



House of Representatives

File No. 628

General Assembly

February Session, 2010

(Reprint of File No. 358)

Substitute House Bill No. 5207
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 23, 2010

**AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR
PROSPECTIVE STATE EMPLOYEES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46a-80 of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 (a) Except as provided in subsection [(b)] (c) of this section,
5 subsection (b) of section 46a-81 and section 36a-489, and
6 notwithstanding any other provisions of law to the contrary, a person
7 shall not be disqualified from employment by the state [of
8 Connecticut] or any of its agencies, nor shall a person be disqualified to
9 practice, pursue or engage in any occupation, trade, vocation,
10 profession or business for which a license, permit, certificate or
11 registration is required to be issued by the state [of Connecticut] or any
12 of its agencies solely because of a prior conviction of a crime.

13 (b) Except for a position for which any provision of the general
14 statutes specifically disqualifies a person from employment by the

15 state or any of its agencies because of a prior conviction of a crime, no
 16 employer, as defined in section 5-270, shall inquire about a prospective
 17 employee's past convictions until such prospective employee has been
 18 deemed otherwise qualified for the position.

19 [(b)] (c) A person may be denied employment by the state or any of
 20 its agencies, or a person may be denied a license, permit, certificate or
 21 registration to pursue, practice or engage in an occupation, trade,
 22 vocation, profession or business by reason of the prior conviction of a
 23 crime if after considering (1) the nature of the crime and its
 24 relationship to the job for which the person has applied; (2)
 25 information pertaining to the degree of rehabilitation of the convicted
 26 person; and (3) the time elapsed since the conviction or release, the
 27 state, or any of its agencies determines that the applicant is not suitable
 28 for the position of employment sought or the specific occupation,
 29 trade, vocation, profession or business for which the license, permit,
 30 certificate or registration is sought.

31 [(c)] (d) If a conviction of a crime is used as a basis for rejection of an
 32 applicant, such rejection shall be in writing and specifically state the
 33 evidence presented and reasons for rejection. A copy of such rejection
 34 shall be sent by registered mail to the applicant.

35 [(d)] (e) In no case may records of arrest, which are not followed by
 36 a conviction, or records of convictions, which have been erased, be
 37 used, distributed or disseminated by the state or any of its agencies in
 38 connection with an application for employment or for a permit, license,
 39 certificate or registration.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	46a-80

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes changes regarding background checks for prospective state employees, does not result in a fiscal impact.

House "A" (LCO 3678) struck the language of the underlying bill and replaced it with similar language that prohibited all inquiries about past convictions and not just inquires through a consumer report. There was no associated fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5207 (as amended by House "A")******AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR PROSPECTIVE STATE EMPLOYEES.*****SUMMARY:**

This bill prohibits certain covered state employers from asking about a prospective employee's past convictions until the person is deemed otherwise qualified for the position. The prohibition does not apply if a statute specifically disqualifies someone from a position due to a prior conviction.

The applicable employers are the state; the executive and judicial branches including any of their boards, departments, commissions, institutions, agencies, or units; boards of trustees of state-owned or -supported colleges, universities, or their branches; public and quasi-public state corporations; authorities established by law; and anyone designated by the employer to act in its interest with employees. The bill does not cover the state Board of Labor Relations; Board of Mediation and Arbitration, or, apparently, the legislative branch. This means these employers may ask about the prior convictions of a prospective employee. However, the law, unchanged by the bill, prohibits these and other state agencies from disqualifying a person from employment solely because of a prior conviction (see BACKGROUND).

*House Amendment "A" changes the original file's provisions by (1) applying to any inquiry about past convictions and not just inquiring through a consumer report, (2) prohibiting an inquiry until the person is deemed qualified rather than until the person is deemed qualified and made a conditional offer of employment, and (3)

eliminating provisions on when an agency must consider certain factors before denying state employment or a credential based on a prior conviction.

EFFECTIVE DATE: October 1, 2010

BACKGROUND

Denying State Employment or Credential Based on Prior Convictions

With two exceptions, the law prohibits the state and its agencies from disqualifying a person from state employment or denying, suspending, or revoking a credential (such as a professional, trade, or business license) solely because of the person's prior conviction. The exceptions are for law enforcement agencies and licensing mortgage lenders, correspondent lenders, and brokers. Instead, prior to making a decision based on a prior conviction, the relevant agency must consider the nature of the crime, its relation to the job, the person's rehabilitation, and the time since the conviction or release before finding someone unsuitable for the position or credential.

An agency must consider these factors regardless of other law and even when another law purports to govern denying credentials due to lack of good moral character or suspending or revoking a credential due to a conviction.

Related Bills

sSB 54, File 186, favorably reported by the Banks and Public Safety and Security committees, allows the banking commissioner to conduct state and national criminal background checks of license applicants and expands the commissioner's authority to deny applications on the basis of criminal convictions. The provision applies to applications for a sales finance company, small loan lender, check cashing service, money transmission or payment instrument issuer, debt adjuster, debt negotiator, or consumer collection agency license.

sSB 59, File 188, favorably reported by the Banks and Public Safety

and Security committees, specifies that the banking commissioner’s authority to conduct criminal background checks of key personnel of Connecticut banks and Connecticut credit unions in various circumstances includes the authority to conduct both state and national background checks.

sSB 399, File 579, favorably reported by the Judiciary Committee, creates a civil action for violations of certain laws related to employment applications, consumer reports, and deletion of erased criminal records.

sHB 5186, File 178, favorably reported by the Banks and Judiciary committees, expands the banking commissioner’s authority to (1) deny, suspend, or revoke the registration or (2) restrict or impose conditions on the securities or investment advisory activities of various individuals regulated by the Uniform Securities Act due to such individuals’ criminal conviction history.

sHB 5409, File 279, favorably reported by the Banks Committee, requires the commissioner to deny a debt settlement application if he finds that the applicant or certain individuals connected to the applicant have been convicted within the past 10 years of any felony or a misdemeanor involving any aspect of the debt settlement business.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference
Yea 7 Nay 3 (03/09/2010)

Government Administration and Elections Committee

Joint Favorable
Yea 8 Nay 7 (03/26/2010)