



General Assembly

February Session, 2016

Raised Bill No. 467

LCO No. 3309



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING MUNICIPAL IMPLEMENTATION OF CRIMINAL JUSTICE REFORMS.

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

1 Section 1. Section 29-6d of the 2016 supplement to the general
2 statutes is amended by adding subsection (k) as follows (*Effective from*
3 *passage*):

4 (NEW) (k) Notwithstanding any provision of the general statutes,
5 the provisions of this section concerning the use of body-worn
6 recording equipment shall not be subject to collective bargaining.

7 Sec. 2. Section 31-51i of the general statutes is repealed and the
8 following is substituted in lieu thereof (*Effective October 1, 2016*):

9 (a) For the purposes of this section, "employer" means any person
10 engaged in business who has one or more employees, including the
11 state or any political subdivision of the state.

12 (b) No employer or employer's agent, representative or designee
13 may require an employee or prospective employee to disclose the

14 existence of any arrest, criminal charge or conviction, the records of
15 which have been erased pursuant to section 46b-146, 54-760 or 54-142a.

16 (c) An employment application form that contains any question
17 concerning the criminal history of the applicant and is permissible
18 pursuant to subsection (i) or (l) of this section shall contain a notice, in
19 clear and conspicuous language: (1) That the applicant is not required
20 to disclose the existence of any arrest, criminal charge or conviction,
21 the records of which have been erased pursuant to section 46b-146, 54-
22 760 or 54-142a, (2) that criminal records subject to erasure pursuant to
23 section 46b-146, 54-760 or 54-142a are records pertaining to a finding of
24 delinquency or that a child was a member of a family with service
25 needs, an adjudication as a youthful offender, a criminal charge that
26 has been dismissed or nolle, a criminal charge for which the person
27 has been found not guilty or a conviction for which the person
28 received an absolute pardon, and (3) that any person whose criminal
29 records have been erased pursuant to section 46b-146, 54-760 or 54-
30 142a shall be deemed to have never been arrested within the meaning
31 of the general statutes with respect to the proceedings so erased and
32 may so swear under oath.

33 (d) [No] Except for a position for which any provision of the general
34 statutes specifically disqualifies a person from employment by an
35 employer because of a prior conviction for a crime, no employer or
36 employer's agent, representative or designee shall deny employment
37 to a prospective employee solely on the basis that the prospective
38 employee had (1) a prior arrest, criminal charge or conviction, the
39 records of which have been erased pursuant to section 46b-146, 54-760
40 or 54-142a, (2) a prior arrest, criminal charge or conviction for a
41 misdemeanor if five years have elapsed from the prospective
42 employee's date of release from the custody of the Commissioner of
43 Correction, (3) a prior arrest, criminal charge or conviction for a felony
44 if ten years have elapsed from the prospective employee's date of
45 release from the custody of the Commissioner of Correction, or [that
46 the prospective employee had] (4) a prior conviction for which the

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

50 (e) [No] Except for a position for which any provision of the general
51 statutes specifically disqualifies a person from employment by an
52 employer because of a prior conviction for a crime, no employer or
53 employer's agent, representative or designee shall discharge, or cause
54 to be discharged, or in any manner discriminate against, any employee
55 solely on the basis that the employee had, prior to being employed by
56 such employer, (1) an arrest, criminal charge or conviction, the records
57 of which have been erased pursuant to section 46b-146, 54-76o or 54-
58 142a, (2) a prior arrest, criminal charge or conviction for a
59 misdemeanor if five years have elapsed from the employee's date of
60 release from the custody of the Commissioner of Correction, (3) a prior
61 arrest, criminal charge or conviction for a felony if ten years have
62 elapsed from the employee's date of release from the custody of the
63 Commissioner of Correction, or [that the employee had, prior to being
64 employed by such employer,] (4) a prior conviction for which the
65 employee has received a provisional pardon or certificate of
66 rehabilitation pursuant to section 54-130a, or a certificate of
67 rehabilitation pursuant to section 54-108f.

68 (f) [The] Any portion of an employment application form [which]
69 that contains information concerning the criminal history record of an
70 applicant or employee and is permissible pursuant to subsection (i) or
71 (n) of this section shall only be available to the members of the
72 personnel department of the company, firm or corporation or, if the
73 company, firm or corporation does not have a personnel department,
74 the person in charge of employment, and to any employee or member
75 of the company, firm or corporation, or an agent of such employee or
76 member, involved in the interviewing of the applicant.

77 (g) Notwithstanding the provisions of subsection (f) of this section,
78 [the] any portion of an employment application form [which] that

79 contains information concerning the criminal history record of an
80 applicant or employee and is permissible pursuant to subsection (i) or
81 (l) of this section may be made available as necessary to persons other
82 than those specified in said subsection (f) by:

83 (1) A broker-dealer or investment adviser registered under chapter
84 672a in connection with (A) the possible or actual filing of, or the
85 collection or retention of information contained in, a form U-4 Uniform
86 Application for Securities Industry Registration or Transfer, (B) the
87 compliance responsibilities of such broker-dealer or investment
88 adviser under state or federal law, or (C) the applicable rules of self-
89 regulatory organizations promulgated in accordance with federal law;

