



General Assembly

January Session, 2019

Committee Bill No. 761

LCO No. 5972



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Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT PROMOTING THE USE OF HONEST RECOMMENDATIONS
BETWEEN EMPLOYERS AND PROHIBITING AN EMPLOYER'S USE
OF A NONDISCLOSURE AGREEMENT RELATING TO ACTS OF
DISCRIMINATION OCCURRING IN THE EMPLOYER'S WORKPLACE.***

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

1 Section 1. (NEW) (*Effective October 1, 2019*) (a) As used in this
2 section:

3 (1) "Employee" means any person engaged in service to an employer
4 in a business of his or her employer;

5 (2) "Employer" means a person engaged in business who has
6 employees, including the state and any political subdivision of the
7 state;

8 (3) "Occurring in the workplace" includes attendance at an off-
9 premises work-related event that is coordinated by or through the
10 employer, between employees or between an employer and an
11 employee;

12 (4) "Sexual assault" means any act that would constitute a violation

13 of section 53a-70, 53a-70a, 53a-70b, 53a-70c, 53a-71, 53a-72a, 53a-72b or
14 53a-73a of the general statutes; and

15 (5) "Sexual harassment" has the same meaning as provided in
16 subdivision (8) of subsection (b) of section 46a-60 of the general
17 statutes.

18 (b) If an employer knows that a person is contemplating hiring a
19 current or former employee of the employer, and the employer
20 provides such person with a recommendation or positive commentary
21 relating to the current or former employee's work performance, such
22 employer has a duty to timely disclose to such person any known act
23 of sexual harassment or sexual assault committed by the employee
24 occurring in the workplace of the employer. For purposes of this
25 section, an employer knows about an act of sexual harassment or
26 sexual assault when the individual who provides the recommendation
27 or positive commentary, is an employee or agent of the employer and
28 knows of such act.

29 (c) If an employer owes a duty to disclose to a person who is
30 contemplating hiring a current or former employee of the employer
31 under subsection (b) of this section, and such person hires the current
32 or former employee in reliance on the recommendation or positive
33 commentary, then for such time that the former employee is employed
34 by the person, the employer shall be liable to any employee of the
35 person who relied on such recommendation or positive commentary
36 for the following acts committed by the former employee occurring in
37 the workplace of the person, (1) any act of sexual harassment
38 committed by the former employee, if the employer breached its duty
39 to disclose sexual harassment, and (2) any sexual harassment and
40 sexual assault committed by the former employee, if the employer
41 breached its duty to disclose sexual assault.

42 Sec. 2. (NEW) (*Effective October 1, 2019*) (a) (1) As used in this
43 section: (1) "Employee" means any person engaged in service to an
44 employer in a business of his or her employer; and (2) "employer"

45 means a person engaged in business who has employees, including the
46 state and any political subdivision of the state.

47 (b) No employer shall enter into or negotiate a contract with an
48 employee or prospective employee, that as a condition of employment,
49 continued employment, promotion, compensation or benefit, contains
50 a nondisclosure clause, nondisparagement clause, waiver or other
51 provision that has the purpose or effect of preventing the employee
52 from disclosing or discussing discrimination, including harassment,
53 occurring in the employer's workplace or at an off-premises work-
54 related event that is coordinated by or through the employer, between
55 employees, or between an employer and an employee. Any employer
56 who violates the provisions of this section may be subject to civil
57 penalties in accordance with section 31-69a of the general statutes.

58 (c) An action to redress a violation of subsection (b) of this section
59 may be maintained in any court of competent jurisdiction by any one
60 or more employees or prospective employees. An employer who
61 violates subsection (b) of this section may be found liable for
62 compensatory damages, attorney's fees and costs, punitive damages
63 and such legal and equitable relief as the court deems just and proper.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2019</i>	New section
Sec. 2	<i>October 1, 2019</i>	New section

Statement of Purpose:

To: (1) Require an employer to provide honest recommendations and commenting to a prospective employer about any act of sexual harassment or sexual assault by a current or former employer, and (2) prohibit employers from requiring an employee to enter into a contract that prevents the employee from disclosing discrimination that occurs in the workplace.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. LOONEY, 11th Dist.; SEN. CASSANO, 4th Dist.
SEN. LESSER, 9th Dist.; SEN. MOORE, 22nd Dist.
SEN. BRADLEY, 23rd Dist.; SEN. KUSHNER, 24th Dist.
SEN. HASKELL, 26th Dist.; SEN. LEONE, 27th Dist.
SEN. FLEXER, 29th Dist.; REP. ELLIOTT, 88th Dist.

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