



General Assembly

February Session, 2006

Amendment

LCO No. 4986

HB0578104986HDO

Offered by:
REP. LAWLOR, 99th Dist.

To: Subst. House Bill No. 5781 File No. 503 Cal. No. 338

"AN ACT CONCERNING CERTIFICATES OF EMPLOYABILITY AND REHABILITATION."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2006*) For the purposes of
4 sections 1 to 4, inclusive, and sections 6 and 7 of this act:

5 (1) "Barrier" means a denial of employment or a license based on an
6 eligible offender's conviction of a crime without due consideration of
7 whether the nature of the crime bears a direct relationship to such
8 employment or license;

9 (2) "Eligible offender" means a person who has been convicted of a
10 crime or crimes in this state or another jurisdiction and who is a
11 resident of this state and is applying for a provisional pardon or is
12 under the jurisdiction of the Board of Pardons and Paroles;

13 (3) "Employment" means any remunerative work, occupation or

14 vocation or any form of vocational training, but does not include
15 employment with a law enforcement agency;

16 (4) "Forfeiture" means a disqualification or ineligibility for
17 employment or a license by reason of law based on an eligible
18 offender's conviction of a crime;

19 (5) "License" means any license, permit, certificate or registration
20 that is required to be issued by the state or any of its agencies to
21 pursue, practice or engage in an occupation, trade, vocation, profession
22 or business; and

23 (6) "Provisional pardon" means a form of relief from barriers or
24 forfeitures to employment or the issuance of licenses granted to an
25 eligible offender by the Board of Pardons and Paroles pursuant to
26 section 2 of this act.

27 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) The Board of Pardons
28 and Paroles may issue a provisional pardon to relieve an eligible
29 offender of barriers or forfeitures by reason of such person's conviction
30 of the crime or crimes specified in such provisional pardon. Such
31 provisional pardon may be limited to one or more enumerated barriers
32 or forfeitures or may relieve the eligible offender of all barriers and
33 forfeitures. No provisional pardon shall apply or be construed to apply
34 to the right of such person to retain or be eligible for public office.

35 (b) The Board of Pardons and Paroles may, in its discretion, issue a
36 provisional pardon to an eligible offender upon verified application of
37 such person. The board may issue a provisional pardon at any time
38 after the sentencing of an eligible offender.

39 (c) The board shall not issue a provisional pardon unless the board
40 is satisfied that:

41 (1) The person to whom the provisional pardon is to be issued is an
42 eligible offender;

43 (2) The relief to be granted by the provisional pardon may promote

44 the public policy of rehabilitation of ex-offenders through
45 employment; and

46 (3) The relief to be granted by the provisional pardon is consistent
47 with the public interest in public safety and the protection of property.

48 (d) In accordance with the provisions of subsection (c) of this
49 section, the board may limit the applicability of the provisional pardon
50 to specified types of employment or licenses for which the eligible
51 offender is otherwise qualified.

52 (e) The board may, for the purpose of determining whether such
53 provisional pardon should be issued, request its staff to conduct an
54 investigation of the applicant and submit to the board a report of the
55 investigation. Any written report submitted to the board pursuant to
56 this subsection shall be confidential and not disclosed except where
57 required or permitted by any provision of the general statutes or upon
58 specific authorization of the board.

59 (f) If a provisional pardon is issued by the board while an eligible
60 offender is on probation or parole, the provisional pardon shall be
61 deemed to be temporary until the person completes such person's
62 period of probation or parole. During the period that such provisional
63 pardon is temporary, the board may revoke such provisional pardon
64 for violation of the conditions of such person's probation or parole.

65 (g) The board may at any time issue a new provisional pardon to
66 enlarge the relief previously granted, and the provisions of subsections
67 (a) to (e), inclusive, of this section shall apply to the issuance of any
68 new provisional pardon.

69 (h) The application for a provisional pardon, the report of an
70 investigation conducted pursuant to subsection (e) of this section, the
71 provisional pardon and the revocation of a provisional pardon shall be
72 in such form and contain such information as the Board of Pardons
73 and Paroles shall prescribe.

74 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) Each state agency that
75 issues licenses shall collect and maintain data on the number of eligible
76 offenders who (1) presented a provisional pardon and were (A) issued
77 a license, or (B) denied a license, and (2) did not present a provisional
78 pardon and were (A) issued a license, or (B) denied a license.

