



# Connecticut

Legal Protections for  
Transgender People

October 2012

This document is intended to provide general information only and cannot provide guidance or legal advice as to one's specific situation. Moreover, the law is constantly changing and this publication is based upon the information that is known to us as of this printing. For guidance on your particular situation, you must consult a lawyer. You should not act independently on this information. The provision of this information is not meant to create an attorney-client relationship.

If you have questions about this publication, other legal issues or need lawyer referrals, contact CWEALF or GLAD:

- GLAD's Legal InfoLine—800-455-GLAD (4523) any weekday between 1:30 & 4:30 pm or email and live chat at [www.glad.org/rights/infoline-contact](http://www.glad.org/rights/infoline-contact).
- CWEALF's Information and Referral Service—800-479-2949 Monday, Wednesday, Thursday or Friday 9:00 am to 1:00 pm and Tuesday 11:00 am to 3:00 pm or online at [www.cwealf.org/contact](http://www.cwealf.org/contact).

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# Anti-Discrimination Laws

## *Does Connecticut have anti-discrimination laws that protect transgender people?*

Yes. On July 1, 2011, Governor Daniel Malloy signed into law Public Act 11-55, “An Act Concerning Discrimination,” which adds gender identity or expression to Connecticut’s anti-discrimination laws. The law protects against discrimination in employment, education, housing, public accommodations, and in any other areas in which sex discrimination is prohibited.

According to the law, "gender identity or expression" means *a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.*<sup>1</sup>

Although the definition is somewhat cumbersome, several points are clear. First, it protects people based on their gender identity as well as on their gender-related appearance and behavior, what we commonly think of as a person’s gender expression. The definition also makes clear that a person is protected against discrimination based on both their gender identity and their gender expression (including appearance or behavior) regardless of what their assigned birth sex or physical anatomy looks like.

The definition includes a non-exhaustive list of how a person’s gender identity may be proven. It includes medical history and medical treatment. It also includes non-medical ways to prove the person’s gender identity such as consistent and uniform assertion of that identity

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<sup>1</sup> Conn. Gen. Stat. sec 46a-51(21)

as well as “any other evidence” that the person’s identity is sincerely held, part of a person’s core identity or not being asserted for an improper purpose. There are no specified ways for proving a person’s gender expression.

As a result of the definition, the law will provide comprehensive protections for transgender people regardless of whether or not the person undergoes gender transition and regardless of the person's stage of gender transition.

This makes Connecticut the fourth state in New England and the 15th state in the United States to provide explicit anti-discrimination protections for transgender people. The law went into effect on October 1, 2011.

There are other ways that transgender people may be protected as well. In November 2000, the Connecticut Commission on Human Rights and Opportunities (CHRO) ruled that transgender people may be protected under the law’s existing prohibition of sex discrimination. CHRO ruled in part,

“Unlike several federal enactments, Connecticut law does not contain any exclusion, express or implied, of transsexuals from the general prohibitions against sex discrimination. . . . [T]his CHRO declares that transsexuals . . . may pursue claims of sex discrimination [under Connecticut statutes].”<sup>2</sup>

If the adverse action is triggered by the sense that the individual does not meet the expectations of, or act like, a “real man” or “real woman,” then this can be the basis for a sex-stereotyping claim.<sup>3</sup>

In some cases, an individual’s gender identity may be regarded as “a gay issue” and therefore allow a person to bring a sexual orientation claim.

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<sup>2</sup> Declaratory Ruling on Behalf of John/Jane Doe, November 9, 2000

<sup>3</sup> See *Price Waterhouse v. Hopkins*, 490 U.S. 228, 251 (1989); *Rosa v. Park West Bank*, 214 F.3d 213 (1st Cir. 2000)

Transgender people may also be protected against discrimination under Connecticut's disability laws both as a matter of physical and mental disability. Although one Superior Court held that transgender people are protected only under the mental disability protections and not under the physical disability;<sup>4</sup> a more recent Superior Court disagreed finding both provisions of law to apply depending on the facts.<sup>5</sup>

## ■ Employment

The United States Office of Personnel Management (OPM) has an excellent publication, *Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace*, which answers many of the questions that employers may have about the treatment of transgender employees in the workplace, at:

[www.opm.gov/diversity/Transgender/Guidance.asp](http://www.opm.gov/diversity/Transgender/Guidance.asp).

