



House of Representatives

General Assembly

File No. 685

February Session, 2016

Substitute House Bill No. 5237

House of Representatives, April 21, 2016

The Committee on Appropriations reported through REP. WALKER of the 93rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING FAIR CHANCE EMPLOYMENT.

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

1 Section 1. Section 46a-80 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) Except as provided in subsection (c) of this section, subsection
4 (b) of section 46a-81 and section 36a-489, and notwithstanding any
5 other provisions of state law to the contrary, [a] no employer, as
6 defined in subdivision (10) of section 46a-51, shall disqualify any
7 person [shall not be disqualified] from employment, [by the state or
8 any of its agencies,] nor shall a person be disqualified to practice,
9 pursue or engage in any occupation, trade, vocation, profession or
10 business for which a license, permit, certificate or registration is
11 required to be issued by the state or any of its agencies solely because
12 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
17 prospective employee's past convictions until such prospective
18 employee has been deemed otherwise qualified for the position and
19 made a conditional offer of employment. For purposes of this
20 subsection, a "conditional offer of employment" means an employer's
21 offer of employment that is contingent only upon a prospective
22 employee's successful completion of an employer's application process
23 or the production of valid licensure necessary for such employment.

24 (c) A person may be denied employment [by the state or any of its
25 agencies,] by an employer or a person may be denied a license, permit,
26 certificate or registration to pursue, practice or engage in an
27 occupation, trade, vocation, profession or business by the state or any
28 of its agencies by reason of the prior conviction of a crime if, after
29 considering (1) the nature of the crime and its relationship to the job
30 for which the person has applied; (2) information pertaining to the
31 degree of rehabilitation of the convicted person; and (3) the time
32 elapsed since the conviction or release, the employer, state or any of its
33 agencies determines that the applicant is not suitable for the position of
34 employment sought or the specific occupation, trade, vocation,
35 profession or business for which the license, permit, certificate or
36 registration is sought. In making a determination under this
37 subsection, the employer, state or any of its agencies shall give
38 consideration to a provisional pardon issued pursuant to section 54-
39 130e, or a certificate of rehabilitation issued pursuant to section 54-108f
40 or 54-130e, and such provisional pardon or certificate of rehabilitation
41 shall establish a presumption that such applicant has been
42 rehabilitated. If an application is denied based on a conviction for
43 which the applicant has received a provisional pardon or certificate of
44 rehabilitation, the employer, state or any of its agencies, as the case
45 may be, shall provide a written statement to the applicant of its
46 reasons for such denial.

47 (d) If a conviction of a crime is used as a basis for rejection of an
48 applicant, such rejection shall be in writing and specifically state the

49 evidence presented and reasons for rejection. A copy of such rejection
50 shall be sent by registered or electronic mail to the applicant.

51 (e) In no case may records of arrest, which are not followed by a
52 conviction, or records of convictions, which have been erased, be used,
53 distributed or disseminated by an employer, the state or any of its
54 agencies in connection with an application for employment or for a
55 permit, license, certificate or registration.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	46a-80

APP *Joint Favorable Subst.*

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 extends certain employment-related protections for people with prior criminal conviction records to all employers with at least three employees. Someone who believes that they were denied employment solely because of a criminal conviction may file a discriminatory practice complaint with the Commission on Human Rights and Opportunities (CHRO).

It is anticipated that any increased complaints can be handled by existing staff, and thus would not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

sHB 5237

AN ACT CONCERNING FAIR CHANCE EMPLOYMENT.

SUMMARY:

This bill provides employment-related protections for people with criminal conviction records. Current law generally prohibits the state, subject to certain exceptions, from (1) asking about a prospective state employee's past convictions until it deems the prospective employee to be otherwise qualified for the position; (2) disqualifying someone from state employment solely because of a prior criminal conviction; or (3) in connection with an employment application, using, distributing, or disseminating any erased conviction records or arrest records that did not lead to a conviction.

The bill extends these prohibitions and their exceptions to all employers with at least three employees. It also prohibits these employers from inquiring about a prospective employee's past convictions until the employer makes a conditional employment offer. As under the current law for state employment, someone who believes that he or she was denied employment solely because of a criminal conviction may file a discriminatory practice complaint with the Commission on Human Rights and Opportunities (CHRO) within 30 days after the alleged discriminatory act (CGS §§ 46a-51(8) and 46a-82).

EFFECTIVE DATE: October 1, 2016

INQUIRIES ABOUT PAST CONVICTIONS

Current law generally prohibits the state from asking about a prospective employee's convictions until it deems the person otherwise qualified for the position. The prohibition does not apply (1) to the legislative branch and the state boards of Labor Relations and Mediation and Arbitration or (2) if a state law specifically disqualifies

someone from a position because of a prior conviction.

The bill expands this prohibition to include all employers with at least three employees, including municipalities, the currently excluded state employers, and the private sector. It additionally prohibits these employers from asking about convictions until they make a conditional offer of employment. Under the bill, this is an employment offer contingent only on the prospective employee's successful completion of the employer's application process or production of a valid license needed for the employment. As under current law, the prohibitions do not apply to positions for which state law specifically disqualifies someone because of a prior criminal conviction.

DISQUALIFICATIONS FROM EMPLOYMENT

Subject to certain exceptions, current law prohibits the state from disqualifying someone from state employment solely because of a prior criminal conviction. The bill extends this prohibition to all employers with at least three employees.

Exceptions

The bill extends current law's exceptions to this prohibition. Thus, it does not apply to law enforcement agencies. Other employers may also deny someone employment because of a prior criminal conviction if they determine the job applicant is not suitable for the position after considering the following factors:

1. the nature of the crime and its relationship to the job for which the person applied,
2. information about the person's degree of rehabilitation, and
3. how much time has passed since the person's conviction or release.

If the applicant has received a provisional pardon or certificate of rehabilitation, the employer must presume that the person is rehabilitated. If, after considering the above information, an employer

rejects an applicant, the employer must provide the applicant with a written rejection that specifically states the evidence presented and reasons for the rejection. Under current law, the rejection must be sent to the applicant by registered mail. The bill allows it to also be sent by email.

BACKGROUND

Legislative History

The House referred the bill (File 175) to the Appropriations Committee, which reported a substitute that, among other things, (1) provides protections to all job applicants, rather than only those who have been released from the corrections commissioner’s custody for a certain amount of time; (2) prohibits employers from inquiring about criminal convictions, rather than limiting the prohibition to questions on job applications; and (3) places enforcement of the bill under CHRO, rather than the Labor Department.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 13 Nay 0 (03/10/2016)

Appropriations Committee

Joint Favorable Substitute
Yea 45 Nay 9 (04/14/2016)