79 (b) The Board of Pardons and Paroles shall collect and maintain data
80 on the number of eligible offenders who (1) applied for a provisional
81 pardon, and (2) were (A) issued a provisional pardon, and (B) denied a
82 provisional pardon.

83 Sec. 4. Section 46a-80 of the general statutes is repealed and the
84 following is substituted in lieu thereof (*Effective October 1, 2006*):

85 (a) Except as provided in subsection (b) of this section and
86 subsection (b) of section 46a-81, and notwithstanding any other
87 provisions of law to the contrary, a person shall not be disqualified
88 from employment by the state of Connecticut or any of its agencies,
89 nor shall a person be disqualified to practice, pursue or engage in any
90 occupation, trade, vocation, profession or business for which a license,
91 permit, certificate or registration is required to be issued by the state of
92 Connecticut or any of its agencies solely because of a prior conviction
93 of a crime.

94 (b) A person may be denied employment by the state or any of its
95 agencies, or a person may be denied a license, permit, certificate or
96 registration to pursue, practice or engage in an occupation, trade,
97 vocation, profession or business by reason of the prior conviction of a
98 crime if, after considering (1) the nature of the crime and its
99 relationship to the job for which the person has applied, [;] (2)
100 information pertaining to the degree of rehabilitation of the convicted
101 person, [;] and (3) the time elapsed since the conviction or release, the
102 state [,] or any of its agencies determines that (A) the [applicant is not
103 suitable for the position of employment sought or the specific
104 occupation, trade, vocation, profession or business for which the
105 license, permit, certificate or registration is sought] nature of the crime

106 has a direct bearing on such person's fitness or ability to perform one
107 or more of the duties and responsibilities necessarily related to the
108 employment or license, permit, certificate or registration sought, (B)
109 the person is not sufficiently rehabilitated, or (C) insufficient time has
110 elapsed since the conviction or release. In making a determination
111 pursuant to this subsection, the state or any of its agencies shall also
112 give consideration to a provisional pardon issued to such person
113 pursuant to section 2 of this act.

114 (c) If a conviction of a crime is used as a basis for rejection of an
115 applicant, such rejection shall be in writing and specifically state the
116 evidence presented and reasons for rejection. A copy of such rejection
117 shall be sent by registered mail to the applicant.

118 (d) In no case may records of arrest, which are not followed by a
119 conviction, or records of convictions, which have been erased, be used,
120 distributed or disseminated by the state or any of its agencies in
121 connection with an application for employment or for a permit, license,
122 certificate or registration.

123 Sec. 5. Section 46a-99 of the general statutes is repealed and the
124 following is substituted in lieu thereof (*Effective October 1, 2006*):

125 Any person claiming to be aggrieved by a violation of any provision
126 of sections 46a-70 to 46a-78, inclusive, section 46a-80, as amended by
127 this act, or sections 46a-81h to 46a-81o, inclusive, may petition the
128 Superior Court for appropriate relief and said court shall have the
129 power to grant such relief, by injunction or otherwise, as it deems just
130 and suitable.

131 Sec. 6. Section 54-130a of the general statutes is repealed and the
132 following is substituted in lieu thereof (*Effective October 1, 2006*):

133 (a) Jurisdiction over the granting of, and the authority to grant,
134 commutations of punishment or releases, conditioned or absolute, in
135 the case of any person convicted of any offense against the state and
136 commutations from the penalty of death shall be vested in the Board of

137 Pardons and Paroles.

138 (b) Said board shall have authority to grant pardons, conditioned,
139 provisional or absolute, for any offense against the state at any time
140 after the imposition and before or after the service of any sentence.

141 (c) Whenever the board grants an absolute pardon to any person,
142 the [secretary of said] board shall cause notification of such pardon to
143 be made in writing to the clerk of the court in which such person was
144 convicted, or the Office of the Chief Court Administrator if such
145 person was convicted in the Court of Common Pleas, the Circuit
146 Court, a municipal court, or a trial justice court.

147 (d) Whenever the board grants a provisional pardon to any person,
148 the board shall cause notification of such pardon to be made in writing
149 to the clerk of the court in which such person was convicted. The
150 granting of a provisional pardon does not entitle such person to
151 erasure of the record of the conviction of the offense or relieve such
152 person from disclosing the existence of such conviction as may be
153 required.