### ***What do the employment provisions say? To whom does the law apply?***

The non-discrimination law forbids employers from refusing to hire a person, or discharging them, or discriminating against them “in compensation, or in terms, conditions or privileges of employment” because of gender identity or expression.<sup>6</sup> This covers most significant job actions, such as hiring, firing, failure to promote, demotion, excessive discipline, harassment and different treatment of the employee and similarly situated co-workers.

In addition, employment agencies may not participate in discrimination by refusing to properly classify or refer their customers for employment or otherwise discriminate because of gender identity or expression.<sup>7</sup> Labor organizations (e.g. unions) may not deny or exclude membership in the union because of gender identity or expression, or otherwise discriminate against its members because of gender identity or expression.<sup>8</sup>

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<sup>4</sup> *Conway v. City of Hartford*, 19 Conn. L. Rptr. 109 (1997)

<sup>5</sup> *Commission on Human Rights & Opportunities v. City of Hartford*, 50 Conn. L. Rptr. 750 (2010), appeal docketed, No. AC 32894 (Conn. App. Ct. Nov. 18, 2010)

<sup>6</sup> Conn. Gen. Stat. sec. 46a-60(a)(1)

<sup>7</sup> Conn. Gen. Stat. sec. 46a-60(a)(2)

<sup>8</sup> Conn. Gen. Stat. sec. 46a-60(a)(3)

The law forbids all of these entities from advertising in such a way as to restrict employment because of gender identity or expression.<sup>9</sup>

The State of Connecticut and its agencies are forbidden from discriminating based on gender identity or expression both in their own employment practices as well as in their provision of services.<sup>10</sup>

Contractors who provide services to the state (and any subcontractors they hire) must also certify in writing that they will not discriminate based on gender identity or expression when fulfilling the contract terms.<sup>11</sup>

### ***Does the law apply to every employer in Connecticut?***

No. As broad as the law is, there are several exemptions to its application.

- An employer must employ 3 or more persons in order to be subject to the non-discrimination law.<sup>12</sup>
- An employer, agency or labor organization may defend against a discrimination claim by arguing that a “bona fide occupational qualification” of the particular job is that it has someone in it who is non-transgender.<sup>13</sup> But there are no general occupational exemptions from the reach of the non-discrimination law, and this defense is very rarely successful.<sup>14</sup>
- Religious entities, associations, educational institutions and societies are exempt from the anti-discrimination laws with respect to employment and with respect to matters of “discipline,

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<sup>9</sup> Conn. Gen. Stat. sec. 46a-60(a)(6)

<sup>10</sup> See generally Conn. Gen. Stat. secs. 46a-70 & 46a-71

<sup>11</sup> Conn. Gen. Stat. sec. 4a-60(a)(1)

<sup>12</sup> Conn. Gen. Stat. sec. 46a-51(10)

<sup>13</sup> See generally Conn. Gen. Stat. sec. 46a-60

<sup>14</sup> See, e.g. *The Evening Sentinel et al. v. National Organization for Women*, 168 Conn. 26, 36 (1975)(“A BFOQ exists only if no member of the class excluded is physically capable of performing the tasks required by the job”); *Conn. Institute for the Blind v. CHRO*, 176 Conn. 88 (1978)(“The standard for a BFOQ purposely imposes a heavy burden on an employer whose refusal to hire is prima facie discriminatory”).

faith, internal organization or ecclesiastical matters” which are established by these organizations.<sup>15</sup>

### ***Does Connecticut law forbid sexual harassment on the job?***

Yes. Connecticut law forbids harassment based on sex or gender identity or expression and defines sexual harassment as:

“unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, (b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (c) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment.”<sup>16</sup>

## ■ Public Accommodations

### ***What is a “place of public accommodation?”***

A place of public accommodation is “any establishment which caters or offers its services or facilities or goods to the general public . . .” and you are protected by the non-discrimination laws in such places.<sup>17</sup> This definition is intentionally broad.

