



# House of Representatives

## File No. 737

General Assembly

February Session, 2016

**(Reprint of File Nos. 175 and 685)**

Substitute House Bill No. 5237  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 27, 2016

### ***AN ACT CONCERNING FAIR CHANCE EMPLOYMENT.***

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 Section 31-51i of the general statutes is repealed and the  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 January 1, 2017*):

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 shall inquire about a prospective employee's prior  
7 arrests, criminal charges or convictions on an initial employment  
8 application, unless (1) the employer is required to do so by an  
9 applicable state or federal law, or (2) a security or fidelity bond or an  
10 equivalent bond is required for the position for which the prospective  
11 employee is seeking employment.

12 [(b)] (c) No employer or employer's agent, representative or  
13 designee may require an employee or prospective employee to disclose  
14 the existence of any arrest, criminal charge or conviction, the records of

15 which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

16 [(c)] (d) An employment application form that contains any question  
17 concerning the criminal history of the applicant shall contain a notice,  
18 in clear and conspicuous language: (1) That the applicant is not  
19 required to disclose the existence of any arrest, criminal charge or  
20 conviction, the records of which have been erased pursuant to section  
21 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure  
22 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to  
23 a finding of delinquency or that a child was a member of a family with  
24 service needs, an adjudication as a youthful offender, a criminal charge  
25 that has been dismissed or nolle, a criminal charge for which the  
26 person has been found not guilty or a conviction for which the person  
27 received an absolute pardon, and (3) that any person whose criminal  
28 records have been erased pursuant to section 46b-146, 54-76o or 54-  
29 142a shall be deemed to have never been arrested within the meaning  
30 of the general statutes with respect to the proceedings so erased and  
31 may so swear under oath.

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

41 [(e)] (f) No employer or employer's agent, representative or  
42 designee shall discharge, or cause to be discharged, or in any manner  
43 discriminate against, any employee solely on the basis that the  
44 employee had, prior to being employed by such employer, an arrest,  
45 criminal charge or conviction, the records of which have been erased  
46 pursuant to section 46b-146, 54-76o or 54-142a or that the employee  
47 had, prior to being employed by such employer, a prior conviction for

48 which the employee has received a provisional pardon or certificate of  
49 rehabilitation pursuant to section 54-130a, or a certificate of  
50 rehabilitation pursuant to section 54-108f.

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

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

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

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

79 (3) An insurance producer licensed under chapter 701a in

80 connection with (A) the management of risks related to security or  
81 privacy of such insurance producer, or (B) the compliance  
82 responsibilities of such insurance producer under state or federal law.

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

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

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

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

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

117 (j) An employee or prospective employee may file a complaint with  
118 the Labor Commissioner alleging an employer's violation of this  
119 section.

120 Sec. 2. Subsection (a) of section 54-142e of the general statutes is  
121 repealed and the following is substituted in lieu thereof (*Effective from*  
122 *passage*):

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

134 Sec. 3. (*Effective from passage*) (a) There is established a fair chance  
135 employment task force to study issues, including, but not limited to,  
136 the employment opportunities available to individuals with criminal  
137 histories.

138 (b) The task force shall consist of the following members:

139 (1) One appointed by the speaker of the House of Representatives;

140 (2) One appointed by the president pro tempore of the Senate;

141 (3) One appointed by the majority leader of the House of

142 Representatives;

143 (4) One appointed by the majority leader of the Senate;

144 (5) One appointed by the minority leader of the House of  
145 Representatives;

146 (6) One appointed by the minority leader of the Senate; and

147 (7) The executive director of the African-American Affairs  
148 Commission, or the executive director's designee.

149 (c) Any member of the task force appointed under subdivisions (1)  
150 to (7), inclusive, of subsection (b) of this section may be a member of  
151 the General Assembly.

152 (d) All appointments to the task force shall be made not later than  
153 thirty days after the effective date of this section. Any vacancy shall be  
154 filled by the appointing authority.

155 (e) The speaker of the House of Representatives and the president  
156 pro tempore of the Senate shall select two chairpersons of the task  
157 force from among the members of the task force. Such chairpersons  
158 shall schedule the first meeting of the task force, which shall be held  
159 not later than sixty days after the effective date of this section.

