date of filing the complaint until the expiration of two hundred ten days from the date of filing of the complaint. The complainant, or his attorney, may request a release from the commission if his complaint with the commission is still pending after the expiration of two hundred ten days from the date of its filing.

(c) The executive director of the commission shall grant a release, allowing the complainant to bring a civil action, within ten business days after receipt of the request for the release, except that if a case is scheduled for public hearing, the executive director may decline to issue a release. The commission may defer acting on a request for a release for thirty days if the executive director of the commission, or his designee, certifies that he has reason to believe that the complaint may be resolved within that period.

(d) Upon granting a release, the commission shall dismiss or otherwise administratively dispose of the discriminatory practice complaint pending with the commission without cost or penalty assessed to any party.

(e) Any action brought by the complainant in accordance with section 46a-100 shall be brought within ninety days of the receipt of the release from the commission.

(P.A. 91-331, S. 2; P.A. 98-245, S. 7, 14.)

History: P.A. 98-245 amended Subsec. (b) by adding provision that complainant and respondent may jointly request that the complainant receive a release at any time from date of filing the complaint until 210 days from the date of filing the complaint, effective July 1, 1998, and applicable to all cases pending with the commission or in the courts and cases filed on or after said date.

Cited. 231 C. 328. Cited. 236 C. 681.

Cited. 44 CA 446.

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**Sec. 46a-102. Civil action for discriminatory practice: Statute of limitations.** Any action brought in accordance with section 46a-100 shall be brought within two years of the date of filing of the complaint with the commission, except that an action may be brought within six months of October 1, 1991, with respect to an alleged violation provided a complaint concerning such violation has been pending with the commission for more than one year as of October 1, 1991, unless the complaint has been scheduled for a hearing.

(P.A. 91-331, S. 3.)

Cited. 236 C. 681.

Cited. 44 CA 446. Plaintiff's amended complaint, which alleged age discrimination, related back to date of the original complaint, which alleged racial discrimination and which was based on the same facts, and was properly dismissed for failure to bring action within two years of filing the original complaint, as required by this section. 123 CA 1.

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**Sec. 46a-103. Civil action for discriminatory practice: Service of process on the commission; right of commission to intervene.** The complainant or his attorney shall serve a copy of the complaint in an action brought in accordance with section 46a-100 on the commission at the same time all other parties in such action are served. Service on the commission shall be for the purpose of providing legal notice of the action and shall not thereby make the commission a necessary party to the action. The commission, through its counsel or the Attorney General, may intervene as a matter of right in any action brought in accordance with section 46a-100.

(P.A. 91-331, S. 4.)

Sec. 46a-101 et seq. cited. 236 C. 681.

Cited. 44 CA 446.

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**Sec. 46a-104. Civil action for discriminatory practice: Relief.** The court may grant a complainant in an action brought in accordance with section 46a-100 such legal and equitable relief which it deems appropriate including, but not limited to, temporary or permanent injunctive relief, attorney's fees and court costs.

(P.A. 91-331, S. 5.)

Cited. 232 C. 91.

Cited. 44 CA 446. Court did not abuse its discretion by awarding plaintiff attorney's fees because jury found defendant created hostile work environment in violation of Sec. 46a-60 and awarded punitive damages. 117 CA 680. The legislature did not, either expressly or by force of a necessary implication, statutorily waive the state's sovereign immunity from liability for punitive damages under the fair employment practices act. 118 CA 65.

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**Secs. 46a-105 to 46a-125.** Reserved for future use.

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