



Connecticut Business & Industry Association

**Testimony Of
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Before The
Labor & Public Employees Committee
Legislative Office Building
Hartford, Connecticut
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Good afternoon, my name is Kyra Nesteriak and I am government affairs manager for the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 10,000 companies across the state of Connecticut, ranging from large corporations to small businesses with one or two employees. The vast majority of our members have fewer than 50 employees.

CBIA opposes HB 5646, AAC Job Applicants Access to Criminal History Check Results. This would result in an additional burden being imposed on employers that do not use a third party to conduct their background checks. For those that currently do use a third party this issue is addressed under federal law.

Employers often do background checks on applicants. As an employer, you may use consumer reports when you hire new employees as long as you comply with the Fair Credit Reporting Act (15 USC §168, FCRA). A criminal background check falls under the definition of consumer reports as long as it is prepared by a consumer-reporting agency.

The FCRA is designed primarily to protect the privacy of consumer report information and to guarantee that the information supplied by consumer reporting agencies is as accurate as possible. Amendments to the FCRA, which went into effect September 30, 1997, significantly increased the legal obligations of employers who use consumer reports. Congress expanded employer responsibilities because of concern that inaccurate or incomplete consumer reports could cause applicants to be denied jobs or cause employees to be denied promotions unjustly. The amendments ensure: (1) that individuals are aware that consumer reports may be used for employment purposes and agree to such use, and (2) that individuals are notified promptly if information in a consumer report may result in a negative employment decision.

Before an employer can get a consumer report for employment purposes, they must notify the individual in writing that a report may be used. The employer also must get the person's written authorization before they can ask a consumer-reporting agency for the report.

Currently, if the employer relies on a consumer report for an “adverse action”, such as denying a job application, before the employer can take adverse action they must:

- Give the individual a pre-adverse action disclosure that includes a copy of the individual’s consumer report and a copy of “A Summary of Your Rights Under the Fair Credit Reporting Act” - a document prescribed by the Federal Trade Commission.

In addition, after the employer has taken an adverse action, they must give the individual notice in an adverse action notice – verbally, in writing or electronically. The notice must contain:

- The name, address, phone number of the consumer-reporting agency that prepared the report;
- A statement that the consumer reporting agency that supplied the report did not make the decision to take the adverse action; and
- A notice of the individual’s right to dispute the accuracy or completeness of any information that the consumer-reporting agency furnished, and his/her right to an additional consumer report from the consumer-reporting agency upon request within 60 days.

There are legal consequences for employers for non-compliance with the FCRA. If an employer fails to get an applicant's permission before requesting a consumer report or if an employers fail to provide pre-adverse action disclosures and adverse action notices to unsuccessful job applicants. The FCRA allows individuals to sue employers for damages in federal court. A person who successfully sues is entitled to recover court costs and reasonable legal fees. The law also allows individuals to seek punitive damages for deliberate violations. In addition, the Federal Trade Commission, other federal agencies, and the states may sue employers for noncompliance and obtain civil penalties.

Passage of this measure would result in either an additional cost of doing business for employers that would now need to hire a third party to conduct their background checks. Or an administrative burden for those that chose to continue to keep this task in-house as that they would now need to establish a formal procedure for conducting the checks and document every, no matter how informal, conversation about the applicant should the applicant request a copy of this information.

We urge the committee to reject **HB 5646**.

Thank you for the opportunity to comment today.