

General Assembly

February Session, 2024

Substitute Bill No. 5242



AN ACT CONCERNING THE COLLATERAL CONSEQUENCES OF CRIMINAL RECORDS ON HOUSING OPPORTUNITIES.

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

- 1 Section 1. Section 46a-64b of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective October 1, 2024*):
- 3 As used in sections 46a-51 to 46a-99, inclusive, as amended by this
- 4 act, and section 2 of this act:
- 5 (1) "Conviction" means a judgment entered by a court upon a plea of
- 6 guilty, a plea of nolo contendere or a finding of guilty by a jury or the
- 7 court, notwithstanding any pending appeal or habeas corpus
- 8 proceeding arising from such judgment.
- 9 [(1)] (2) "Discriminatory housing practice" means any discriminatory
- practice specified in section 46a-64c or [section] 46a-81e or section 2 of
- 11 <u>this act</u>.
- 12 [(2)] (3) "Dwelling" means any building, structure, mobile
- 13 manufactured home park or portion thereof which is occupied as, or
- 14 designed or intended for occupancy as, a residence by one or more
- 15 families, and any vacant land which is offered for sale or lease for the
- 16 construction or location thereon of any such building, structure, mobile
- 17 manufactured home park or portion thereof.

- [(3)] (4) "Fair Housing Act" means Title VIII of the Civil Rights Act of 19 1968, as amended <u>from time to time</u>, and known as the federal Fair 20 Housing Act (42 USC 3600-3620).
- 21 [(4)] (5) "Family" includes a single individual.
- [(5)] (6) "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.
- 29 [(6)] (7) "Housing for older persons" means housing: (A) Provided 30 under any state or federal program that the Secretary of the United 31 States Department of Housing and Urban Development determines is 32 specifically designed and operated to assist elderly persons as defined 33 in the state or federal program; or (B) intended for, and solely occupied 34 by, persons sixty-two years of age or older; or (C) intended and operated 35 for occupancy by [at least] not fewer than one person fifty-five years of age or older per unit in accordance with the standards set forth in the 36 37 Fair Housing Act and regulations developed pursuant thereto by the 38 Secretary of the United States Department of Housing and Urban 39 Development.
 - (8) "Housing provider" means a landlord, as defined in section 47a-1, an owner of a dwelling, an agent of such landlord or owner, a real estate agent, a property manager, a housing authority created pursuant to section 8-40, a public housing agency or other entity that provides dwelling units to tenants or prospective tenants.
 - [(7)] (9) "Mobile manufactured home park" means a plot of land upon which two or more mobile manufactured homes occupied for residential purposes are located.
- 48 [(8)] (10) "Physical or mental disability" includes, but is not limited to,

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- intellectual disability, 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
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- [(9)] (11) "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)] (12) "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.
 - Sec. 2. (NEW) (*Effective October 1, 2024*) (a) Except as provided in subsections (f) and (g) of this section, it shall be a discriminatory practice in violation of this section for a housing provider to refuse to rent after making a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny a dwelling unit or deny occupancy in a dwelling unit, to any person based on such person's criminal conviction status, except for a conviction for the commission of a felony (1) during the three-year period immediately preceding the rental application and, if a period of incarceration resulted from such conviction, such period of incarceration was for a period of less than three years, or (2) during the one-year period immediately preceding the rental application after a person has been released from incarceration resulting from such conviction, if such incarceration was for a period of three or more years.
 - (b) Within the applicable period specified in subsection (a) of this section, before denying a rental application based on the criminal conviction of any applicant, a housing provider shall consider (1) the nature and severity of the crime, (2) the relationship, if any, the crime may have to the prospective tenancy of the convicted person, (3) information pertaining to the degree of rehabilitation of the convicted

81 person, and (4) the time elapsed since the conviction.