### ***What does the law say about discrimination in places of public accommodation?***

Such places may not deny full and equal accommodations, or discriminate in any way because of a person’s gender identity or expression.<sup>18</sup>

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<sup>15</sup> Conn. Public Act 11-55, sec. 37.

<sup>16</sup> Conn. Gen. Stat. sec. 46a-60(a)(8)

<sup>17</sup> Conn. Gen. Stat. sec. 46a-63(1)

<sup>18</sup> Conn. Gen. Stat. secs. 46a-64(a) (1) & (2)

While the bill that recently added protections for gender identity and expression in places of public accommodations did not specifically address discrimination in sex-segregated places (such as bathrooms and locker rooms), many amendments which would have created exceptions to the bill were defeated. While time and judicial interpretation will provide us more information, there is a strong legislative record to show that the law is comprehensive, admitting of no exceptions. On the other hand, we have sometimes seen resistance to guaranteeing protections to transgender people under the full scope of laws passed in other states. Anyone experiencing discrimination in any places of public accommodation is urged to contact GLAD's Transgender Rights Project to explore whether or not they have a legal claim and for guidance on best next steps.

A specific law also forbids discrimination at golf clubs on the basis of gender identity or expression.<sup>19</sup> If a person is denied membership or access to facilities because of gender identity or expression, in addition to pursuing the process with the Human Rights and Opportunities Commission, he or she can file a complaint in Superior Court to enjoin further violations and recover actual damages (or at least \$250) as well as costs and attorney's fees.<sup>20</sup>

Connecticut public schools and higher education system are considered places of public accommodation, but there are also specific laws that protect against discrimination based on gender identity or expression in both the public schools<sup>21</sup> and the higher education system.<sup>22</sup> Also, Connecticut recently passed a law, Public Act 11-232,<sup>23</sup> that significantly strengthens the public school anti-bullying laws. The law specifically lists "gender identity or expression" as a differentiating characteristic that has been a target for bullying and harassment. For further information, see GLAD publication, *The Rights of Students in Connecticut Public Schools*, at <http://www.glad.org/uploads/docs/publications/ct-students-rights.pdf>.

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<sup>19</sup> Conn. Gen. Stat. sec. 52-571d (b) & (c)

<sup>20</sup> Conn. Gen. Stat. sec. 52-571d (g)

<sup>21</sup> Conn. Gen. Stat. sec. 10-15c(a)

<sup>22</sup> Conn. Gen. Stat. sec. 10a-6(b)

<sup>23</sup> See <http://www.cga.ct.gov/2011/act/pa/pdf/2011PA-00232-R00SB-01138-PA.pdf>

## ■ Housing

### *What is prohibited by the housing anti-discrimination law in Connecticut?*

The housing laws are intended to prohibit discrimination on the basis of gender identity or expression for transactions related to residential housing, whether listing, buying, selling, renting or financing, and whether for profit or not, and whether public or private. Other practices are forbidden, too, such as advertising in a way limited by gender identity or expression, representing that a dwelling is not available when in fact it is, denying access to a multiple listing service, or altering the terms of a transaction because of gender identity or expression.<sup>24</sup>

### *Are any landlords exempt from the housing anti-discrimination law?*

The main exemption to the law allows owners who actually live in a building with not more than two units to disregard the law if they choose.<sup>25</sup>

## ■ Credit

### *What protections exist under Connecticut anti-discrimination law with regard to credit?*

Any person who “regularly extends or arranges for the extension of credit” for which interest or finance charges are imposed (e.g. a bank, credit union, or other financial institution), may not discriminate because of gender identity or expression in any credit transaction.<sup>26</sup>

**Example:** GLAD brought and settled a claim against a credit union which refused to allow an effeminate looking man from applying for a loan until he came back looking more masculine. A federal court ruled that this stated a claim of sex discrimination.<sup>27</sup>

