

Labor and Public Employees Committee JOINT FAVORABLE REPORT

Bill No.: HB-6921

AN ACT CONCERNING DISCRIMINATION BASED ON A PERSON'S CRIMINAL

Title: HISTORY.

Vote Date: 3/21/2019

Vote Action: Joint Favorable

PH Date: 2/26/2019

File No.:

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SPONSORS OF BILL:

Labor and Public Employees Committee, Rep. Robyn Porter, Rep. Bobby Gibson, Rep. Travis Simms, Rep. Joshua Hall, Rep. Joshua Elliott, Rep. Patricia Billie Miller, Rep. Anthony Nolan, Rep. Michael Winkler

REASONS FOR BILL:

There has been a 32% reduction in the rate of incarceration during the past ten years, when the system held nearly 20,000 inmates. By January of 2019, CT's total prison population stood at 13,228, with 9,272 sentenced inmates and another 3,401 pre-trial prisoners. CT has worked hard to end mass incarceration. Approximately 2,000 individuals with felony and misdemeanor records leave prison every month, and face barriers in obtaining affordable housing and gainful employment.

RESPONSE FROM ADMINISTRATION/AGENCY:

Rollin Cook, Commissioner, CT Department of Corrections (CTDOC) and Marc Pelka, Undersecretary, Criminal Justice Policy and Planning, Office of Policy and Management (OPM):

Governor Lamont applauds Rep. Porter, the bill's co-sponsors, criminal justice system stakeholders, advocates and people with criminal records and their families. The concepts in this bill align with the Governor's commitment to partner with criminal justice reform advocates to combat discrimination on the basis of one's criminal record. The bill enhances the provisions of P.A. 16-83, which prohibits employers from requesting information about job applicants' criminal histories in initial employment applications. The Governor will commit his agencies and staff seeking to lower barriers for people looking to secure meaningful employment and a host of other opportunities.

Sarah Healy Eagan, Child Advocate, CT Office of the Child Advocate (OCA):

The OCA strongly supports the bill. Many of the children they advocate on behalf of have a parent who was at one point incarcerated. Discriminatory practices against adults with a criminal history impacts children, thereby making it more difficult for children to overcome the challenges of poverty, racism, and lack of opportunity. Children benefit from a Second Chance society.

Steven Hernandez, Executive Director, Commission on Women, Children and Seniors (CWCS) and Commission on Equity & Opportunity (CEO):

Strongly supports the bill. Criminal convictions come with consequences and are generally described in terms of “time.” For many reentering individuals, post-incarceration discrimination can convert from a sentence of a “time-certain” to a de-facto life sentence. As we look to remediate some of the past harm of mass incarceration, CT can also do a better job of people returning to CT communities by providing safe, stable, and affordable housing opportunities as cited in the Working Group to Study Housing Options for Persons Reentering the Community After Incarceration report: Hope for Success: Returning Home. A robust reentry support system with anti-discrimination provisions as outlined in the bill not only provide a meaningful second chance, it extends to those never given a meaningful first chance to succeed.

CT Commission on Human Rights and Equal Opportunities (CHRO):

CHRO supports the bill’s concept as it aligns with the Commission’s mission. CHRO is particularly interested in the issue of prior convictions because people of color are far more likely to be convicted and incarcerated. According to the Sentencing Project, African-Americans are incarcerated in state prisons at 5.1 times the rate of whites and Latinos are incarcerated at 1.4 times the rates of white people. CT already has a long-standing model for achieving the goals of the bill. CHRO recommends patterning this bill after CGS 46a-80 which prohibits the state from making employment decisions or granting professional licenses based solely on the grounds of a criminal conviction. In addition, CHRO’s federal counterparts the Equal Employment Opportunity Commission (EEOC) and Department of Housing and Urban Development (HUD) have issued guidance on this issue. Their guidance documents focus on the disparate aspect of criminal convictions, and rather than exclude people, employers and prospective landlords should only consider a conviction if necessary to achieve a substantial, legitimate, and nondiscriminatory interest.

NATURE AND SOURCES OF SUPPORT:

Abby Anderson, Executive Director, CT Juvenile Justice Alliance:

Fully supports the bill. Although their agency focuses on juveniles, they know that a parent’s criminal history directly impacts children. Although juvenile records are confidential, there are ways that these records are used to discriminate against individuals years after their system involvement. Ending discrimination against those with criminal records will begin to undue the harmful effects of years of mass incarceration.

Tiheba Bain, Founder, Women Against Mass Incarceration:

Trauma is the very real collateral consequence for formerly incarcerated people. According to one 2018 American Civil Liberties Union survey, 74% of CT voters support passing legislation

to prohibit discrimination against formerly-incarcerated, with 71% of Republicans, 80% of Unaffiliated voters, and 92% of Democrats supporting a measure. This bill has personal implications for her as she was phased-out from a job once her past conviction became known. Life insurance also was discontinued for her and her son once the information about her past became known. Basic human needs should not be contingent based on a criminal conviction.

