



General Assembly

Amendment

February Session, 2010

LCO No. 4646

SB0039904646SD0

Offered by:

SEN. WILLIAMS, 29th Dist.
SEN. LOONEY, 11th Dist.
SEN. GAFFEY, 13th Dist.
SEN. HANDLEY, 4th Dist.

SEN. MCDONALD, 27th Dist.
SEN. STILLMAN, 20th Dist.
SEN. SLOSSBERG, 14th Dist.

To: Subst. Senate Bill No. 399

File No. 579

Cal. No. 401

**"AN ACT ESTABLISHING A CIVIL ACTION WITH RESPECT TO
CRIMINAL RECORDS USED IN EMPLOYMENT DECISIONS."**

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

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 Section 31-51i of the general statutes is repealed and the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

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

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

13 (c) An employment application form that contains any question
14 concerning the criminal history of the applicant shall contain a notice,
15 in clear and conspicuous language: (1) That the applicant is not
16 required to disclose the existence of any arrest, criminal charge or
17 conviction, the records of which have been erased pursuant to section
18 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure
19 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to
20 a finding of delinquency or that a child was a member of a family with
21 service needs, an adjudication as a youthful offender, a criminal charge
22 that has been dismissed or nolle, a criminal charge for which the
23 person has been found not guilty or a conviction for which the person
24 received an absolute pardon, and (3) that any person whose criminal
25 records have been erased pursuant to section 46b-146, 54-76o or 54-
26 142a shall be deemed to have never been arrested within the meaning
27 of the general statutes with respect to the proceedings so erased and
28 may so swear under oath.

29 (d) No employer or an employer's agent, representative or designee
30 shall deny employment to a prospective employee solely on the basis
31 that the prospective employee had a prior arrest, criminal charge or
32 conviction, the records of which have been erased pursuant to section
33 46b-146, 54-76o or 54-142a or that the prospective employee had a prior
34 conviction for which the prospective employee has received a
35 provisional pardon pursuant to section 54-130a.

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

45 (f) The portion of an employment application form which contains

46 information concerning the criminal history record of an applicant or
47 employee shall only be available to the members of the personnel
48 department of the company, firm or corporation or, if the company,
49 firm or corporation does not have a personnel department, the person
50 in charge of employment, and to any employee or member of the
51 company, firm or corporation, or an agent of such employee or
52 member, involved in the interviewing of the applicant.

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

58 (1) A broker-dealer or investment adviser registered under chapter
59 672a in connection with (A) the possible or actual filing of, or the
60 collection or retention of information contained in, a form U-4 Uniform
61 Application for Securities Industry Registration or Transfer, (B) the
62 compliance responsibilities of such broker-dealer or investment
63 adviser under state or federal law, or (C) the applicable rules of self-
64 regulatory organizations promulgated in accordance with federal law;

65 (2) An insured depository institution in connection with (A) the
66 management of risks related to safety and soundness, security or
67 privacy of such institution, (B) any waiver that may possibly or
68 actually be sought by such institution pursuant to section 19 of the
69 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or
70 actual obtaining by such institution of any security or fidelity bond, or
71 (D) the compliance responsibilities of such institution under state or
72 federal law; and

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

77 (h) (1) For the purposes of this subsection: (A) "Consumer reporting

78 agency" means any person who regularly engages, in whole or in part,
79 in the practice of assembling or preparing consumer reports for a fee,
80 which reports compile and report items of information on consumers
81 that are matters of public record and are likely to have an adverse
82 effect on a consumer's ability to obtain employment, but does not
83 include any public agency; (B) "consumer report" means any written,
84 oral or other communication of information bearing on an individual's
85 credit worthiness, credit standing, credit capacity, character, general
86 reputation, personal characteristics or mode of living; and (C)
87 "criminal matters of public record" means information obtained from
88 the Judicial Department relating to arrests, indictments, convictions,
89 outstanding judgments, and any other conviction information, as
90 defined in section 54-142g.

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

95 (A) At the time the consumer reporting agency issues such
96 consumer report to a person other than the consumer who is the
97 subject of the report, provide the consumer who is the subject of the
98 consumer report (i) notice that the consumer reporting agency is
99 reporting criminal matters of public record, and (ii) the name and
100 address of the person to whom such consumer report is being issued;

101 (B) Maintain procedures designed to ensure that any criminal
102 matter of public record reported is complete and up-to-date as of the
103 date the consumer report is issued, which procedures shall, at a
104 minimum, conform to the requirements set forth in section 54-142e.

105 (3) This subsection shall not apply in the case of an agency or
106 department of the United States government seeking to obtain and use
107 a consumer report for employment purposes if the head of the agency
108 or department makes a written finding pursuant to 15 USC
109 1681b(b)(4)(A).

110 (i) Any employer, employer's agent, representative or designee who
111 knowingly engages in conduct prohibited by any provision of
112 subsections (b) to (f), inclusive, of this section, or who aids in the
113 violation of any provision of subsections (b) to (f), inclusive, of this
114 section, shall be liable in a civil action to the person aggrieved by such
115 violation for damages, together with costs and a reasonable attorney's
116 fee."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	31-51i