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<sup>24</sup> See generally Conn. Gen. Stat. sec. 46a-64c(a)

<sup>25</sup> Conn. Gen. Stat. sec. 46a-64c(b)(1)(B)

<sup>26</sup> Conn. Gen. Stat. sec. 46a-66(a)

<sup>27</sup> *Rosa v. Park West Bank*, 214 F.3d 213 (1st Cir. 2000)

## ■ Pursuing a Complaint

### *How do I file a complaint of discrimination?*

If you wish to file a complaint, you should contact an intake officer at one of the regional offices of the Connecticut Commission on Human Rights and Opportunities (CHRO). The intake worker will discuss your concerns, explain the complaint process and advise you about what help CHRO may be able to provide to you. If CHRO has jurisdiction, you will be given an appointment to come to a regional office to file a complaint. Here is the contact information for CHRO's administrative headquarters and four regional offices:

- ADMINISTRATIVE HEADQUARTERS  
25 Sigourney Street  
Hartford, CT 06106  
PHONE: (860) 541-3400 OR (800) 477-5737  
FAX: (860) 246-5068
  
- CAPITOL REGION OFFICE  
999 Asylum Avenue, Second Floor  
Hartford, CT 06105  
PHONE: (860) 566-7710  
FAX: (860) 566-1997
  
- EASTERN REGION OFFICE  
100 Broadway  
Norwich, CT 06360  
PHONE: (860) 886-5703  
FAX: (860) 886-2550
  
- WEST CENTRAL REGION OFFICE  
Rowland State Government Center  
55 West Main Street, Suite 210  
Waterbury, CT 06702-2004  
PHONE: (203) 805-6530  
FAX: (203) 805-6559

- SOUTHWEST REGION OFFICE  
350 Fairfield Avenue, 6th Floor  
Bridgeport, CT 06604  
PHONE: (203) 579-6246  
FAX: (203) 579-6950

If you are a state employee, you may file your case directly in court.

For housing complaints only, contact the Housing Discrimination Unit at (800) 477-5737 ext. 3403 or (860) 541- 3403.

The complaint must be in writing and under oath, and it must state the name and address of the individual making the complaint as well as the entity he or she is complaining against (called the “respondent”). The complaint must set out the particulars of the alleged unlawful acts, and it is advisable also to state the times they occurred.<sup>28</sup> There is no charge to file a complaint.

If you are a state employee, you may file your case directly in court. State employees can skip over the CHRO process entirely.

### ***Do I need a lawyer?***

No. The process is designed to allow people to represent themselves. However, GLAD strongly encourages people to find lawyers to represent them throughout the process. Not only are there many legal rules governing the CHRO process, but also employers and other defendants are likely to have legal representation.

### ***What are the deadlines for filing a complaint of discrimination?***

For most people, a complaint must be filed with the CHRO within 180 days of the last discriminatory act or acts.<sup>29</sup> There are very few exceptions for lateness, and GLAD encourages people to move promptly in filing claims.

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<sup>28</sup> Conn. Gen. Stat. sec. 46a-82

<sup>29</sup> Conn. Gen. Stat. sec. 46a-82(f)

***Can I file more than one type of discrimination complaint at once, for example, if I believe I was fired both because I am a transgender person and because I am a lesbian and Latina?***

Yes. The state non-discrimination laws for employment also forbid taking an action against someone because of sexual orientation as well as civil union status, race, color, religion, creed, age, sex, marital status, national origin, ancestry, present or past history of mental disorder, mental retardation, learning disability or physical disability.<sup>30</sup> In housing, the criteria include most of the above as well as “lawful source of income or familial status.”<sup>31</sup> Protected classes under public accommodations law include those of employment plus “lawful source of income.”<sup>32</sup>

***What happens after a complaint is filed with the CHRO?***

When you file a complaint with the CHRO, you will be given a packet of information explaining the CHRO procedures and deadlines. Please review these and follow the deadlines.

