



ATTORNEY GENERAL WILLIAM TONG  
STATE OF CONNECTICUT

***Senate Bill 211: An Act Concerning the Duties of the Office of the Attorney General***

Chairman Stafstrom, Ranking Member Rebimbas, Chairman Winfield, Ranking Member Kissel and distinguished members of the Judiciary Committee, thank you for the opportunity to testify in full support of SB 211, *An Act Concerning the Duties of the Office of the Attorney General*. At a time of increased anxiety and concern over widespread discrimination, hate crimes, and civil rights violations, Connecticut needs to take a stand. We can do that by passing SB 211.

This bill brings Connecticut into line with our sister states by formalizing the Attorney General's ability to investigate and – where the evidence warrants – bring civil rights lawsuits to stop large-scale, systematic violations of existing constitutional and statutory rights.

We have important civil rights protections on the books – like the Fair Housing Act, the Americans with Disabilities Act, and our state hate crimes provisions. But rights are only as meaningful as the remedies that we create for them. SB 211 does not create any new substantive rights. It does not grant the Attorney General any criminal jurisdiction. Instead, it authorizes the Attorney General to use civil actions to enforce civil rights that have already been recognized by this legislature and by Congress.

**Across the Country, States Are Stepping Up to Protect Civil Rights**

We are witnessing an erosion of federal civil rights enforcement.<sup>i</sup> The U.S. Department of Justice's Civil Rights Division is opening fewer new investigations than at any time in the last 18 years.<sup>ii</sup> The Department of Housing and Urban Development, too, is virtually out of the enforcement business. Last year, the Washington Post reported that HUD Secretary Ben Carson "has only once used his authority as HUD secretary to scrutinize widespread housing discrimination..."<sup>iii</sup> In the face of the federal government's abdication of responsibility for civil rights enforcement, it is more important than ever for states like Connecticut to protect residents whose lives and liberties are under threat.

Unfortunately, our ability to protect Connecticut residents is constrained because Connecticut lacks a statute explicitly recognizing the Attorney General's role in civil rights enforcement. We are an outlier compared to our neighboring states of New York, Massachusetts, and Rhode Island – all of which are among at least 22 states, ranging geographically and politically from Washington to Florida, that have recognized the authority of their Attorneys General to use civil litigation to combat discrimination, protect fundamental freedoms, and stand up for vulnerable residents.<sup>iv</sup> The trend is towards action, as states increasingly have realized that they can and must play a key role in protecting the rights of their residents. For example, Washington launched its civil rights division in 2015, and New Hampshire followed suit in 2017.<sup>v</sup>



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When civil rights violations take place just across the state line in New York or Massachusetts, the Attorney General can respond. Our residents' rights deserve the same level of protection here in Connecticut.

**How SB 211 Works: Empowering the Attorney General to Protecting Civil Rights**

SB 211 clarifies the Attorney General's standing to conduct civil rights investigations and – where appropriate – initiate civil actions seeking damages and injunctions against bad actors who intimidate, discriminate, harass, and threaten our civil rights and freedoms. The bill is patterned after some of our sister states' most important and time-tested civil rights enforcement laws:

- Section 1 positions the Attorney General to respond to hate crimes with civil suits for injunctions and damages. As we have discussed and agreed with the State's Attorney, SB 211 would not give the Attorney General criminal jurisdiction. The language here closely tracks Massachusetts' civil hate crimes enforcement law, Mass. Gen. Laws ch. 12 § 11h.
- Section 2 authorizes the Attorney General to sue on behalf of groups of individuals who have suffered from a pattern or practice civil rights violations. This subsection is intended to grant authority that parallels the New York Attorney General's powers under New York Executive Law § 63(12).

Importantly, engaging in civil rights work – which the Office can do within existing appropriations – is entirely consistent with the Attorney General's existing responsibilities. The Attorney General is the people's lawyer, responsible for using the law to fight in civil cases for the rights, freedoms, and interests of Connecticut's people and its government. Sometimes, that means protecting the state in litigation that threatens to divert taxpayer dollars. And sometimes it means using government's power to protect our residents against civil rights violations.<sup>vi</sup>

**With SB 211, the Attorney General Can Complement Existing Civil Rights Work**

SB 211 positions the Attorney General's Office to leverage its unique expertise and capacity as Connecticut's largest law firm to complement important ongoing civil rights enforcement efforts. The Office looks forward to actively partnering with our state's civil rights organizations and stakeholders in opportunities to advance and protect rights through litigation and policy development.

In particular, we look forward to further strengthening our partnership with the Commission on Human Rights and Opportunities (CHRO), even as we each have our own area of expertise and focus. As a rule, the CHRO holds administrative hearings in response to individual complaints of discrimination. Notably, under existing law, the Attorney General is



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already empowered to bring cases at those administrative hearings.<sup>vii</sup> But, traditionally, the CHRO's legal staff has investigated and prosecuted CHRO cases – and that tradition should and will continue. SB 211 contains multiple provisions, which we discussed and agreed on with the CHRO, to reduce the threat of duplicative litigation and ensure that the CHRO's enforcement capacity remains robust and independent.