90 (2) An insured depository institution in connection with (A) the
91 management of risks related to safety and soundness, security or
92 privacy of such institution, (B) any waiver that may possibly or
93 actually be sought by such institution pursuant to section 19 of the
94 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or
95 actual obtaining by such institution of any security or fidelity bond, or
96 (D) the compliance responsibilities of such institution under state or
97 federal law; and

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

102 (h) (1) For the purposes of this subsection: (A) "Consumer reporting
103 agency" means any person who regularly engages, in whole or in part,
104 in the practice of assembling or preparing consumer reports for a fee,
105 which reports compile and report items of information on consumers
106 that are matters of public record and are likely to have an adverse
107 effect on a consumer's ability to obtain employment, but does not
108 include any public agency; (B) "consumer report" means any written,
109 oral or other communication of information bearing on an individual's

110 credit worthiness, credit standing, credit capacity, character, general
111 reputation, personal characteristics or mode of living; and (C)
112 "criminal matters of public record" means information obtained from
113 the Judicial Department relating to arrests, indictments, convictions,
114 outstanding judgments, and any other conviction information, as
115 defined in section 54-142g.

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

120 (A) At the time the consumer reporting agency issues such
121 consumer report to a person other than the consumer who is the
122 subject of the report, provide the consumer who is the subject of the
123 consumer report (i) notice that the consumer reporting agency is
124 reporting criminal matters of public record, and (ii) the name and
125 address of the person to whom such consumer report is being issued;

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

130 (3) This subsection shall not apply in the case of an agency or
131 department of the United States government seeking to obtain and use
132 a consumer report for employment purposes if the head of the agency
133 or department makes a written finding pursuant to 15 USC
134 1681b(b)(4)(A).

135 (i) (1) Except as otherwise provided in subdivision (2) of this
136 subsection, no employer or an employer's agent, representative or
137 designee may require any employee or prospective employee to
138 complete an employment application form that contains any question
139 concerning the criminal history of the applicant until such time as such
140 employer, agent, representative or designee has made a conditional

141 offer of employment to such applicant. For purposes of this subsection,
142 a "conditional offer of employment" means an employer's offer of
143 employment that is contingent upon an employee's or prospective
144 employee's successful completion of an employer's application process
145 which may include, but need not be limited to, drug testing, a criminal
146 history records check or the production of valid licensure necessary for
147 such employment.

148 (2) Notwithstanding the provisions of subdivision (1) of this
149 subsection, an employer may require (A) any current or prospective
150 correction officer, (B) any current or prospective judicial marshal, state
151 marshal, juvenile or adult probation officer, juvenile detention officer
152 or investigator employed by or seeking employment with the Division
153 of Criminal Justice, (C) any member or prospective member of (i) a
154 state or municipal police force, (ii) the police force for the constituent
155 units of the state system of higher education or the independent
156 institutions of higher education in this state, (iii) the police force of
157 Bradley International Airport, or (iv) the Office of the State Capitol
158 Police, or (D) any employee or prospective employee of (i) a broker-
159 dealer or investment adviser registered under chapter 672a, (ii) an
160 insured depository institution, (iii) an insurance producer licensed
161 under chapter 701a, as described in subdivisions (1) to (3), inclusive, of
162 subsection (g) of this section, or (iv) a local or regional board of
163 education, to complete an employment application form that contains
164 questions concerning the applicant's criminal history.

165 (j) Any employee or prospective employee may file a complaint
166 with the Labor Commissioner alleging violations of subsection (i) of
167 this section. Upon receipt of the complaint, the commissioner shall
168 investigate such complaint and may hold a hearing. After the hearing,
169 the commissioner shall send each party a written copy of his or her
170 decision. Any employee or prospective employee who prevails in such
171 hearing shall be awarded reasonable attorney's fees and costs.

172 (k) Any party aggrieved by the decision of the commissioner may

173 appeal the decision to the Superior Court in accordance with the
174 provisions of chapter 54.

175 (l) Notwithstanding the provisions of subsections (b) to (i),
176 inclusive, of this section an employer may require an employee or
177 prospective employee to disclose the existence of any arrest, criminal
178 charge or conviction if such disclosure is required under any
179 applicable state or federal law.

180 Sec. 3. (*Effective from passage*) The Connecticut Sentencing Commission
181 established pursuant to section 54-300 of the general statutes shall review
182 costs associated with data retention pursuant to section 29-6d of the
183 general statutes, as amended by this act. As part of such review, the
184 commission shall (1) consider actual costs for such retention for
185 municipalities and the state, (2) employ a cost benefit analysis to
186 determine whether the retention period for such data should remain
187 unchanged, be reduced or be extended, (3) explore ways that
188 municipalities and the state could save money spent for such retention,
189 including, but not limited to, cooperative purchasing plans or other
190 methods to achieve economies of scale. The commission shall report its
191 findings, including, but not limited to, recommendations for legislation, if
192 any, to the joint standing committee of the General Assembly having
193 cognizance of matters relating to the judiciary not later than January 1,
194 2017.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	29-6d
Sec. 2	<i>October 1, 2016</i>	31-51i
Sec. 3	<i>from passage</i>	New section

Statement of Purpose:

To exclude the use of body-worn recording equipment from collective bargaining, to prevent certain employers from requiring employees or prospective employees to disclose any criminal history, until the employer has made a conditional offer of employment to such person

and to require the Connecticut Sentencing Commission to review and report on costs associated with retention of data derived from recordings made using body-worn recording equipment and methods to reduce such costs.

[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.]