- (c) In ascertaining whether an applicant has committed a crime, a housing provider shall comply with all applicable laws, including, but not limited to, the Fair Credit Reporting Act, 15 USC 1681 et seq., as amended from time to time. An applicant's rental application may not be denied based on (1) an official or unofficial record of an arrest or a charge or other allegation of a criminal act not followed by a conviction, (2) a violation of a condition of probation or parole resulting from conduct that would not be a criminal act if it were not prohibited by such condition, (3) a record of a conviction that has been erased, or (4) a conviction for conduct that occurred when the applicant was a minor.
- (d) Before denying a rental application under this section, a housing provider shall provide written notice to the applicant that the application requires further review due to the applicant's criminal conviction. The housing provider shall provide the applicant not less than five business days in which to respond to such notice and present relevant mitigating information regarding the conviction and evidence that the applicant would be a suitable tenant. Such evidence may include, but need not be limited to, the following factors: (1) The nature and severity of the criminal offense; (2) the facts or circumstances surrounding the criminal conduct; (3) the age of the applicant at the time of the offense; (4) the length of time elapsed since the offense; (5) evidence the applicant has maintained a good tenant history before or after the offense; (6) the applicant's employment status; (7) any information produced by the applicant, or produced on the applicant's behalf, regarding the applicant's rehabilitation, good character or good conduct since the offense; and (8) any evidence that the offense is unlikely to reoccur.
- (e) Except as provided in subsections (f) and (g) of this section, it shall be a discriminatory practice in violation of this section to (1) discriminate against any person in the terms, conditions or privileges of the rental of a dwelling unit, or in the provision of services or facilities in connection with the rental of such dwelling unit, because of such

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- person's criminal conviction status; (2) make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the rental of a dwelling unit that indicates any preference, limitation or discrimination based on criminal conviction status, or an intention to make any such preference, limitation or discrimination; (3) represent to any person because of criminal conviction status that any dwelling unit is not available for inspection or rental if such dwelling unit is so available; and (4) inquire about an applicant's prior arrests, criminal charges or convictions on an initial application for rental of a dwelling unit unless required to do so by federal law.
 - (f) The provisions of this section shall not apply to a person who applies for public housing who has a conviction for the manufacture or production of methamphetamine on the premises of federally assisted housing, or to a person subject to a lifetime registration requirement under a state registration program pursuant to 24 CFR 960.204 and 24 CFR 982.553. Nothing in this section shall be construed to limit the applicability of 24 CFR 960.204 or 24 CFR 982.553 regarding a public housing authority.
 - (g) The provisions of this section shall not apply to (1) the rental of a room or rooms in a single-family dwelling if the owner maintains and occupies part of such dwelling as such owner's residence, or (2) a unit in a dwelling containing not more than four units if the owner maintains and occupies one of such units as such owner's residence.
 - (h) Nothing in this section shall be construed to limit the applicability of any reasonable statute or municipal ordinance restricting the maximum number of persons permitted to occupy a dwelling.
 - (i) Any person aggrieved by a violation of this section may file a complaint not later than one hundred eighty days after the alleged act of discrimination, pursuant to section 46a-82 of the general statutes, as amended by this act.

- (j) Notwithstanding any other provision of chapter 814c of the general statutes, complaints alleging a violation of this section shall be investigated not later than one hundred days after filing and a final administrative disposition shall be made not later than one year after 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.
- (k) Not later than November 1, 2024, the Commission on Human Rights and Opportunities shall post, and thereafter update as necessary, a model form on its Internet web site for housing providers to use in evaluating evidence and other information received under subsection (c) of this section.
- Sec. 3. Section 8-45a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

