



General Assembly

February Session, 2016

Raised Bill No. 5237

LCO No. 1227



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

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 Section 31-51i of the general statutes is repealed and the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 October 1, 2016*):

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 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 (c) An employment application form that contains any question
11 concerning the criminal history of the applicant and is permissible
12 pursuant to subsection (i) or subsection (n) of this section shall contain
13 a notice, in clear and conspicuous language: (1) That the applicant is
14 not required to disclose the existence of any arrest, criminal charge or
15 conviction, the records of which have been erased pursuant to section

16 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure
17 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to
18 a finding of delinquency or that a child was a member of a family with
19 service needs, an adjudication as a youthful offender, a criminal charge
20 that has been dismissed or nolle, a criminal charge for which the
21 person has been found not guilty or a conviction for which the person
22 received an absolute pardon, and (3) that any person whose criminal
23 records have been erased pursuant to section 46b-146, 54-76o or 54-
24 142a shall be deemed to have never been arrested within the meaning
25 of the general statutes with respect to the proceedings so erased and
26 may so swear under oath.

27 (d) No employer or employer's agent, representative or designee
28 shall deny employment to a prospective employee solely on the basis
29 that the prospective employee had (1) a prior arrest, criminal charge or
30 conviction, the records of which have been erased pursuant to section
31 46b-146, 54-76o or 54-142a, (2) a prior arrest, criminal charge or
32 conviction for a misdemeanor if two years have elapsed from the date
33 of such arrest, criminal charge or conviction, (3) a prior arrest, criminal
34 charge or conviction for a felony if five years have elapsed from the
35 date of such arrest, criminal charge or conviction, or [that the
36 prospective employee had] (4) a prior conviction for which the
37 prospective employee has received a provisional pardon or certificate
38 of rehabilitation pursuant to section 54-130a, or a certificate of
39 rehabilitation pursuant to section 54-108f.

40 (e) No employer or employer's agent, representative or designee
41 shall discharge, or cause to be discharged, or in any manner
42 discriminate against, any employee solely on the basis that the
43 employee had, prior to being employed by such employer, (1) an
44 arrest, criminal charge or conviction, the records of which have been
45 erased pursuant to section 46b-146, 54-76o or 54-142a, (2) a prior arrest,
46 criminal charge or conviction for a misdemeanor if two years have
47 elapsed from the date of such arrest, criminal charge or conviction, (3)
48 a prior arrest, criminal charge or conviction for a felony if five years

49 have elapsed from the date of such arrest, criminal charge or
50 conviction, or [that the employee had, prior to being employed by such
51 employer,] (4) a prior conviction for which the employee has received
52 a provisional pardon or certificate of rehabilitation pursuant to section
53 54-130a, or a certificate of rehabilitation pursuant to section 54-108f.

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

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

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

76 (2) An insured depository institution in connection with (A) the
77 management of risks related to safety and soundness, security or
78 privacy of such institution, (B) any waiver that may possibly or
79 actually be sought by such institution pursuant to section 19 of the

80 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or
81 actual obtaining by such institution of any security or fidelity bond, or
82 (D) the compliance responsibilities of such institution under state or
83 federal law; and

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

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

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

106 (A) At the time the consumer reporting agency issues such
107 consumer report to a person other than the consumer who is the
108 subject of the report, provide the consumer who is the subject of the
109 consumer report (i) notice that the consumer reporting agency is
110 reporting criminal matters of public record, and (ii) the name and

111 address of the person to whom such consumer report is being issued;

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

116 (3) This subsection shall not apply in the case of an agency or
117 department of the United States government seeking to obtain and use
118 a consumer report for employment purposes if the head of the agency
119 or department makes a written finding pursuant to 15 USC
120 1681b(b)(4)(A).

121 (i) (1) Except as otherwise provided in subdivision (2) of this
122 subsection, no employer or an employer's agent, representative or
123 designee may require any employee or prospective employee to
124 complete an employment application form that contains any question
125 concerning the criminal history of the applicant until such time as such
126 employer, agent, representative or designee has made a conditional
127 offer of employment to such applicant. For purposes of this subsection,
128 a "conditional offer of employment" means an employer's offer of
129 employment that is contingent upon an employee's or prospective
130 employee's successful completion of an employer's application process
131 which may include, but need not be limited to, drug testing, a criminal
132 history records check or the production of valid licensure necessary for
133 such employment.

134 (2) Notwithstanding the provisions of subdivision (1) of this
135 subsection, an employer may require (A) any current or prospective
136 correction officer, (B) any current or prospective judicial marshal, state
137 marshal, juvenile or adult probation officer, juvenile detention officer
138 or investigator employed by or seeking employment with the Division
139 of Criminal Justice, (C) any member or prospective member of (i) a
140 state or municipal police force, (ii) the police force for the constituent
141 units of the state system of higher education or the independent

142 institutions of higher education in this state, (iii) the police force of
143 Bradley International Airport, or (iv) the Office of the State Capitol
144 Police, or (D) any employee or prospective employee of (i) a broker-
145 dealer or investment adviser registered under chapter 672a, (ii) an
146 insured depository institution, or (iii) an insurance producer licensed
147 under chapter 701a, as described in subdivisions (1) to (3), inclusive, of
148 subsection (g) of this section, to complete an employment application
149 form that contains questions concerning the applicant's criminal
150 history.

151 (j) Any employee or prospective employee may file a complaint
152 with the Labor Commissioner alleging violations of subsection (i) of
153 this section. Upon receipt of the complaint, the commissioner shall
154 investigate such complaint and may hold a hearing. After the hearing,
155 the commissioner shall send each party a written copy of his or her
156 decision. Any employee or prospective employee who prevails in such
157 hearing shall be awarded reasonable attorney's fees and costs.

158 (k) If the commissioner finds an employee has been aggrieved by an
159 employer's violation of subsection (i) of this section, the commissioner
160 may levy against the employer a civil penalty of up to two thousand
161 dollars for each violation.

162 (l) Any party aggrieved by the decision of the commissioner may
163 appeal the decision to the Superior Court in accordance with the
164 provisions of chapter 54.

165 (m) The commissioner may request the Attorney General to bring
166 an action in the Superior Court to recover the penalties levied pursuant
167 to subsection (k) of this section.

168 (n) Notwithstanding the provisions of subsections (b) to (i),
169 inclusive, of this section an employer may require an employee or
170 prospective employee to disclose the existence of any arrest, criminal
171 charge or conviction if such disclosure is required under any
172 applicable state or federal law.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2016</i> | 31-51i |

Statement of Purpose:

To prevent employers from requiring certain employees or prospective employees to disclose any criminal history until the employer has made a conditional offer of employment to such employee or prospective employee.

[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.]