



Senate

General Assembly

File No. 11

January Session, 2021

Senate Bill No. 56

Senate, March 4, 2021

The Committee on Aging reported through SEN. SLAP of the 5th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT DETERRING AGE DISCRIMINATION IN 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 Section 46a-60 of the general statutes is repealed and the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, 2021*):

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 longer
8 breaks, periodic rest, assistance with manual labor, job restructuring,
9 light duty assignments, modified work schedules, temporary transfers
10 to less strenuous or hazardous work, time off to recover from childbirth
11 or break time and appropriate facilities for expressing breast milk; and

12 (3) "Undue hardship" means an action requiring significant difficulty

13 or expense when considered in light of factors such as (A) the nature
14 and cost of the accommodation; (B) the overall financial resources of the
15 employer; (C) the overall size of the business of the employer with
16 respect to the number of employees, and the number, type and location
17 of its facilities; and (D) the effect on expenses and resources or the
18 impact otherwise of such accommodation upon the operation of the
19 employer.

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

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

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

39 (3) For a labor organization, because of the race, color, religious creed,
40 age, sex, gender identity or expression, marital status, national origin,
41 ancestry, present or past history of mental disability, intellectual
42 disability, learning disability, physical disability, including, but not
43 limited to, blindness or status as a veteran of any individual to exclude
44 from full membership rights or to expel from its membership such
45 individual or to discriminate in any way against any of its members or

46 against any employer or any individual employed by an employer,
47 unless such action is based on a bona fide occupational qualification;

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

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

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

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

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

97 (8) For an employer, by the employer or the employer's agent, for an
98 employment agency, by itself or its agent, or for any labor organization,
99 by itself or its agent, to harass any employee, person seeking
100 employment or member on the basis of sex or gender identity or
101 expression. If an employer takes immediate corrective action in
102 response to an employee's claim of sexual harassment, such corrective
103 action shall not modify the conditions of employment of the employee
104 making the claim of sexual harassment unless such employee agrees, in
105 writing, to any modification in the conditions of employment.
106 "Corrective action" taken by an employer, includes, but is not limited to,
107 employee relocation, assigning an employee to a different work
108 schedule or other substantive changes to an employee's terms and
109 conditions of employment. Notwithstanding an employer's failure to
110 obtain a written agreement from an employee concerning a modification
111 in the conditions of employment, the commission may find that
112 corrective action taken by an employer was reasonable and not of
113 detriment to the complainant based on the evidence presented to the

114 commission by the complainant and respondent. As used in this
115 subdivision, "sexual harassment" means any unwelcome sexual
116 advances or requests for sexual favors or any conduct of a sexual nature
117 when (A) submission to such conduct is made either explicitly or
118 implicitly a term or condition of an individual's employment, (B)
119 submission to or rejection of such conduct by an individual is used as
120 the basis for employment decisions affecting such individual, or (C)
121 such conduct has the purpose or effect of substantially interfering with
122 an individual's work performance or creating an intimidating, hostile or
123 offensive working environment;

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

138 (10) For an employer, by the employer or the employer's agent, after
139 informing an employee, pursuant to subdivision (9) of this subsection,
140 of a workplace exposure to substances which may cause birth defects or
141 constitute a hazard to an employee's reproductive system or to a fetus,
142 to fail or refuse, upon the employee's request, to take reasonable
143 measures to protect the employee from the exposure or hazard
144 identified, or to fail or refuse to inform the employee that the measures
145 taken may be the subject of a complaint filed under the provisions of
146 this chapter. Nothing in this subdivision is intended to prohibit an
147 employer from taking reasonable measures to protect an employee from

148 exposure to such substances. For the purpose of this subdivision,
149 "reasonable measures" shall be those measures which are consistent
150 with business necessity and are least disruptive of the terms and
151 conditions of the employee's employment;