Center for Children’s Advocacy (CCA):

Strongly supports the bill, with a recommendation to incorporate similar protections for youth with a juvenile history. CCA believes that HB 6921 will help to lift barriers people with a criminal history experience upon their return from incarceration. Juvenile records are confidential, but at times, they may still be inadvertently or knowingly revealed. By amending the bill to include similar blanket protections for youth, our youngest population stands to benefit from these protections.

Anderson Curtis, Smart Justice Field Organizer, American Civil Liberties Union (ACLU-CT):

ACLU-CT believes in a society where all people, including those who have been convicted or accused of a crime, have equal opportunity to contribute to society and lead successful and fulfilling lives. People who had paid their debt to society deserve to live in CT communities with the resources to earn an opportunity at employment, housing, and education. The best policy decisions are based on evidence about what will make CT stronger. Listen to him, a justice-impacted individual, and the evidence to believe that the bill is good for people, communities, and the state as a whole.

Michael Daley, Simsbury, CT:

As a former bankruptcy attorney, he erroneously placed client’s proceeds into his personal account, which led to a conviction and the liquidation of all bank, credit, and mortgage assets. He has accepted responsibility for the mistake. He knows how difficult re-entry is compounded by barriers to re-entering individuals. He believes the bill is a worthy measure.

Kathy Flaherty, Executive Director, CT Legal Rights Project, Inc. (CLRP):

CLRP provides legal services to low-income adults with serious mental health conditions in response to a Consent Order that provides funding for CLRP to protect the civil rights of Department of Mental Health and Addiction Services’ (DMHAS) clients. People with Disabilities (PWD) already face discrimination in employment. When someone’s disability has resulted in their interacting with the criminal legal system, they may end up with a criminal record that presents an additional obstacle to getting a job. It is well-known that the criminal legal system has a disparate impact on people of color. For this state to accomplish its goal of becoming a respected Second Chance Society, barriers that result from discrimination must be removed.

Sue Garten, Attorney, Great Hartford Legal Aid (GHLA):

Legal services attorneys represent job applicants who are denied positions because of their criminal records. Under current law, those hiring decisions can be challenged only for Black and Latinx applicants—not for Caucasian applicants—and only by meeting the heavy statistical burden of showing that the employer’s use of criminal records has a disparate effect on the racial composition of that employer’s workforce compared to the available labor

pool. In practice, that means that applicants who are otherwise qualified, but rejected, have no legal redress. HB 6921 will remedy the situation.

Art Hunt, Hamden, CT:

Our education and economic systems often do exceptional good, but occasionally neglect our most vulnerable neighbors. Some of these neighbors will end up in the criminal justice system. All of our neighbors deserve to be treated without discrimination for their past. As a person who believes in grace and redemption, and a volunteer with the EMERGECT reentry program, he thanks the Committee for raising the bill.

CT Students for a Dream:

C4D is a youth-led network that fights for the rights of undocumented youth and their families. The current criminal justice system is broken; it disproportionately targets and incarcerates people of color behind bars. Blacks and Latinos make up 29% of the population, but account for 59% of those incarcerated. According to another report, of those males born in the year 2001, one in three will go to prison during their lifetimes, while one in six Latino males will have the same fate. By contrast, the ratio for white males is 1:17. Similarly, among women, 1:18 Black women, 1:45 Latina and 1:111 white women will be faced with incarceration. As a result of this unjust system, those attempting to seek re-entry are faced with not just a criminal justice issue, but also a racial one. They view HB 6921 as an important step in protecting our black and brown communities and a vital step toward making our state safer, stronger, and fairer.

Ralph Jones, Emerge volunteer, Hamden, CT:

He has worked closely with numerous individuals recently released from incarceration as a tutor. Most individuals arrive lacking job skills, which Emerge addresses over the course of a few months. Housing is a challenging obstacle to reentry as well. Thank you for moving this bill forward.

Alex Kawa, Avon High School student, Avon, CT:

He is active with Avon Democrats. The organization believes that CT can lead other states in reducing the recidivism rate.

Steve Kennedy, Team Leader, Iraq and Afghanistan Veterans of America, CT Chapter (IAVA-CT):

He strongly supports the bill as it would greatly reduce the collateral consequences associated with a criminal record and help individuals reenter our communities. He respectfully requests that protections of the bill be extended to veterans with dishonorable discharges. CT has been in a leader in helping veterans with "Dishonorable" discharges. At present, only veterans with discharges considered "Honorable" or "General under Honorable Conditions" are covered under current anti-discrimination statutes. This bill provides an important opportunity to provide additional support to CT veterans.

Sally Koslik, Guilford, CT:

Ex-offenders should be encouraged to become lawful, contributing members of society. Their immediate needs of a landing a job or of having a decent place to live, should be encouraged. Discrimination against them in this pursuit should be deemed unlawful!

Sooyong Kwon, Yale University student:

She cares deeply about the issue. Prisons serve four purposes: retribution, deterrence, incapacitation, and rehabilitation. Of the four, rehabilitation is most important. Not only does rehabilitation drastically reduce the rate at which recidivism occurs, it upholds the idea that people deserve a second chance in life. Once people are labeled as “criminals,” they are discriminated against in housing, employment, social welfare, educational opportunities, voting rights, and other public benefits. If people are denied employment, it only traps them in a detrimental cycle of poverty and crime.

