



**Senate Bill No. 446**

**Public Act No. 15-249**

**AN ACT CONCERNING DOMESTIC SERVICE AND THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES.**

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

Section 1. Subdivision (9) of section 46a-51 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2016*):

(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;]

Sec. 2. Section 46a-83 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

(a) [Within twenty] 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 complaint adding an additional respondent, the commission shall [provide] serve the respondent [by first class mail, facsimile machine, electronic mail or a file transfer protocol site] 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 file a written answer to the complaint under oath

**Senate Bill No. 446**

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.] 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 such amendment. The answer to any complaint alleging a violation of section 46a-64c or 46a-81e shall be filed not later than ten days after the date of receipt of the complaint.

[(b) Within ninety] (c) Not later than sixty days after the date of the filing of the respondent's answer, [to the complaint,] the executive

**Senate Bill No. 446**

director or the executive director's designee shall conduct a [merit] 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 [merit] case assessment 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 executive director or the executive director's designee shall dismiss the complaint and send notice of dismissal pursuant to section 46a-86a. Within fifteen days of the sending of the notice of dismissal, the complainant may request a release of jurisdiction allowing the complainant to bring a civil action under section 46a-100. If the complainant does not request a release of jurisdiction, commission legal counsel shall conduct a legal review of any complaint dismissed pursuant to this subsection and shall reinstate or deny reinstatement of the complaint within sixty days of the sending of the notice of dismissal. The executive director or the executive director's designee shall send notice of any action taken pursuant to the merit assessment review and the legal review conducted pursuant to this subsection in accordance with section 46a-86a.] 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 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

**Senate Bill No. 446**

under section 46a-100, as amended by this act. This subsection and subsection (e) of this section 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 [merit] case assessment reviews made pursuant to this subsection to the commission quarterly during each year.

[(c) (1) If a complaint is not dismissed after the merit assessment review pursuant to subsection (b) of this section or if a complaint is reinstated after legal review pursuant to said subsection (b), the]

(d) Not later than sixty days after the date of sending notice that a complaint has been retained after a case assessment review, the executive director or the executive director's designee shall assign an investigator or commission legal counsel to hold a mandatory mediation conference. [within sixty days of sending notice of action taken pursuant to the merit assessment review or legal review.] A mediation conference may but need not be held if the commission has held a pre-answer conciliation conference. The investigator or commission legal counsel assigned to conduct the mediation shall not be assigned to investigate the complaint. The mandatory mediation conference may not be scheduled for the same time as a fact-finding conference held pursuant to subsection [(d)] (f) of this section. The mediator may hold additional mediation conferences to accommodate settlement discussions.

[(2)] (e) If the complaint is not resolved after the mandatory mediation conference, the complainant, the respondent or the commission may at any time after such conference request early legal intervention. If a request for early legal intervention is made, [the executive director or the executive director's designee] a commission legal counsel shall determine [within] not later than ninety days after the date of the request whether [(A)] the complaint should be (1) heard pursuant to section 46a-84, as amended by this act, [(B) the complaint

**Senate Bill No. 446**

should be] (2) processed pursuant to subsection [(d)] (f) of this section, or [(C) the complainant should be] (3) released from the jurisdiction of the commission. In making such determination, [the executive director or the executive director's designee] commission legal counsel may hold additional proceedings and may utilize and direct commission staff. If [the executive director or the executive director's designee] a commission legal counsel determines that the complaint should be processed pursuant to subsection [(d)] (f) of this section, [the executive director or the executive director's designee] the commission legal counsel may recommend that the investigator make a finding of no reasonable cause. [If the executive director or the executive director's designee recommends that the investigator make a finding of no reasonable cause, the] The investigator shall make such a finding unless the investigator believes [the executive director or the executive director's designee] the commission legal counsel made a mistake of fact. If the investigator intends to make a finding of reasonable cause after [the executive director or the executive director's designee] the commission legal counsel recommends otherwise, the investigator shall consult with [the executive director or the executive director's designee] the commission legal counsel.

[(3) If the complaint is not resolved after the mandatory mediation conference, the complainant or the respondent may request the commission to hold additional mediation conferences.