A housing authority, as defined in subsection (b) of section 8-39, in determining eligibility for the rental of public housing units may establish criteria and consider relevant information concerning (1) an applicant's or any proposed occupant's history of criminal activity involving: (A) Crimes of physical violence to persons or property, (B) crimes involving the illegal manufacture, sale, distribution or use of, or possession with intent to manufacture, sell, use or distribute, a controlled substance, as defined in section 21a-240, or (C) other criminal acts which would adversely affect the health, safety or welfare of other tenants, (2) an applicant's or any proposed occupant's abuse, or pattern of abuse, of alcohol when the housing authority has reasonable cause to believe that such applicant's or proposed occupant's abuse, or pattern of abuse, of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, and (3) an applicant or any proposed occupant who is subject to a lifetime registration requirement under section 54-252 on account of being convicted or found not guilty by reason of mental disease or defect of a

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- 178 sexually violent offense. In evaluating any such information, the 179 housing authority shall give consideration to the time, nature and extent 180 of the applicant's or proposed occupant's conduct and to factors [which] 181 that might indicate a reasonable probability of favorable future conduct 182 such as evidence of rehabilitation and evidence of the willingness of the 183 applicant, the applicant's family or the proposed occupant to participate 184 in social service or other appropriate counseling programs and the 185 availability of such programs. Except as otherwise provided by law, a 186 housing authority shall limit its consideration of an applicant's or 187 proposed occupant's history of criminal activity to the applicable time 188 periods established under subsection (a) of section 2 of this act.
- Sec. 4. Subdivision (8) of section 46a-51 of the 2024 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):
- 192 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-193 60a, 4a-60g, 31-40y, subsection (b), (d), (e) or (f) of section 31-51i, 194 subparagraph (C) of subdivision (15) of section 46a-54, subdivisions (16) 195 and (17) of section 46a-54, section 46a-58, 46a-59, 46a-60, 46a-64, 46a-64c, 196 46a-66, 46a-68, sections 46a-68c to 46a-68f, inclusive, [or] 46a-70 to 46a-78, inclusive, subsection (a) of section 46a-80, [or] sections 46a-81b to 197 198 46a-81o, inclusive, [and] sections 46a-80b to 46a-80e, inclusive, [and] or 199 sections 46a-80k to 46a-80m, inclusive, or section 2 of this act;
- Sec. 5. Subdivision (14) of section 46a-54 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October* 1, 2024):
- 203 (14) To require the posting, by any respondent or other person subject 204 to the requirements of section 46a-64, 46a-64c, 46a-81d or 46a-81e or 205 section 2 of this act, of such notices of statutory provisions as it deems 206 desirable;
- Sec. 6. Section 46a-74 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

- No state department, board or agency may permit any discriminatory practice in violation of section 46a-59, 46a-64, 46a-64c, sections 46a-80b to 46a-80e, inclusive, or 46a-80k to 46a-80m, inclusive, or section 2 of this act.
- Sec. 7. Subsection (a) of section 46a-82 of the 2024 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):
- 216 (a) Any person claiming to be aggrieved by an alleged discriminatory 217 practice, except for an alleged violation of section 4a-60g or 46a-68 or the 218 provisions of sections 46a-68c to 46a-68f, inclusive, may, by himself or 219 herself or by such person's attorney, file with the commission a 220 complaint in writing under oath, except that a complaint that alleges a 221 violation of section 46a-64c or section 2 of this act need not be notarized. 222 The complaint shall state the name and address of the person alleged to 223 have committed the discriminatory practice, provide a short and plain 224 statement of the allegations upon which the claim is based and contain 225 such other information as may be required by the commission. The 226 commission, whenever it has reason to believe that a person who is 227 named as party to a discriminatory practice complaint has engaged or 228 is engaged in conduct that constitutes a violation of part VI, of chapter 229 952, may refer such matter to the Office of the Chief State's Attorney and 230 said office shall conduct a further investigation as deemed necessary. 231 After the filing of a complaint, the commission shall provide the 232 complainant with a notice that: (1) Acknowledges receipt of the 233 complaint; and (2) advises of the time frames and choice of forums 234 available under this chapter.
- Sec. 8. Subsections (a) to (c), inclusive, of section 46a-83 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):
 - (a) Not later than fifteen days after the date of filing of any discriminatory practice complaint pursuant to subsection (a) or (b) of section 46a-82, as amended by this act, or an amendment to such