After filing your complaint, and within 90 days of receiving the answer of the respondent, the CHRO will review the complaint and answer to determine if any further investigation is necessary. This is called a merit assessment review (MAR). Since many cases are dismissed at this stage of the proceedings, it is important that you reply to the respondent’s answer within 15 days of receiving it.

After the MAR, if the case is dismissed, you will be given 15 days to request the right to move your complaint from CHRO into the courts. If you do not request to remove your complaint from CHRO, there will be a review of your case, and within 60 days a decision will be made to either reinstate your complaint or to uphold the dismissal.

After the MAR, if the case is not dismissed, an investigator will be assigned and a mandatory mediation conference will be held within 60 days. If negotiations fail to produce a settlement agreeable to all parties,

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<sup>30</sup> Conn. Gen. Stat. sec. 46a-60

<sup>31</sup> Conn. Gen. Stat. sec. 46a-64c

<sup>32</sup> Conn. Gen. Stat. sec. 46a-64

either party or the CHRO can request early legal intervention. The CHRO has 90 days to act upon this request and make one of the following decisions:

1. the investigator will continue to collect evidence and will make a decision of “reasonable cause” or “no reasonable cause.”
2. a Hearing Officer will be appointed to decide the merits of the case in a trial-type hearing.
3. the complaint will be dismissed.

If there is not a request for early legal intervention, then as in 1. above, the investigator will continue to collect evidence and will make a determination of “reasonable cause” or “no reasonable cause.” If a finding of “reasonable cause” is made, you can request either to have the case heard at the CHRO or to move it to Superior Court. If a finding of “no reasonable cause” is made, you have 15 days to request reconsideration.

Note that in housing discrimination cases, the CHRO must complete its investigation within 100 days of filing and the final disposition within one year, unless it is impracticable to do so.<sup>33</sup>

***What are the legal remedies the CHRO may award for discrimination if an individual wins his or her case there?***

**Employment:** may include hiring, reinstatement or upgrading, backpay, restoration in a labor organization, cease and desist orders, and other relief that would fulfill the purposes of the anti-discrimination laws (e.g. training programs, posting of notices.)<sup>34</sup> (Note that when cases are filed in court, emotional distress damages and attorneys’ fees are also available to a successful complainant. These are not available from the CHRO.)<sup>35</sup>

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<sup>33</sup> For sexual orientation Conn. Gen. Stat. sec 46a-81(e) and for gender identity or expression Conn. Gen. Stat. sec. 46a-64c(f)

<sup>34</sup> Conn. Gen. Stat. sec. 46a-86 (a - c)

<sup>35</sup> See *Bridgeport Hospital v. CHRO*, 232 Conn. 91 (1995); *Delvecchio v. Griggs & Browne Co., Inc.*, 2000 Conn. Super. LEXIS 1149 (April 17, 2000)(“The CHRO is without authority to award a prevailing party attorneys’ fees, punitive or compensatory damages or damages for emotional distress.”)

**Housing:** damages (expenses actually incurred because of unlawful action related to moving, storage, or obtaining alternate housing); cease and desist orders, reasonable attorney's fees and costs, and other relief that would fulfill the purposes of the anti-discrimination laws.<sup>36</sup> The CHRO may also order civil fines to be paid to the state.<sup>37</sup>

**Public Accommodations:** cease and desist orders, and other relief that would fulfill the purposes of the anti-discrimination laws. The CHRO may also order civil fines to be paid to the state.<sup>38</sup>

**Credit:** cease and desist orders, and other relief that would fulfill the purposes of the anti-discrimination laws (e.g. allowing person to apply for credit on non-discriminatory terms).<sup>39</sup>

***Should I take my case away from the CHRO and file in court? How do I do so?***

This is a decision you should make with your lawyer. Greater damages are available to you in state court than at the CHRO, including emotional distress damages and attorney's fees.