160 (f) The administrative staff of the African-American Affairs  
161 Commission shall serve as administrative staff of the task force.

162 (g) Not later than January 1, 2017, and the January first thereafter,  
163 the task force shall submit a report on its findings and offer  
164 recommendations for any administrative or legislative action  
165 necessary to address such findings to the joint standing committees of  
166 the General Assembly having cognizance of matters relating to labor  
167 and the judiciary, in accordance with the provisions of section 11-4a of  
168 the general statutes. The task force shall terminate on the date that it  
169 submits its final report or January 1, 2018, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017</i>	31-51i
Sec. 2	<i>from passage</i>	54-142e(a)
Sec. 3	<i>from passage</i>	New section

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:**

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Various State Agencies	GF - Potential Cost	Less than \$1,000	Less than \$1,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill creates a fair chance employment task force. There may be a cost of less than \$1,000 in FY 17 and FY 18 to those agencies participating in the task force to reimburse legislators and agency staff for mileage expenses.

House "A" strikes the underlying bill and its associated fiscal impact and replaces it with the aforementioned impact.

**The Out Years**

There is no ongoing fiscal impact because the task force terminates in FY 18.

**OLR Bill Analysis****sHB 5237 (as amended by House "A")\******AN ACT CONCERNING FAIR CHANCE EMPLOYMENT.*****SUMMARY:**

This bill prohibits employers from asking about a prospective employee's prior arrests, criminal charges, or convictions on an initial employment application unless (1) the employer must do so under state or federal law or (2) the prospective employee is applying for a position for which the employer must obtain a security or fidelity bond or equivalent bond.

The bill allows a prospective employee to file a complaint with the labor commissioner alleging a violation of this prohibition and subjects violators to a \$300 per violation civil penalty imposed by the Labor Department. It also allows someone to file a complaint with the commissioner alleging an employer's violation of existing law on employment-related criminal record checks.

Lastly, the bill establishes the Fair Chance Employment Task Force to study issues that include the employment opportunities available to people with criminal histories. The task force must provide two reports to the Labor and Judiciary committees on its findings and recommendations for administrative or legislative action. The first is due by January 1, 2017, and the second is due by January 1, 2018.

\*House Amendment "A" replaces the underlying bill (File 685) which generally prohibited employers with at least three employees from (1) asking about a prospective employee's past convictions until the employer made a conditional employment offer and (2) disqualifying someone from employment solely because of a prior

criminal conviction.

EFFECTIVE DATE: January 1, 2017, except the provisions creating the task force and making a conforming change are effective upon passage.

### **COMPLAINTS FOR EMPLOYMENT-RELATED CRIMINAL RECORDS CHECKS**

The bill allows someone to file a complaint with the labor commissioner alleging an employer's violation of its prohibitions or related violations of existing law. Existing law prohibits employers from requiring an employee or job applicant to disclose an arrest, criminal charge, or conviction with records that have been erased under certain conditions and requires employers to include a notice on job applications that states, among other things, that an applicant is not required to disclose these matters. The law prohibits employers from denying employment to an applicant or discharging or discriminating against an employee based solely on such matters or a prior conviction for which the employee or applicant received a provisional pardon or certificate of rehabilitation. It also requires employers to comply with certain requirements related to the confidentiality of a job application's criminal history section.

### **FAIR CHANCE EMPLOYMENT TASK FORCE**

The bill establishes the Fair Chance Employment Task Force to study issues that include the employment opportunities available to people with criminal histories. The task force consists of the African-American Affairs Commission's (AAAC) executive director, or his designee, and one member appointed by each of the six legislative leaders. Appointments to the task force must be made within 30 days after the bill becomes law, and the appointees may include members of the General Assembly. Any vacancies must be filled by the appointing authority.

The House speaker and Senate president pro tempore must select two chairpersons from among the task force's members. The co-chairs

must schedule the task force’s first meeting, which must be held within 60 days after the bill becomes law. The AAAC’s administrative staff must serve as the task force’s administrative staff. The task force must terminate when it submits its final report or on January 1, 2018, whichever is later.

**BACKGROUND**

***Legislative History***

The House referred the bill (File 175) to the Appropriations Committee, which reported a substitute (File 685) 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 the Commission on Human Rights and Opportunities, 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)