(4) The commission may dismiss the complaint if (A) a complainant, after notice and without good cause, fails to attend a mandatory mediation conference; or (B) 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) If the complaint is not resolved after the mandatory mediation conference held pursuant to subsection (c) of this section or the

**Senate Bill No. 446**

executive director determines that the complaint should be processed pursuant to this subsection in accordance with subdivision (2) of subsection (c) of this section,]

(f) Not later than fifteen days after the date of a (1) a mandatory mediation conference that fails to resolve a complaint, or (2) an early legal intervention decision to investigate a complaint, the executive director or the executive director's designee shall assign an investigator to process the complaint. [within fifteen days after the mandatory mediation conference.] The investigator may [conduct a fact-finding conference, a complete investigation] process the complaint by any lawful means of finding facts, including, but not limited to, a fact-finding conference, individual witness interviews, requests for voluntary disclosure of information, subpoenas of witnesses or documents, requests for admission of facts, interrogatories, site visits or any [other lawful means of finding facts, or any combination thereof] combination of these means for the purpose of determining [if] whether 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, as amended by this act, "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. [The executive director or the executive director's designee may dismiss the complaint if the complainant, after notice, and without good cause, fails to attend a fact-finding conference.]

[(e)] (g) (1) Before issuing a finding of reasonable cause or no reasonable cause, the investigator shall afford each party and each party's 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 the general statutes. The investigator shall consider such comments before making a finding. The investigator

**Senate Bill No. 446**

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 [merit] case assessment review, except that for good cause shown, the executive director or the executive director's designee may grant no more than two extensions of the investigation of three months each.

(2) If the investigator makes a finding 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 sending of the reasonable cause finding to elect a civil action in lieu of an administrative hearing pursuant to section 46a-84, as amended by this act. 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] 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. 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

**Senate Bill No. 446**

file to the investigator for further action. The investigator shall complete any such action not later than ninety days after receipt of such file.

[(f)] (h) If the investigator issues a finding of no reasonable cause or if the complaint is dismissed pursuant to subsection [(d)] (m) of this section, the complainant may file a written request for reconsideration with the executive director or the executive director's designee, not later than fifteen days from the sending of such finding or dismissal. A request for reconsideration shall state specifically the reasons why reconsideration should be granted. [The executive director or the executive director's designee] A commission legal counsel shall grant or reject reconsideration [within] not later than ninety days after the date of the sending of such finding or dismissal. [The executive director or the executive director's designee] A commission legal counsel shall conduct such additional proceedings as may be necessary to render a decision on the request.

[(g)] (i) After finding 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] not later than fifty days after the date of the finding. The refusal to accept a settlement shall not be grounds for dismissal of any complaint.

[(h)] (j) 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] the commission's processing of a complaint, provided the commission may publish the facts in the case and any complaint [which] that has been dismissed and the terms of conciliation when a complaint has been adjusted. Each party and his or her representative shall have the right to inspect and copy documents, statements of witnesses and other evidence pertaining to the complaint, except as otherwise provided by federal



**Senate Bill No. 446**

law or the general statutes.

[(i)] (k) In the investigation of any complaint filed pursuant to this chapter, [the] commission legal counsel may issue subpoenas requiring the production of records and other documents or compelling the attendance of witnesses.

[(j)] (l) The executive director or the executive director's designee may enter an order of default against a respondent who (1) 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; (2) fails to answer interrogatories issued pursuant to subdivision (11) of section 46a-54 or fails to respond to a subpoena issued pursuant to subsection [(i)] (k) of this section or subdivision (9) of section 46a-54, provided the executive director or the executive director's designee shall consider any timely filed objection; (3) after notice and without good cause, fails to attend a fact-finding conference; or (4) after notice and without good cause, fails to attend a mandatory mediation conference. The respondent may make application to the executive director to vacate the default. Upon entry of an order of default or upon the decision of the executive director not to vacate the default, the executive director or the executive director's 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.

(m) The executive director or the executive director's designee may enter an order of dismissal against a complainant who (1) after notice and without good cause, fails to attend a fact-finding conference; (2) after notice and without good cause, fails to attend a mandatory mediation conference; or (3) refuses to accept an offer of settlement where the respondent has eliminated the discriminatory practice

**Senate Bill No. 446**

complained of, taken steps to prevent a like occurrence in the future  
and offered full relief to the complainant.

Approved June 30, 2015