To sue an entity in state court as opposed to the CHRO, you must follow several steps and meet various deadlines.<sup>40</sup>

- Your complaint must have been filed on time at the CHRO (i.e., within 180 days of the last act of discrimination);
- Your complaint must have been pending with the CHRO more than 180 days (although if you and your employer agree to request the case's removal to court, you may do so before the 180 days elapse) or the merit assessment review must have been completed;

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<sup>36</sup> Conn. Gen. Stat. sec. 46a-86 (a, c)

<sup>37</sup> Conn. Gen. Stat. sec. 46a-64c(g)

<sup>38</sup> Conn. Gen. Stat. sec. 46a-86 (a); sec. 46a-64 (c)

<sup>39</sup> Conn. Gen. Stat. sec. 46a-86 (a); sec. 46a-98 (outlining additional damages available for cases filed in Superior Court within one year of discriminatory act)

<sup>40</sup> Conn. Gen. Stat. sec. 46a-101 to 46a-102

- You must request a release of your complaint from the CHRO for the purpose of filing a court action (which the CHRO must grant except when the case is scheduled for public hearing or they believe the complaint can be resolved within 30 days);
- You must file your court action within 2 years of the date of filing your complaint with the CHRO; and
- You must file your court action within 90 days after you receive a release from the CHRO to file your case in court.

***Are there other agencies at which I can file a complaint for discrimination?***

Depending on the facts of your particular situation, you may be able to file your complaint of discrimination with other agencies. This outline concerns only Connecticut non-discrimination law, and you may well have other rights.

**1. Union:** If you are a member of a union, your contract (collective bargaining agreement) may provide additional rights to you in the event of discipline, discharge or other job-related actions. If you obtain relief under your contract, you may even decide not to pursue other remedies. Get and read a copy of your contract and contact a union steward about filing a complaint. Deadlines in contracts are strict. Bear in mind that if your union refuses to assist you with a complaint, you may have a discrimination action against them for their failure to work with you, or for failure of duty of fair representation.

**2. Federal Agencies:** Sometimes an action states a claim for a violation of federal law in addition to state law. For example, federal law forbids discrimination based on race, sex, age, religion and disability, but not on the basis of gender identity or expression or sexual orientation. In April 2012 the federal Equal Employment Opportunity Commission (EEOC) ruled that gender identity discrimination is a form of sex discrimination and so is covered under Title VII. Thus if a transgender person who is also gay is

fired from a job, the person can file with the CHRO (for sexual orientation and gender identity) as well as the EEOC (for gender identity discrimination only). To file claims under federal law, the employer must have at least 15 employees, and complaints must be filed within 180 days of the discriminatory act, but if a person initially institutes his or her complaint with the CHRO, then the time limit for filing with the EEOC is extended to the earlier of 300 days or 30 days after CHRO has terminated the case. This does not, however, extend the 180 day limit for filing with the CHRO. (People who work for federal agencies are beyond the scope of this publication).

**3. State or Federal Court:** After filing with the CHRO or EEOC, or both, as discussed above, a person may decide to remove his or her discrimination case from those agencies and file in court. There are rules about when and how this must be done as discussed above. In addition, a person may file a court case to address other claims which are not appropriately handled by discrimination agencies. For example, if a person is fired in violation of a contract, or fired without the progressive discipline promised in a handbook, or fired for doing something the employer doesn't like but which the law requires, then these matters are beyond the scope of what the agencies can investigate and the matter should be pursued in court. If a person has a claim for a violation of constitutional rights, such as a teacher who believes his or her free speech or equal protection rights were violated, then those matters must be heard in court.

***What can I do if my employer fires me or my landlord threatens me for filing a complaint of discrimination?***

It is illegal for any employer to retaliate in these circumstances, and the employee could file an additional complaint against the employer for retaliation. "Retaliation" protections cover those who oppose any discriminatory employment practice, as well as those who participate in certain other proceedings.<sup>41</sup> If the employer takes action against an

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<sup>41</sup> Conn. Gen. Stat. sec. 46a-60(4)

employee because of that conduct, then the employee should be able to state a claim of retaliation.<sup>42</sup>

Likewise, it is illegal for a landlord to “coerce, intimidate, threaten or interfere with” anyone who files a complaint.<sup>43</sup>

***What can I do to prepare myself before filing a complaint of discrimination?***

Contact either CWEALF or GLAD:

- GLAD’s Legal InfoLine—800-455-GLAD (4523) any weekday, 1:30 to 4:30 pm or email and live chat at [www.glad.org/rights/infoline-contact](http://www.glad.org/rights/infoline-contact).
- CWEALF’s Information and Referral Service—800-479-2949 Monday, Wednesday, Thursday or Friday, 9:00 am to 1:00 pm, and Tuesday, 11:00 am to 3:00 pm, or online at [www.cwealf.org/contact](http://www.cwealf.org/contact).