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complaint adding an additional respondent, the commission shall serve the respondent as provided in section 46a-86a with the complaint and a notice advising of the procedural rights and obligations of a respondent under this chapter. The respondent shall either (1) file a written answer to the complaint as provided in subsection (b) of this section, or (2) not later than ten days after the date of receipt of the complaint, provide written notice to the complainant and the commission that the respondent has elected to participate in pre-answer conciliation, except that a discriminatory practice complaint alleging a violation of section 46a-64c or 46a-81e shall not be subject to pre-answer conciliation. A complaint sent by first class mail shall be considered to be received not later than two days after the date of mailing, unless the respondent proves otherwise. The commission shall conduct a pre-answer conciliation conference not later than thirty days after the date of receiving the respondent's request for pre-answer conciliation.

- (b) Except as provided in this subsection, not later than thirty days after the date (1) of receipt of the complaint, or (2) on which the commission determines that the pre-answer conciliation conference was unsuccessful, the respondent shall file a written answer to the complaint, under oath, with the commission. The respondent may request, and the commission may grant, one extension of time of not more than fifteen days within which to file a written answer to the complaint. An answer to any amendment to a complaint shall be filed within twenty days of the date of receipt [to] of such amendment. The answer to any complaint alleging a violation of section 46a-64c or 46a-81e or section 2 of this act shall be filed not later than ten days after the date of receipt of the complaint.
- (c) Not later than sixty days after the date of the filing of the respondent's answer, the executive director or the executive director's designee shall conduct a case assessment review to determine whether the complaint should be retained for further processing or dismissed because (1) it fails to state a claim for relief or is frivolous on its face, (2) the respondent is exempt from the provisions of this chapter, or (3) there

is no reasonable possibility that investigating the complaint will result in a finding of reasonable cause. The case assessment review shall include the complaint, the respondent's answer and the responses to the commission's requests for information, and the complainant's comments, if any, to the respondent's answer and information responses. The executive director or the executive director's designee shall send notice of any action taken pursuant to the case assessment review in accordance with the provisions of section 46a-86a. For any complaint dismissed pursuant to this subsection, the executive director or the executive director's designee shall issue a release of jurisdiction allowing the complainant to bring a civil action under section 46a-100. This subsection and subsection (e) of this section shall not apply to any complaint alleging a violation of section 46a-64c or 46a-81e or section 2 of this act. The executive director shall report the results of the case assessment reviews made pursuant to this subsection to the commission quarterly during each year.

Sec. 9. Subdivision (2) of subsection (g) of section 46a-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(2) If the investigator makes a finding that there is reasonable cause to believe that a violation of section 46a-64c or section 2 of this act has occurred, the complainant and the respondent shall have twenty days from sending 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, as amended by this act, not later than ninety days after the date of receipt of the notice of election. If the Attorney General or a commission legal counsel believes that injunctive relief, punitive damages or a civil penalty would be appropriate, such relief, damages or penalty may also be sought. The jurisdiction of the Superior Court in an action brought under this subdivision shall be limited to such claims, counterclaims,

defenses or the like that could be presented at an administrative hearing before the commission, had the complaint remained with the commission for disposition. A complainant may intervene as a matter of right in a civil action without permission of the court or the parties to such action. If the Attorney General or commission legal counsel, as the case may be, determines that the interests of the state will not be adversely affected, the complainant or attorney for the complainant shall present all or part of the case in support of the complaint. If the Attorney General or a commission legal counsel determines that a material mistake of law or fact has been made in the finding of reasonable cause, the Attorney General or a commission legal counsel may decline to bring a civil action and 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.

