



General Assembly

February Session, 2010

Raised Bill No. 5060

LCO No. 531

00531_____LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

**AN ACT CONCERNING THE USE OF CRIMINAL RECORDS FOR THE
PURPOSE OF DENYING A PROMOTION TO AN INDIVIDUAL
EMPLOYED IN THE FOOD SERVICE OR RETAIL INDUSTRIES.**

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

1 Section 1. Section 31-51i of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

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

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

10 (c) An employment application form that contains any question
11 concerning the criminal history of the applicant shall contain a notice,
12 in clear and conspicuous language: (1) That the applicant is not
13 required to disclose the existence of any arrest, criminal charge or
14 conviction, the records of which have been erased pursuant to section

15 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure
16 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to
17 a finding of delinquency or that a child was a member of a family with
18 service needs, an adjudication as a youthful offender, a criminal charge
19 that has been dismissed or nolle, a criminal charge for which the
20 person has been found not guilty or a conviction for which the person
21 received an absolute pardon, and (3) that any person whose criminal
22 records have been erased pursuant to section 46b-146, 54-76o or 54-
23 142a shall be deemed to have never been arrested within the meaning
24 of the general statutes with respect to the proceedings so erased and
25 may so swear under oath.

26 (d) No employer or an employer's agent, representative or designee
27 shall deny employment to a prospective employee solely on the basis
28 that the prospective employee had a prior arrest, criminal charge or
29 conviction, the records of which have been erased pursuant to section
30 46b-146, 54-76o or 54-142a or that the prospective employee had a prior
31 conviction for which the prospective employee has received a
32 provisional pardon pursuant to section 54-130a.

33 (e) No employer or an employer's agent, representative or designee
34 shall discharge, or cause to be discharged, or in any manner
35 discriminate against, any employee solely on the basis that the
36 employee had, prior to being employed by such employer, an arrest,
37 criminal charge or conviction, the records of which have been erased
38 pursuant to section 46b-146, 54-76o or 54-142a or that the employee
39 had, prior to being employed by such employer, a prior conviction for
40 which the employee has received a provisional pardon pursuant to
41 section 54-130a.

42 (f) No employer or employer's agent, representative or designee
43 engaged in any business designated in sector 44, 45 or 72 of the North
44 American Industry Classification System shall deny opportunities for
45 promotion of any employee solely on the basis that the employee had,
46 prior to being employed by such employer, an arrest, criminal charge

47 or conviction, the records of which have been erased pursuant to
48 section 46b-146, 54-76o or 54-142a or that the employee had, prior to
49 being employed by such employer, a prior conviction for which the
50 employee has received a provisional pardon pursuant to section 54-
51 130a.

52 [(f)] (g) The portion of an employment application form which
53 contains information concerning the criminal history record of an
54 applicant or employee shall only be available to the members of the
55 personnel department of the company, firm or corporation or, if the
56 company, firm or corporation does not have a personnel department,
57 the person in charge of employment, and to any employee or member
58 of the company, firm or corporation, or an agent of such employee or
59 member, involved in the interviewing of the applicant.

60 [(g)] (h) Notwithstanding the provisions of subsection [(f)] (g) of this
61 section, the portion of an employment application form which contains
62 information concerning the criminal history record of an applicant or
63 employee may be made available as necessary to persons other than
64 those specified in said subsection [(f)] (g) by:

65 (1) A broker-dealer or investment adviser registered under chapter
66 672a in connection with (A) the possible or actual filing of, or the
67 collection or retention of information contained in, a form U-4 Uniform
68 Application for Securities Industry Registration or Transfer, (B) the
69 compliance responsibilities of such broker-dealer or investment
70 adviser under state or federal law, or (C) the applicable rules of self-
71 regulatory organizations promulgated in accordance with federal law;

72 (2) An insured depository institution in connection with (A) the
73 management of risks related to safety and soundness, security or
74 privacy of such institution, (B) any waiver that may possibly or
75 actually be sought by such institution pursuant to section 19 of the
76 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or
77 actual obtaining by such institution of any security or fidelity bond, or
78 (D) the compliance responsibilities of such institution under state or

79 federal law; and

80 (3) An insurance producer licensed under chapter 701a in
81 connection with (A) the management of risks related to security or
82 privacy of such insurance producer, or (B) the compliance
83 responsibilities of such insurance producer under state or federal law.

84 [(h)] (i) (1) For the purposes of this subsection: (A) "Consumer
85 reporting agency" means any person who regularly engages, in whole
86 or in part, in the practice of assembling or preparing consumer reports
87 for a fee, which reports compile and report items of information on
88 consumers that are matters of public record and are likely to have an
89 adverse effect on a consumer's ability to obtain employment, but does
90 not include any public agency; (B) "consumer report" means any
91 written, oral or other communication of information bearing on an
92 individual's credit worthiness, credit standing, credit capacity,
93 character, general reputation, personal characteristics or mode of
94 living; and (C) "criminal matters of public record" means information
95 obtained from the Judicial Department relating to arrests, indictments,
96 convictions, outstanding judgments, and any other conviction
97 information, as defined in section 54-142g.

98 (2) Each consumer reporting agency that issues a consumer report
99 that is used or is expected to be used for employment purposes and
100 that includes in such report criminal matters of public record
101 concerning the consumer shall:

102 (A) At the time the consumer reporting agency issues such
103 consumer report to a person other than the consumer who is the
104 subject of the report, provide the consumer who is the subject of the
105 consumer report (i) notice that the consumer reporting agency is
106 reporting criminal matters of public record, and (ii) the name and
107 address of the person to whom such consumer report is being issued;

108 (B) Maintain procedures designed to ensure that any criminal
109 matter of public record reported is complete and up-to-date as of the

110 date the consumer report is issued, which procedures shall, at a
111 minimum, conform to the requirements set forth in section 54-142e, as
112 amended by this act.

113 (3) This subsection shall not apply in the case of an agency or
114 department of the United States government seeking to obtain and use
115 a consumer report for employment purposes if the head of the agency
116 or department makes a written finding pursuant to 15 USC
117 1681b(b)(4)(A).

118 Sec. 2. Section 54-142e of the general statutes is repealed and the
119 following is substituted in lieu thereof (*Effective October 1, 2010*):

120 (a) Notwithstanding the provisions of subsection (e) of section 54-
121 142a and section 54-142c, with respect to any person, including, but not
122 limited to, a consumer reporting agency as defined in subsection [(h)]
123 (i) of section 31-51i, as amended by this act, who purchases criminal
124 matters of public record, as defined in said subsection [(h)] (i), from the
125 Judicial Department, the department shall make available to such
126 person information concerning such criminal matters of public record
127 that have been erased pursuant to section 54-142a. Such information
128 may include docket numbers or other information that permits the
129 person to identify and permanently delete records that have been
130 erased pursuant to section 54-142a.

131 (b) Each person, including, but not limited to, a consumer reporting
132 agency, that has purchased records of criminal matters of public record
133 from the Judicial Department shall, prior to disclosing such records, (1)
134 purchase from the Judicial Department, on a monthly basis or on such
135 other schedule as the Judicial Department may establish, any updated
136 criminal matters of public record or information available for the
137 purpose of complying with this section, and (2) update its records of
138 criminal matters of public record to permanently delete such erased
139 records. Such person shall not further disclose such erased records.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	31-51i
Sec. 2	<i>October 1, 2010</i>	54-142e

Statement of Purpose:

To prevent employers in the food service and retail industries from denying an employee a promotion solely on the basis the employee has a previous criminal record.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]