As a general matter, people who are still working with or residing under discriminatory conditions have to evaluate how filing a case will affect their job or housing, and if they are willing to assume those possible consequences. Of course, even if a person has been fired, or evicted, he or she may decide it is not worth it to pursue a discrimination claim. This is an individual choice which should be made after gathering information to make an informed choice.

Some people prefer to meet with an attorney to evaluate the strength of their claims. It is always helpful if you bring an outline of what happened on the job that you are complaining about, organized by date and with an explanation of who the various players are (and how to get in touch with them). Try to have on hand copies of your employee handbooks or personnel manuals, any contracts, job evaluations, memos, discharge letters and the like. If you are concerned about a housing matter, bring a copy of your lease, along with any notices and letters you have received from your landlord.

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<sup>42</sup> Compare *Provencher v. CVS Pharmacy*, 76 F.E.P. Cases (BNA) 1569 (1st Cir. 1998)(upholding federal retaliation claim of gay man)

<sup>43</sup> Conn. Gen. Stat. sec. 46a-64c(a)(9)

# **HATE CRIMES LAWS**

## ***Does Connecticut have a hate crimes law that protects transgender people?***

Yes, Connecticut has two different types of hate crimes laws. In order to track hate crimes, the State maintains a reporting system so that incidents alleged are centrally recorded.<sup>44</sup> In addition, Connecticut sets out a sliding scale of increased penalties for hate crimes based on actual or perceived gender identity or expression (as well as race, religion, ethnicity, disability and sexual orientation) depending on their severity. See “An Act Concerning Intimidation Based on Bigotry or Bias.”<sup>45</sup>

## ***How does the law define what is a hate crime?***

Before the law of “intimidation based on bigotry or bias” can be applied to any crime, it must be shown that the attacker acted (1) maliciously and (2) with specific intent (i.e., the attacker specifically chose to attack the person because of their personal characteristics of gender identity or expression, sexual orientation, etc.).

If those prerequisites are shown, the crime takes several forms.

1. Intimidation based on bigotry or bias is a *Class C Felony* when, in addition to the prerequisites above, the attacker “causes serious physical injury” to a person.
2. Intimidation based on bigotry or bias is a *Class D Felony* (less serious than Class C felony) when, in addition to the prerequisites above, the attacker (a) causes physical contact with another person, or (b) damages, destroys or defaces a person’s real or personal property, or (c) threatens to do either (a) or (b) as long as there is also reasonable cause to believe those threatened acts will occur.

When no maliciousness can be shown, a person may nonetheless be liable as follows:

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<sup>44</sup> See Conn. Gen. Stat. sec. 29-7m

<sup>45</sup> See Public Act 00-72 and Conn. Gen Stat. sec. 53a 181i-181l.

3. Intimidation based on bigotry or bias is a *Class A misdemeanor* (less serious than Class D felony) when, with specific intent (there is no maliciousness requirement here), the attacker intimidates or harasses a person or group of persons by (a) damaging, destroying or defacing any real or personal property, or (b) threatens to do so as long as there is also reasonable cause to believe those threatened acts will occur.

Note that actions toward a group -- even if not a specific person -- can trigger the misdemeanor statute.

Another provision of law allows enhanced penalties against people who are “persistent offenders” of crimes involving bigotry and bias.<sup>46</sup>

There are also specific laws concerning desecration of religious sites and cross burning which are beyond the scope of this document.<sup>47</sup>

### ***How do I know if an attack was a hate crime?***

Trust your gut and report to the police all the details of any possible hate crime. If you leave out the details about bias, the police will have no way of knowing that the crime may be a hate crime. Law enforcement officials tend to use the following as guideposts for determining whether or not a crime is a hate crime.