- Sec. 10. Subsection (c) of section 46a-86 of the 2024 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):
- 324 (c) In addition to any other action taken under this section, upon a 325 finding of a discriminatory practice prohibited by section 46a-58, 46a-326 59, 46a-64, 46a-64c, 46a-81b, 46a-81d or 46a-81e or section 2 of this act, 327 the presiding officer shall determine the damage suffered by the 328 complainant, which damage shall include, but not be limited to, the 329 expense incurred by the complainant for obtaining alternate housing or 330 space, storage of goods and effects, moving costs and other costs actually incurred by the complainant as a result of such discriminatory 332 practice and shall allow reasonable attorney's fees and costs. The 333 amount of attorney's fees allowed shall not be contingent upon the 334 amount of damages requested by or awarded to the complainant.
- 335 Sec. 11. Subdivision (1) of subsection (b) of section 46a-89 of the 336 general statutes is repealed and the following is substituted in lieu 337 thereof (*Effective October 1, 2024*):
- 338 (b) (1) Whenever a complaint filed pursuant to section 46a-82, as

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- amended by this act, alleges a violation of section 46a-64, 46a-64c, 46a-340 81d or 46a-81e or section 2 of this act, and the commission 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.
- Sec. 12. Subsection (b) of section 46a-90a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October* 1, 2024):
 - (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 or section 2 of this act and grants relief on the complaint, requiring that a temporary injunction remain in effect, the executive director 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.
 - Sec. 13. Section 46a-98a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

Any person claiming to be aggrieved by a violation of section 46a-64c or 46a-81e or section 2 of this act 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, as amended by this act, 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. The court may grant any relief which a

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presiding officer may grant in a proceeding under section 46a-86, as amended by this act, or which the court may grant in a proceeding under section 46a-89, as amended by this act. The commission, through commission legal counsel or the Attorney General, may intervene as a matter of right in any action brought pursuant to this section without permission of the court or the parties.

Sec. 14. Subdivision (1) of subsection (a) of section 47a-23c of the 2024 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2024*):

(a) (1) Except as provided in subdivision (2) of this subsection, this section applies to any tenant who resides in a building or complex consisting of five or more separate dwelling units or who resides in a mobile manufactured home park and who is either: (A) Sixty-two years of age or older, or whose spouse, sibling, parent or grandparent is sixty-two years of age or older and permanently resides with that tenant, or (B) a person with a physical or mental disability, as defined in subdivision [(12)] (10) of section 46a-64b, as amended by this act, or whose spouse, sibling, child, parent or grandparent is a person with a physical or mental disability who permanently resides with that tenant, but only if such disability can be expected to result in death or to last for a continuous period of at least twelve months.

This act shall take effect as follows and shall amend the following sections:			
Coation 1	October 1 2021	16 - (11-	
Section 1	October 1, 2024	46a-64b	
Sec. 2	October 1, 2024	New section	
Sec. 3	October 1, 2024	8-45a	
Sec. 4	October 1, 2024	46a-51(8)	
Sec. 5	October 1, 2024	46a-54(14)	
Sec. 6	October 1, 2024	46a-74	
Sec. 7	October 1, 2024	46a-82(a)	
Sec. 8	October 1, 2024	46a-83(a) to (c)	
Sec. 9	October 1, 2024	46a-83(g)(2)	
Sec. 10	October 1, 2024	46a-86(c)	

Sec. 11	October 1, 2024	46a-89(b)(1)
Sec. 12	October 1, 2024	46a-90a(b)
Sec. 13	October 1, 2024	46a-98a
Sec. 14	October 1, 2024	47a-23c(a)(1)

Statement of Legislative Commissioners:

In Section 1(2), language was rephrased for consistency of style, in Section 1(4), "from time to time" was added for consistency with standard drafting conventions, in Section 2(a), "criminal record" was changed to "criminal conviction status" for consistency and "as described in subsection (b) of this section" was deleted for accuracy, and Sections 4, 5, 6, 8(b) and (c), and 10 to 13, inclusive, were rephrased for consistency of style.

HSG Joint Favorable Subst. -LCO