



General Assembly

**Substitute Bill No. 6875**

January Session, 2015



**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 Section 31-51i of the general statutes is repealed and the  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 nulled, 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 (1) complete an  
122 employment application form that contains any question concerning  
123 the criminal history of the applicant, or (2) disclose the existence of any  
124 arrest, criminal charge or conviction (A) the records of which have not  
125 been erased, or (B) 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 Legislative Commissioners:**

In Subsection (i), new subdivisions (1) and (2) were added, previous subdivisions (1) and (2) were changed to subparagraphs (A) and (B), and technical changes were made for clarity.

**LAB**      *Joint Favorable Subst. -LCO*