- Did the attacker use anti-transgender language or epithets?
- Was the victim in an area associated with transgender people?
- Have there been similar crimes in the area?
- Did the attack occur regardless of economic motive (i.e., person attacked but not robbed)?

### ***Where can I call if I think I've been a victim of a hate crime?***

For help and referrals, call the Connecticut Women’s Education and Legal Fund (CWEALF) Hate Crimes Project which both records hate incidents and advocates for victims as well. They can be contacted at (860) 247-6090 or Toll-Free (800) 479-2949.

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<sup>46</sup> Conn. Gen. Stat. sec. 53a-40a

<sup>47</sup> See e.g. Conn. Gen. Stat. sec. 46a-58

Note that in a typical hate crimes case, the hate crimes violation may be charged along with another criminal statute (such as assault and battery, or assault and battery with a dangerous weapon, or assault with intent to murder and maim), which may be easier to prove.

***What other options do I have if I think I have been a victim of a hate crime?***

In addition to pursuing your rights in the criminal justice system, or instead of going that route, you can pursue a civil action against your attacker if you have been injured or if your property has been damaged.<sup>48</sup> That action must be filed within ONE YEAR of the date of the acts about which you are complaining. If you prevail in court, you can collect damages, and the judge may also decide to award triple damages, equitable relief (such as an injunction ordering the attacker to stay away from you) and attorney's fees.

***In what ways might the recently passed federal hate crimes law help to investigate and prosecute hate crimes?***

The *Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act*<sup>49</sup> was passed by Congress on October 22, 2009 and was signed into law by President Obama on October 28, 2009. It expands the 1969 United States federal hate crime law to include crimes motivated by a victim's actual or perceived gender, gender identity or disability or sexual orientation.

First, and perhaps foremost, the Act allows local and state law enforcement agencies to apply for the following federal assistance from the U.S. Attorney General:

- investigative, technical, forensic or prosecutorial support for criminal investigations and prosecutions,
- grants for extraordinary expenses associated with the investigation and prosecution of hate crimes, and

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<sup>48</sup> Conn. Gen. Stat. sec 52-571c

<sup>49</sup> See H.R. 2647 at <http://thomas.loc.gov/cgi-bin/query/F?c111:6:./temp/~c111X7TYvf:e1999565:>

- grants to combat hate crimes committed by juveniles.

In providing assistance to local and state authorities, the priorities are hate crimes:

- where the offender(s) has committed crimes in more than one state, or
- that occur in rural areas which do not have the resources needed to prosecute such crimes.

Second, for hate crimes that in some way involve crossing state or national borders, or involve or affect interstate commerce, and where a state does not have jurisdiction or has requested federal assumption of jurisdiction, or where the federal government feels that justice has not been served or that U.S. prosecution is in the public interest, the Act authorizes the federal government to prosecute the case.

The Act also requires the Federal Bureau of Investigation to track statistics on hate crimes on the basis of gender and gender identity (statistics for the other groups are already tracked) and on crimes committed by and against juveniles. This is the first federal law to explicitly extend legal protections to transgender persons.

Since 1978, Gay & Lesbian Advocates & Defenders (GLAD) has been the leading legal rights organization in New England dedicated to ending discrimination based on sexual orientation, HIV status and gender identity and expression. Through impact litigation, education and public policy work, GLAD seeks to create a better world that respects and celebrates diversity—a world in which there is equal justice under law for all.

Since 1973, The Connecticut Women's Education and Legal Fund (CWEALF) has worked to advance women's rights and opportunities in Connecticut. With special expertise in family law, sex discrimination in employment and education, hate crimes and LGBT civil rights, CWEALF is dedicated to ensuring equal rights and opportunities for women and low-income people. As one of the oldest women's rights organizations in the country, CWEALF is a vital resource to women and policy makers in Connecticut.



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