



General Assembly

January Session, 2015

Raised Bill No. 6875

LCO No. 3949



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING CRIMINAL RECORDS AND EMPLOYMENT APPLICATIONS.

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 Section 31-51i of the general statutes is repealed and the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, 2015*):

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 employer's agent, representative or designee
7 may require an employee or prospective employee to disclose the
8 existence of (1) 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 or (2) any arrest, criminal charge or conviction for a nonviolent
11 misdemeanor if five years have elapsed from the date of such arrest,
12 criminal charge or conviction.

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 (A) 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, or (B) any arrest, criminal charge or
19 conviction for a nonviolent misdemeanor if five years have elapsed
20 from the date of such arrest, criminal charge or conviction, (2) that
21 criminal records subject to erasure pursuant to section 46b-146, 54-76o
22 or 54-142a are records pertaining to a finding of delinquency or that a
23 child was a member of a family with service needs, an adjudication as
24 a youthful offender, a criminal charge that has been dismissed or
25 nolle, a criminal charge for which the person has been found not
26 guilty or a conviction for which the person received an absolute
27 pardon, and (3) that any person whose criminal records have been
28 erased pursuant to section 46b-146, 54-76o or 54-142a shall be deemed
29 to have never been arrested within the meaning of the general statutes
30 with respect to the proceedings so erased and may so swear under
31 oath.

32 (d) No employer or employer's agent, representative or designee
33 shall deny employment to a prospective employee solely on the basis
34 that the prospective employee had (1) a prior arrest, criminal charge or
35 conviction, the records of which have been erased pursuant to section
36 46b-146, 54-76o or 54-142a, (2) a prior arrest, criminal charge or
37 conviction for a nonviolent misdemeanor if five years have elapsed
38 from the date of such arrest, criminal charge or conviction, or [that the
39 prospective employee had] (3) a prior conviction for which the
40 prospective employee has received a provisional pardon or certificate
41 of rehabilitation pursuant to section 54-130a, or a certificate of
42 rehabilitation pursuant to section 54-108f.

43 (e) No employer or employer's agent, representative or designee
44 shall discharge, or cause to be discharged, or in any manner
45 discriminate against, any employee solely on the basis that the
46 employee had, prior to being employed by such employer, (1) an

47 arrest, criminal charge or conviction, the records of which have been
48 erased pursuant to section 46b-146, 54-76o or 54-142a, (2) an arrest,
49 criminal charge or conviction for a nonviolent misdemeanor if five
50 years have elapsed from the date of such arrest, criminal charge or
51 conviction, or [that the employee had, prior to being employed by such
52 employer,] (3) a prior conviction for which the employee has received
53 a provisional pardon or certificate of rehabilitation pursuant to section
54 54-130a, or a certificate of rehabilitation pursuant to section 54-108f.

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

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

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

75 (2) An insured depository institution in connection with (A) the
76 management of risks related to safety and soundness, security or
77 privacy of such institution, (B) any waiver that may possibly or

78 actually be sought by such institution pursuant to section 19 of the
79 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or
80 actual obtaining by such institution of any security or fidelity bond, or
81 (D) the compliance responsibilities of such institution under state or
82 federal law; and

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

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

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

105 (A) At the time the consumer reporting agency issues such
106 consumer report to a person other than the consumer who is the
107 subject of the report, provide the consumer who is the subject of the
108 consumer report (i) notice that the consumer reporting agency is

109 reporting criminal matters of public record, and (ii) the name and
110 address of the person to whom such consumer report is being issued;

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

115 (3) This subsection shall not apply in the case of an agency or
116 department of the United States government seeking to obtain and use
117 a consumer report for employment purposes if the head of the agency
118 or department makes a written finding pursuant to 15 USC
119 1681b(b)(4)(A).

120 (i) No employer or an employer's agent, representative or designee
121 may require any employee or prospective employee to complete an
122 employment application form that contains any question concerning
123 the criminal history of the applicant or to disclose the existence of any
124 arrest, criminal charge or conviction (1) the records of which have not
125 been erased, or (2) for a nonviolent misdemeanor where such arrest,
126 criminal charge or conviction occurred less than five years ago until
127 such time as such employer, agent, representative or designee has
128 determined that the applicant is otherwise qualified for the position.

129 (j) Any person aggrieved by a violation of this section may bring a
130 civil action in the Superior Court to recover damages, together with
131 costs and a reasonable attorney's fee.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	31-51i

Statement of Purpose:

To prevent employers from requiring individuals to disclose on an employment application any convictions for a nonviolent misdemeanor that have occurred more than five years prior, to prevent

employers from requiring individuals to disclose any criminal history until the employer has determined whether the individual is otherwise qualified for the position and to give aggrieved individuals a cause of action in Superior Court.

[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.]