



General Assembly

Amendment

February Session, 2016

LCO No. 4971



Offered by:

REP. TERCYAK, 26th Dist.
SEN. GOMES, 23rd Dist.
REP. RUTIGLIANO, 123rd Dist.

To: Subst. House Bill No. 5237

File No. 685

Cal. No. 140

"AN ACT CONCERNING FAIR CHANCE EMPLOYMENT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 31-51i of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective January 1, 2017*):

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

8 (b) No employer shall inquire about a prospective employee's prior
9 arrests, criminal charges or convictions on an initial employment
10 application, unless (1) the employer is required to do so by an
11 applicable state or federal law, or (2) a security or fidelity bond or an
12 equivalent bond is required for the position for which the prospective
13 employee is seeking employment.

14 [(b)] (c) No employer or employer's agent, representative or
15 designee may require an employee or prospective employee to disclose
16 the existence of any arrest, criminal charge or conviction, the records of
17 which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

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

34 [(d)] (e) No employer or employer's agent, representative or
35 designee shall deny employment to a prospective employee solely on
36 the basis that the prospective employee had a prior arrest, criminal
37 charge or conviction, the records of which have been erased pursuant
38 to section 46b-146, 54-76o or 54-142a or that the prospective employee
39 had a prior conviction for which the prospective employee has
40 received a provisional pardon or certificate of rehabilitation pursuant
41 to section 54-130a, or a certificate of rehabilitation pursuant to section
42 54-108f.

43 [(e)] (f) No employer or employer's agent, representative or
44 designee 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, an arrest,

47 criminal charge or conviction, the records of which have been erased
48 pursuant to section 46b-146, 54-76o or 54-142a or that the employee
49 had, prior to being employed by such employer, a prior conviction for
50 which the employee has received a provisional pardon or certificate of
51 rehabilitation pursuant to section 54-130a, or a certificate of
52 rehabilitation pursuant to section 54-108f.

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

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

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

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

79 (D) the compliance responsibilities of such institution under state or
80 federal law; and

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

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

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

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

109 (B) Maintain procedures designed to ensure that any criminal
110 matter of public record reported is complete and up-to-date as of the

111 date the consumer report is issued, which procedures shall, at a
112 minimum, conform to the requirements set forth in section 54-142e.

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

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

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

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

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

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

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

- 141 (2) One appointed by the president pro tempore of the Senate;
- 142 (3) One appointed by the majority leader of the House of
143 Representatives;
- 144 (4) One appointed by the majority leader of the Senate;
- 145 (5) One appointed by the minority leader of the House of
146 Representatives;
- 147 (6) One appointed by the minority leader of the Senate; and
- 148 (7) The executive director of the African-American Affairs
149 Commission, or the executive director's designee.
- 150 (c) Any member of the task force appointed under subdivisions (1),
151 to (7), inclusive, of subsection (b) of this section may be a member of
152 the General Assembly.
- 153 (d) All appointments to the task force shall be made not later than
154 thirty days after the effective date of this section. Any vacancy shall be
155 filled by the appointing authority.
- 156 (e) The speaker of the House of Representatives and the president
157 pro tempore of the Senate shall select two chairpersons of the task
158 force from among the members of the task force. Such chairpersons
159 shall schedule the first meeting of the task force, which shall be held
160 not later than sixty days after the effective date of this section.
- 161 (f) The administrative staff of the African-American Affairs
162 Commission shall serve as administrative staff of the task force.
- 163 (g) Not later than January 1, 2017, and the January first thereafter,
164 the task force shall submit a report on its findings and offer
165 recommendations for any administrative or legislative action
166 necessary to address such findings to the joint standing committees of
167 the General Assembly having cognizance of matters relating to labor
168 and the judiciary, in accordance with the provisions of section 11-4a of

169 the general statutes. The task force shall terminate on the date that it
170 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