Michele Mudrick, Legislative Advocate, CT Conference, United Church of Christ:

Wrote in on behalf of 233 congregations and more than 67,000 people in their state’s churches in support of the bill. In 2014, assembled delegates and ministers of the CT Conference voted on a resolution to end Mass Incarceration for Non-Violent Offenses. This bill supports people deserving of a second chance.

Rev. Josh Pawelek, Unitarian Universalist Society, Manchester, CT:

CT has made solid progress in reforming its criminal justice system so that sentencing is more fair and the treatment of minors is more developmentally appropriate. However, CT has many vestiges from its earlier racist and discriminatory structures and practices. With discrimination, people find it difficult to reintegrate into society, to care for their families, to succeed beyond financial struggle. They are at risk of re-offending in order to survive.

Bonnie Sherman, Hamden, CT:

Works as an Emerge CT volunteer tutor. The formerly-incarcerated work very hard to get their lives back on track. She sees firsthand how many obstacles stand in their way. They have served their time, and further punishment just serves to downgrade our whole society. Please continue to do all you can to help people with few advantages.

Becky Simonsen, Lead Organizer, Service Employees International Union District 1199 New England:

Arrests and incarcerations of people of color harm our families and communities. 1199 believes the bill would ease many of the obstacles that formerly incarcerated individuals face to re-integration and would be a major step towards addressing the long-term damages of mass incarceration. 1199 represents 600 front-line health care workers in the CT Department of Corrections (CTDOC). Their members are doctors, nurses, social workers, psychologists, psychiatrists, and other health care workers. DOC workers are sworn to uphold a constitutional mandate to treat and rehabilitate the incarcerated. Recidivism is a pattern of concern. According to an CT Office of Policy and Management report, 60 percent of inmates who left prison in 2014 were re-arrested for a new offense within three years of their release. Black males are incarcerated more often and more quickly than all other groups.

Marjorie Swanke, Social Economic Networkers:

Supports the bill as it is in keeping with the organization’s mission of helping people improve their economic conditions, helping people run their businesses, and to have dignity and integrity. Prison life is traumatic. Reentering the community and adjusting to normal life is hard. The treatment received during incarceration makes it much more difficult to adjust mentally, emotionally, economically, and spiritually to reentry.

This extends to probation as well. There are restrictions of movement and activities that make it feel like she is still incarcerated. This bill will create fairer odds.

NATURE AND SOURCES OF OPPOSITION:

Fionnuala Darby-Hudgens, CT Fair Housing Center (the Center):

The Center works to insure that all CT residents have access to the housing of their choice. As a member of the Reentry Working Group for the CT Commission for Equity and Opportunity, the Center supported prohibiting discrimination in housing based on a person's criminal history, but are against this bill in its current form. The Center recommends the Committee look to incorporate the provisions of HB 5712, HB 5713, and SB 54 when deciding to move forward. Those bills recommend that a housing provider be prohibited from looking at an applicant's criminal record until after income and credit screening is complete.

Eric Gjede, VP of Government Affairs, CT Business and Industry Association (CBIA):

Businesses are under incredible pressure to create and maintain safe workplaces for employees. Every year, lawmakers propose measures to increase employers' liability for incidences occurring in the workplace, while at the same time lawmakers attempt to eliminate tools used by businesses to screen potentially problematic employees. CT businesses are already subject to many legal requirements to prohibit discrimination against individuals based on their criminal history. We would like to work with the Committee on crafting language as the process develops, as we have done in the past to remove questions about criminal history from employment applications.

Kevin Dillon, Executive Director, CT Airport Authority (CAA):

While we understand and commend the intent of the legislation, we must stress the importance of numerous agencies complying with federal rules and regulations. Due to these requirements, the CAA must ask each prospective employee (and those of any employer at Bradley International Airport) regarding their criminal histories when applying for a security job at the airport. All employees must have a security badge, are subjected to a background check administered by the FBI, and are vetted against 28 disqualifying offenses within a ten-year "look-back." We respectfully request the Committee exempt employers who are federally-required to consider an applicant's criminal history if this legislation moves forward.

National Federation of Independent Business (NFIB):

The bill lacks statutory specificity, however, generally NFIB does not condone discrimination in any form, but specifically, in employment settings. Small business owners are better positioned than government to determine suitability for employment. NFIB would like to bring the Committee's attention to the 2016 P.A. 16-83, which not only enacted a version of "Ban the Box," but also established a "Fair Chance Employment Task Force" to further study issues related to the employment opportunities available to individuals with criminal history. NFIB believes that state and federal rules, such as Title VII, EEOC, CHRO, all regulate antidiscrimination efforts to protect individuals from employment discrimination. Should the legislation find favor, NFIB looks forward to working with the Committee to offer comments and give NFIB's perspectives on behalf of small business.

Bryan Anderson

Date: 04/08/19