



Consider supporting two important civil rights bills!

1) H.B. 7297: An Act Establishing a Private Right of Action in the Duty to Promote Fair Housing and Requiring a Study of Connecticut's Housing Inventory and Current and Future Housing Needs

Connecticut is one of the most racially, ethnically, and economically segregated states in the nation. This segregation is in large part due to decades of intentional government policies like redlining, racial covenants, and restricted government-sponsored lending. Segregation is expensive and affecting the state budget. Most civil rights laws simply require that the state not exacerbate this problem. But without acting proactively to counter this history, little will change.

In 1991 the Connecticut Legislature passed CGS Sec. 8-37cc, which requires the state to work to counter the history of intentional segregation by "affirmatively furthering fair housing." That is, to invest state funds to assist disinvested areas of color *and* ensure that groups that were historically cut off from opportunities have housing choices in all kinds of neighborhoods, including neighborhoods that are traditionally White.

Like all other civil rights laws, this statute was presumed to be enforceable by private citizens until the CT Supreme Court in 2006 found that the statute contained no private right of action. This left us with a state civil rights law that is effectively meaningless. Fixing this will also foster more housing choices for downsizing seniors and people with mobility challenges.

There are two technical corrections necessary to reinstate and structure the private right of action under the state requirement to affirmatively further fair housing.

Component 1: Make the affirmatively furthering obligation enforceable. If there is one thing that we have learned from our nation's civil rights history, it is that civil rights laws are meaningless without a way to enforce them. As was originally intended when the law was passed in 1991, the affirmatively furthering duty should be given the enforceability granted to other housing-related civil rights under state statutes.

Component 2: Restructure the Proposal to Avoid a Fiscal Note. Even though intervention is optional for the agency, the Commission on Human Rights and Opportunities is concerned that because this proposal references CGS Sec. 46a-98a, a statute which creates an option for intervention for CHRO in addition to other remedies for the victims of housing discrimination, the agency will need additional legal staff. The agency has imposed a fiscal note. OCA believes no such staffing is necessary. During the 16 years CGS 8-37cc was *presumed* to have a private right of action, only one case was every brought. This proposal can be structured in a manner that avoids a fiscal note by referencing in CGS 8-37cc, a new subsection (c), which makes clear that the new private right of action will trigger only the remedies available under CGS 46a-98a.

2) H.B. 7297 data component & S.B. 752: An Act Requiring a Study of Connecticut's Housing Inventory and Current and Future Housing Needs

In order to plan for housing integration, we need to know the *actual* and *projected* regional need for affordable housing across Connecticut. These data are central to performing basic state planning functions, but are not currently collected by the state in a useful manner. In addition to more accurate overall information on housing need, it is important to know the demand for features like two- and three-bedroom units for larger families and units that are accessible for people with mobility challenges, and fully understand the need for such housing among seniors. This information is also important because Black and Latino families in Connecticut earn half or less of what White families earn. In order to promote diverse housing choices we need the data necessary to plan for diverse communities. SB 752 allows us to do that.

Restoring the Affirmatively Furthering State Law: Frequently Asked Questions

Q: Why would the state want to make the affirmatively furthering provision enforceable?

A: There are several reasons to pass this proposal.

- (1) Connecticut is one of the most segregated states in the nation and this is undermining family stability and our economic productivity.
- (2) If passed, this proposal would function to *limit* litigation because it would provide the state's housing agencies with clear guidance from the legislature on how to carry out their duties.
- (3) The state has only become more segregated since 1991, meaning that without enforceability CGS Sec. 8-37cc is not achieving the result the legislature intended.
- (4) There is as solid body of case law and regulatory guidance at the federal level to assist state agencies with understanding their affirmatively furthering obligations.

Q: Why was CGS Sec. 8-37cc originally passed?

A: In 1991, in recognition of the negative impact housing segregation was having on families and our state's economy, legislators enacted a comprehensive set of proposals designed to bring greater equity to the development of affordable housing in Connecticut. This included initiatives to ensure broader housing choices for families participating in the Rental Assistance Programs, infuse the state's planning procedures with incentives for geographically balanced affordable housing development, and Section 8-37cc's obligation to "affirmatively further fair housing." Since the early 1990s, most of these provisions have been eroded, rescinded, or disregarded. If they had remained intact, it is likely that our state would be less segregated and more economically vibrant than it is today.

Q: What does CGS Sec. 8-37cc's affirmatively furthering fair housing requirement really mean?

A: Connecticut, like many areas of the United States is racially segregated in large part due to government actions over decades. If all the state is required to do is maintain the status quo, this segregation will continue. If, on the other hand, the state is required to use its largess to address the negative consequences of segregation, we will begin to see a transformation. This provision, if made enforceable, would provide the state with clearer guidance on how it administers its programs. For example, it would encourage the state to bring geographical balance to the location of affordable housing and invest in under-resourced areas.

Q: What does it mean to make this provision enforceable?

A: This proposal would make the affirmatively furthering fair housing duty enforceable by restoring a "private right of action," as was originally intended by the legislature. As with all other civil rights laws, this means that individual citizens or organizations harmed by a failure to follow Section 8-37cc may file claims under the statute.

Q: Won't this result in a deluge of cases brought against the state?

A: Absolutely not. If history is any guide, this will not result in considerable litigation. During the statute's first 15 years, when it was presumed to include a private right of action, it was invoked in exactly one court case. During the period when a similar federal law was enforceable nationwide, from 1968 to 2002 - 34 years - fifteen cases were brought across the country, only two of which were in the Second Circuit. Not a single one of those cases was brought in Connecticut. However, even if litigation is pursued, this proposal includes a \$50,000 cap on punitive damages and claims may only be brought against two state agencies, limiting the state's exposure.

Supporting Organizations

AARP – CT
Christian Community Action
Commission on Equity and Opportunity
Commission on Women, Children, and Seniors
Connecticut Alliance for Basic Human Needs
Connecticut Association for Human Service
Connecticut Bar Foundation
Connecticut Center for a New Economy
Connecticut Chapter, American Planning Association
Connecticut Citizens Action Group
Connecticut Council of Family Service Agencies
Connecticut Data Center

Connecticut Fair Housing Center
Connecticut Legal Rights Project
Connecticut Legal Services
Connecticut Juvenile Justice Alliance
Fair Housing Association of Connecticut
Homebuilders and Remodelers Association of CT
Kim McLaughlin, Consultant
Middlesex Coalition for Children
New Haven Legal Assistance
Opportunity Knocks
Sheff Movement