154 Sec. 7. Section 31-51i of the general statutes is repealed and the
155 following is substituted in lieu thereof (*Effective October 1, 2006*):

156 (a) For the purposes of this section, "employer" means any person
157 engaged in business who has one or more employees, including the
158 state or any political subdivision of the state.

159 (b) No employer or an employer's agent, representative or designee
160 may require an employee or prospective employee to disclose the
161 existence of any arrest, criminal charge or conviction, the records of
162 which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

163 (c) An employment application form that contains any question
164 concerning the criminal history of the applicant shall contain a notice,
165 in clear and conspicuous language: (1) That the applicant is not
166 required to disclose the existence of any arrest, criminal charge or

167 conviction, the records of which have been erased pursuant to section
168 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure
169 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to
170 a finding of delinquency or that a child was a member of a family with
171 service needs, an adjudication as a youthful offender, a criminal charge
172 that has been dismissed or nolle, a criminal charge for which the
173 person has been found not guilty or a conviction for which the person
174 received an absolute pardon, and (3) that any person whose criminal
175 records have been erased pursuant to section 46b-146, 54-76o or 54-
176 142a shall be deemed to have never been arrested within the meaning
177 of the general statutes with respect to the proceedings so erased and
178 may so swear under oath.

179 (d) No employer or an employer's agent, representative or designee
180 shall deny employment to a prospective employee solely on the basis
181 that the prospective employee had a prior arrest, criminal charge or
182 conviction, the records of which have been erased pursuant to section
183 46b-146, 54-76o or 54-142a or that the prospective employee had a prior
184 conviction for which the prospective employee has received a
185 provisional pardon pursuant to section 54-130a, as amended by this
186 act.

187 (e) No employer or an employer's agent, representative or designee
188 shall discharge, or cause to be discharged, or in any manner
189 discriminate against, any employee solely on the basis that the
190 employee had, prior to being employed by such employer, an arrest,
191 criminal charge or conviction, the records of which have been erased
192 pursuant to section 46b-146, 54-76o or 54-142a or that the employee
193 had, prior to being employed by such employer, a prior conviction for
194 which the employee has received a provisional pardon pursuant to
195 section 54-130a, as amended by this act.

196 (f) The portion of an employment application form which contains
197 information concerning the criminal history record of an applicant or
198 employee shall only be available to the members of the personnel
199 department of the company, firm or corporation or, if the company,

200 firm or corporation does not have a personnel department, the person
 201 in charge of employment, and to any employee or member of the
 202 company, firm or corporation, or an agent of such employee or
 203 member, involved in the interviewing of the applicant.

204 (g) Notwithstanding the provisions of subsection (f) of this section,
 205 the portion of an employment application form which contains
 206 information concerning the criminal history record of an applicant or
 207 employee may be made available as necessary to persons other than
 208 those specified in said subsection (f) by:

209 (1) A broker-dealer or investment adviser registered under chapter
 210 672a in connection with (A) the possible or actual filing of, or the
 211 collection or retention of information contained in, a form U-4 Uniform
 212 Application for Securities Industry Registration or Transfer, (B) the
 213 compliance responsibilities of such broker-dealer or investment
 214 adviser under state or federal law, or (C) the applicable rules of self-
 215 regulatory organizations promulgated in accordance with federal law;

216 (2) An insured depository institution in connection with (A) the
 217 management of risks related to safety and soundness, security or
 218 privacy of such institution, (B) any waiver that may possibly or
 219 actually be sought by such institution pursuant to section 19 of the
 220 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or
 221 actual obtaining by such institution of any security or fidelity bond, or
 222 (D) the compliance responsibilities of such institution under state or
 223 federal law; and

224 (3) An insurance producer licensed under chapter 701a in
 225 connection with (A) the management of risks related to security or
 226 privacy of such insurance producer, or (B) the compliance
 227 responsibilities of such insurance producer under state or federal law."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	New section

Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	New section
Sec. 4	<i>October 1, 2006</i>	46a-80
Sec. 5	<i>October 1, 2006</i>	46a-99
Sec. 6	<i>October 1, 2006</i>	54-130a
Sec. 7	<i>October 1, 2006</i>	31-51i