



General Assembly

Substitute Bill No. 6113

January Session, 2019



HB 06113 LAB 032019

AN ACT PROHIBITING EMPLOYERS FROM INQUIRING ABOUT DATE OF BIRTH OR DATE OF GRADUATION ON EMPLOYMENT APPLICATIONS.

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

1 Section 1. Section 46a-60 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) As used in this section:

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

6 (2) "Reasonable accommodation" means, but [shall not be] is not
7 limited to, being permitted to sit while working, more frequent or
8 longer breaks, periodic rest, assistance with manual labor, job
9 restructuring, light duty assignments, modified work schedules,
10 temporary transfers to less strenuous or hazardous work, time off to
11 recover from childbirth or break time and appropriate facilities for
12 expressing breast milk; and

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

19 resources or the impact otherwise of such accommodation upon the
20 operation of the employer.

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

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

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

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

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

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

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

68 (7) For an employer, by the employer or the employer's agent: (A)
69 To terminate a woman's employment because of her pregnancy; (B) to
70 refuse to grant to that employee a reasonable leave of absence for
71 disability resulting from her pregnancy; (C) to deny to that employee,
72 who is disabled as a result of pregnancy, any compensation to which
73 she is entitled as a result of the accumulation of disability or leave
74 benefits accrued pursuant to plans maintained by the employer; (D) to
75 fail or refuse to reinstate the employee to her original job or to an
76 equivalent position with equivalent pay and accumulated seniority,
77 retirement, fringe benefits and other service credits upon her
78 signifying her intent to return unless, in the case of a private employer,
79 the employer's circumstances have so changed as to make it impossible
80 or unreasonable to do so; (E) to limit, segregate or classify the
81 employee in a way that would deprive her of employment
82 opportunities due to her pregnancy; (F) to discriminate against an

83 employee or person seeking employment on the basis of her
84 pregnancy in the terms or conditions of her employment; (G) to fail or
85 refuse to make a reasonable accommodation for an employee or person
86 seeking employment due to her pregnancy, unless the employer can
87 demonstrate that such accommodation would impose an undue
88 hardship on such employer; (H) to deny employment opportunities to
89 an employee or person seeking employment if such denial is due to the
90 employee's request for a reasonable accommodation due to her
91 pregnancy; (I) to force an employee or person seeking employment
92 affected by pregnancy to accept a reasonable accommodation if such
93 employee or person seeking employment (i) does not have a known
94 limitation related to her pregnancy, or (ii) does not require a
95 reasonable accommodation to perform the essential duties related to
96 her employment; (J) to require an employee to take a leave of absence
97 if a reasonable accommodation can be provided in lieu of such leave;
98 and (K) to retaliate against an employee in the terms, conditions or
99 privileges of her employment based upon such employee's request for
100 a reasonable accommodation;

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

115 (9) For an employer, by the employer or the employer's agent, for an

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

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

143 (11) For an employer, by the employer or the employer's agent, for
144 an employment agency, by itself or its agent, or for any labor
145 organization, by itself or its agent: (A) To request or require genetic
146 information from an employee, person seeking employment or
147 member, or (B) to discharge, expel or otherwise discriminate against
148 any person on the basis of genetic information. For the purpose of this

149 subdivision, "genetic information" means the information about genes,
150 gene products or inherited characteristics that may derive from an
151 individual or a family member;

152 (12) For an employer, by the employer or the employer's agent,
153 except in the case of a bona fide occupational qualification or need,
154 to request or require a prospective employee's age, date of birth or date of
155 graduation from an educational institution on an initial employment
156 application.

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

182 sixty-five and is eligible for Medicare benefits except to the extent such
183 coverage is provided by Medicare. The terms of any such plan which
184 covers twenty or more employees shall entitle any employee who has
185 attained the age of sixty-five and any employee's spouse who has
186 attained the age of sixty-five to group hospital, surgical or medical
187 insurance coverage under the same conditions as any covered
188 employee or spouse who is under the age of sixty-five.

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

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

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

205 (d) (1) An employer shall provide written notice of the right to be
206 free from discrimination in relation to pregnancy, childbirth and
207 related conditions, including the right to a reasonable accommodation
208 to the known limitations related to pregnancy pursuant to subdivision
209 (7) of subsection (b) of this section to: (A) New employees at the
210 commencement of employment; (B) existing employees within one
211 hundred twenty days after the effective date of this section; and (C)
212 any employee who notifies the employer of her pregnancy within ten
213 days of such notification. An employer may comply with the

214 provisions of this section by displaying a poster in a conspicuous
215 place, accessible to employees, at the employer's place of business that
216 contains the information required by this section in both English and
217 Spanish. The Labor Commissioner may adopt regulations, in
218 accordance with chapter 54, to establish additional requirements
219 concerning the means by which employers shall provide such notice.

220 (2) The Commission on Human Rights and Opportunities shall
221 develop courses of instruction and conduct ongoing public education
222 efforts as necessary to inform employers, employees, employment
223 agencies and persons seeking employment about their rights and
224 responsibilities under this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2019	46a-60
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Statement of Legislative Commissioners:

Section 1(a)(2) was rewritten for accuracy.

LAB *Joint Favorable Subst. -LCO*