### **Protecting the Rights of All Connecticut Residents**

SB 211 positions the Attorney General's Office to respond meaningfully to some of the most pressing issues of our day. We need to be able to investigate and – where appropriate – act when, to cite just a few recent examples from the news:

- The Islamic Center in New London receives fake poison in the mail, or Klansmen ride in Stafford Springs.<sup>viii</sup>
- African-American and Latinx people in Hartford are denied safe, quality housing while the federal Department of Housing and Urban Development sits on its hands.<sup>ix</sup>
- Immigrants in our cities and towns are subjected to large-scale, systematic wage theft.<sup>x</sup>
- Connecticut residents with disabilities fear being pushed out of jobs because a big box store has decided to reclassify their position without accommodation.<sup>xi</sup>

These are the kinds of threats to civil rights faced by people across Connecticut. And they are situations where investigation and civil action by a large, experienced law office are important to bringing justice and healing communities.

We cannot predict exactly what situations might call for intervention and enforcement by the Attorney General. But it may be helpful to look at some of the ways that Attorneys General in other states have enforced civil rights:

- *Religious Rights:* The Washington Attorney General reached a settlement that required the payment of damages and a change to hiring practices after an investigation revealed that an aerospace company "refused to hire Muslim applicants, engaged in religious and/or national origin harassment, discriminated against employees based on marital status, and retaliated against employees who opposed such unfair practices."
- *Disability Rights:* The California Attorney General entered into a settlement agreement with the University of Southern California, a private research university, to improve access to its campus transportation system for individuals with disabilities following an investigation into allegations that the transportation system failed to comply with state and federal law.



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- *Racial Discrimination:* The Washington State Attorney General signed an agreement with Facebook that legally binds the company to block the use of its ad-targeting tools to discriminate based on race, religion, sexual orientation, and other protected classes.
- *Gender Discrimination:* The New York Attorney General partnered with the Equal Employment Opportunity Commission to reach a settlement with Con Edison over gender discrimination and sexual harassment against women in field positions. Under the terms of the agreement, Con Edison agreed to reserve up to \$3.8 million to be distributed among eligible settlement group members; hired an independent consultant to evaluate compliance; and provided training on sex discrimination and harassment.
- *Workers' Rights:* In Massachusetts last year, the Attorney General won restitution exceeding \$1.47 million for more than 1,030 employees who had been subjected to wage theft, and the companies were fined a total of more than \$1.23 million.

Today, I ask you to join me in sending a clear message to victims of civil rights abuses across Connecticut: The Office of the Attorney General is your advocate, and we are on your side. The Constitution State should continue to stake our claim as a leader in protecting rights. SB 211 is a step towards fulfilling our government's promise and responsibility to protect our residents. Thank you once again for the opportunity to offer testimony on this incredibly important bill, and please do not hesitate to contact me with any questions or concerns.

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<sup>i</sup> See, e.g., Vanita Gupta, *Statement to the U.S. Commission on Human Rights* (Nov. 2, 2018), <https://tinyurl.com/sq2cxuc> ("Not only has this administration abdicated its responsibility to enforce federal civil rights laws, in many instances, President Trump has appointed individuals to lead federal civil rights offices who have devoted their careers to restricting civil rights or defending those who promote discrimination.").

<sup>ii</sup> Rob Arthur, *Trump's Justice Department Isn't Enforcing Civil Rights*, Vice News (Feb. 23, 2018), <https://tinyurl.com/sjz24ng>.

<sup>iii</sup> Tracy Jan, *Ben Carson's HUD Dials Back Investigations into Housing Discrimination*, Wash. Post, Dec. 24, 2018, <https://tinyurl.com/y6veqg6w>.

<sup>iv</sup> Jurisdictions whose Attorneys General have established civil rights divisions include AZ, CA, CO, DC, DE, FL, IA, IL, MA, MD, NC, NH, NJ, NM, NY, OH, OR, PA, RI, VA, VT, WA, and WV.



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<sup>v</sup> Press Release, *Attorney General Ferguson Dedicates Civil Rights Unit to Trailblazer Wing Luke* (Sept. 15, 2015), <https://tinyurl.com/qt9nzpc>; Holly Ramer, *New Hampshire Attorney General Adds Civil Rights Unit*, Concord Monitor, Dec. 14, 2017, <https://tinyurl.com/w88c5uf>.

<sup>vi</sup> The Attorney General's Office can engage in affirmative civil rights enforcement without detracting from its existing defensive work. Like any large law office— and like the many Attorneys General across the country that practice civil rights enforcement— the Attorney General's Office has internal rules and processes to identify and respond to ethical conflicts under the rules of professional responsibility.

<sup>vii</sup> See Conn. Gen. Stat. § 46a-84(d) (“The case in support of the complaint shall be presented at the hearing by the Attorney General, who shall be counsel for the commission, or by a commission legal counsel...”).

<sup>viii</sup> Press Release, Council on American-Islamic Relations, *CAIR-CT Urges Stepped Up Security Measures After White Substance, Hate Mail Sent to Connecticut Mosque* (Sept. 21, 2018); Tina Detelj, *Hate Incidents Continue to Rise in Connecticut*, WTNH.com (Jan. 3, 2019), <https://tinyurl.com/v6zyzwl>.

<sup>ix</sup> Rebecca Lurye, *Lawmakers Say HUD Is Complicit in ‘Inhumane’ Conditions at Hartford Housing Project*, Hartford Courant, Mar. 11, 2019, <https://tinyurl.com/wywf2c>.

<sup>x</sup> See Megan Fountain, Unidad Latina en Accion, *The Connecticut Wage Theft Crisis: Stories and Solutions* (2015), <https://tinyurl.com/tvnruvy>.

<sup>xi</sup> R.J. Scofield, *Walmart, With Stores Throughout Connecticut, Eliminating Greeters*, Patch.com (Feb. 28, 2019), <https://tinyurl.com/vh3nla5>.