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

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

169 (c) (1) The provisions of this section concerning age shall not apply
170 to: (A) The termination of employment of any person with a contract of
171 unlimited tenure at an independent institution of higher education who
172 is mandatorily retired, on or before July 1, 1993, after having attained
173 the age of seventy; (B) the termination of employment of any person
174 who has attained the age of sixty-five and who, for the two years
175 immediately preceding such termination, is employed in a bona fide
176 executive or a high policy-making position, if such person is entitled to
177 an immediate nonforfeitable annual retirement benefit under a pension,
178 profit-sharing, savings or deferred compensation plan, or any
179 combination of such plans, from such person's employer, which equals,
180 in aggregate, at least forty-four thousand dollars; (C) the termination of

181 employment of persons in occupations, including police work and fire-
182 fighting, in which age is a bona fide occupational qualification; (D) the
183 operation of any bona fide apprenticeship system or plan; or (E) the
184 observance of the terms of a bona fide seniority system or any bona fide
185 employee benefit plan for retirement, pensions or insurance which is not
186 adopted for the purpose of evading said provisions, except that no such
187 plan may excuse the failure to hire any individual and no such system
188 or plan may require or permit the termination of employment on the
189 basis of age. No such plan which covers less than twenty employees may
190 reduce the group hospital, surgical or medical insurance coverage
191 provided under the plan to any employee who has reached the age of
192 sixty-five and is eligible for Medicare benefits or any employee's spouse
193 who has reached age sixty-five and is eligible for Medicare benefits
194 except to the extent such coverage is provided by Medicare. The terms
195 of any such plan which covers twenty or more employees shall entitle
196 any employee who has attained the age of sixty-five and any employee's
197 spouse who has attained the age of sixty-five to group hospital, surgical
198 or medical insurance coverage under the same conditions as any
199 covered employee or spouse who is under the age of sixty-five.

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

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

212 (4) Any employee who continues employment beyond the normal
213 retirement age in the applicable retirement or pension plan shall give

214 notice of intent to retire, in writing, to such employee's employer not
215 less than thirty days prior to the date of such retirement.

216 (d) (1) An employer shall provide written notice of the right to be free
217 from discrimination in relation to pregnancy, childbirth and related
218 conditions, including the right to a reasonable accommodation to the
219 known limitations related to pregnancy pursuant to subdivision (7) of
220 subsection (b) of this section to: (A) New employees at the
221 commencement of employment; (B) existing employees within one
222 hundred twenty days after the effective date of this section; and (C) any
223 employee who notifies the employer of her pregnancy within ten days
224 of such notification. An employer may comply with the provisions of
225 this section by displaying a poster in a conspicuous place, accessible to
226 employees, at the employer's place of business that contains the
227 information required by this section in both English and Spanish. The
228 Labor Commissioner may adopt regulations, in accordance with
229 chapter 54, to establish additional requirements concerning the means
230 by which employers shall provide such notice.

231 (2) The Commission on Human Rights and Opportunities shall
232 develop courses of instruction and conduct ongoing public education
233 efforts as necessary to inform employers, employees, employment
234 agencies and persons seeking employment about their rights and
235 responsibilities under this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	46a-60

AGE *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes it a discriminatory employment practice for an employer to request or require a prospective employee's age, date of birth, or graduation date on certain employment applications.

This is not anticipated to result in a fiscal impact to the state or municipalities as few complaints are anticipated to be filed with the Commission on Human Rights and Opportunities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 56*****AN ACT DETERRING AGE DISCRIMINATION IN EMPLOYMENT APPLICATIONS.*****SUMMARY**

This bill makes it a discriminatory employment practice for an employer or the employer's agent to request or require a prospective employee's age, birth date, or graduation date on an initial employment application unless it is (1) for a bona fide occupational qualification or need or (2) required by state or federal law. The discriminatory employment practices law covers employers with at least three employees, including the state and its political subdivisions (CGS § 46a-51(10)).

By law, individuals aggrieved by a discriminatory practice may file a complaint alleging the discrimination with the Commission on Human Rights and Opportunities (CGS § 46a-82).

EFFECTIVE DATE: October 1, 2021

COMMITTEE ACTION

Aging Committee

Joint Favorable

Yea 15 Nay 0 (02/16/2021)