



General Assembly

February Session, 2020

Raised Bill No. 5389

LCO No. 2038



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

***AN ACT CONCERNING COLLATERAL CONSEQUENCES OF A
CRIMINAL RECORD.***

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

1 Section 1. Section 46a-79 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 The General Assembly finds that the public is best protected when
4 [criminal offenders] persons who have been arrested or convicted of
5 crimes are rehabilitated and returned to society prepared to take their
6 places as productive citizens and that the ability of [returned offenders]
7 such persons to find meaningful employment, housing and higher
8 education and to freely access public accommodations, credit and
9 insurance products, is directly related to their normal functioning in the
10 community. The General Assembly also finds that African Americans
11 and Hispanics are arrested and incarcerated at rates disproportionate to
12 their representation in the general population and that discrimination
13 in employment, housing and higher education and access to public
14 accommodations, credit and insurance products on the basis of criminal
15 history record information has a disparate impact based on race and

16 national origin. It is therefore the policy of this state to [encourage]
17 prohibit all employers, [to give favorable consideration to providing
18 jobs to qualified individuals, including those who may have criminal
19 conviction records] landlords, institutions of higher education, places of
20 public accommodation, creditors and insurers from discriminating on
21 the basis of criminal history record information, except as otherwise
22 provided in sections 46a-80, as amended by this act, 46a-81, as amended
23 by this act, 8-265c, as amended by this act, 8-315, as amended by this act,
24 10a-6, as amended by this act, 38a-58, as amended by this act, 38a-447,
25 as amended by this act, 46a-74, as amended by this act, and 46a-51, as
26 amended by this act, and sections 2, 5, 6, 9, 10, 12, 13, 16, 17 and 19 of
27 this act.

28 Sec. 2. (NEW) (*Effective October 1, 2020*) For purposes of this section
29 and sections 8-265c, 8-315, 10a-6, 38a-358, 38a-447, 46a-74 and 46a-79 of
30 the general statutes, as amended by this act:

31 (1) "Commission" means the Commission on Human Rights and
32 Opportunities created by section 46a-52 of the general statutes;

33 (2) "Criminal history record information" means court records and
34 information obtained from the Judicial Department relating to arrests,
35 releases, detentions, indictments, informations, other formal criminal
36 charges or any events and outcomes arising from such arrests, releases,
37 detentions, including pleas, trials, convictions, sentences, appeals,
38 incarcerations, correctional supervision, paroles and releases,
39 outstanding judgments and any other conviction information, as
40 defined in subsection (c) of section 54-142g of the general statutes;

41 (3) "Employer" means any person or employer with three or more
42 persons in such person's or employer's employ and includes the state
43 and all political subdivisions thereof; and

44 (4) "Place of public accommodation" means any establishment that
45 caters or offers its services or facilities or goods to the general public,
46 including, but not limited to, any commercial property or building lot
47 on which it is intended that a commercial building will be constructed

48 or offered for sale or rent.

49 Sec. 3. Section 46a-80 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2020*):

51 (a) Except as provided in subsection (c) of this section, subsection (b)
52 of section 46a-81, as amended by this act, and section 36a-489, and
53 notwithstanding any other provisions of law to the contrary, a person
54 shall not be disqualified from employment [by the state or any of its
55 agencies] or discriminated against in terms, conditions or privileges of
56 employment by an employer, acting directly or through an agent, nor
57 shall a person be disqualified to practice, pursue or engage in any
58 occupation, trade, vocation, profession or business for which a license,
59 permit, certificate or registration is required to be issued by the state or
60 any of its agencies solely because of [a prior conviction of a crime] such
61 person's criminal history record information.

62 (b) Except for a position for which any provision of the general
63 statutes specifically disqualifies a person from employment by the state
64 or any of its agencies because of [a prior conviction of a crime, no
65 employer, as defined in section 5-270, shall] such person's criminal
66 history record information, no employer, shall inquire about a
67 prospective employee's past convictions until such prospective
68 employee has been deemed otherwise qualified for the position deny
69 employment to such person based on such criminal history record
70 information.

71 (c) [A person may be denied employment by the state or any of its
72 agencies, or a person may be denied] No employer shall deny a person
73 employment nor shall the state deny a person a license, permit,
74 certificate or registration to pursue, practice or engage in an occupation,
75 trade, vocation, profession or business by reason of the [prior conviction
76 of a crime if, after considering (1) the] person's criminal history record
77 information, unless, after conducting an individualized assessment that
78 includes: (1) The nature of the crime and its relationship to the job,
79 license, permit, certificate or registration for which the person has

80 applied; (2) information pertaining to the degree of rehabilitation of the
81 [convicted] person with criminal history record information; and (3) the
82 time elapsed since the [conviction or release] acts underlying the
83 criminal history record information, the state or any of its agencies or
84 the employer, as the case may be, determines that the [applicant is not
85 suitable for the position of employment sought or the specific
86 occupation, trade, vocation, profession or business for which the license,
87 permit, certificate or registration is sought] denial is consistent with
88 business necessity. In making a determination under this subsection, the
89 state or any of its agencies or the employer shall give consideration to a
90 provisional pardon issued pursuant to section 54-130e, or a certificate of
91 rehabilitation issued pursuant to section 54-108f or 54-130e, and such
92 provisional pardon or certificate of rehabilitation shall establish a
93 presumption that such applicant has been rehabilitated. If an
94 application is denied based on a [conviction] criminal history record
95 information for which the applicant has received a provisional pardon
96 or certificate of rehabilitation, the state or any of its agencies or the
97 employer, as the case may be, shall provide a written statement to the
98 applicant of its reasons for such denial.

99 (d) Except for a position for which any provision of the general
100 statutes specifically disqualifies a person from employment because of
101 that person's criminal history record information, no employer or
102 employment agency shall advertise employment opportunities in such
103 a manner as to restrict such employment for applicants with criminal
104 history record information.

105 [(d)] (e) If a [conviction of a crime] criminal history record
106 information is used as a basis for rejection of an applicant, such rejection
107 shall be in writing and specifically state the evidence presented and
108 reasons for rejection. A copy of such rejection shall be sent by registered
109 mail to the applicant.

110 [(e)] (f) In no case may [records of arrest, which are not followed by a
111 conviction, or] records of convictions, which have been erased, be used,
112 distributed or disseminated by the state or any of its agencies in

113 connection with an application for employment or for a permit, license,
114 certificate or registration.

115 Sec. 4. Section 46a-81 of the general statutes is repealed and the
116 following is substituted in lieu thereof (*Effective October 1, 2020*):

117 (a) Except as provided in section 36a-489, the provisions of sections
118 46a-79 to 46a-81, inclusive, as amended by this act, shall prevail over any
119 other provisions of law which purport to govern the denial of licenses,
120 permits, certificates, registrations, or other means to engage in an
121 occupation, trade, vocation, business or profession, on the grounds of a
122 lack of good moral character, or which purport to govern the suspension
123 or revocation of a license, permit, certificate or registration on the
124 grounds of conviction of a crime.

125 (b) [Sections 46a-79 to 46a-81, inclusive] The provisions of sections
126 46a-80, as amended by this act, 46a-81, as amended by this act, 8-265c,
127 as amended by this act, 8-315, as amended by this act, 10a-6, as amended
128 by this act, 38a-58, as amended by this act, 38a-447, as amended by this
129 act, 46a-74, as amended by this act, and 46a-51, as amended by this act,
130 and sections 2, 5, 6, 9, 10, 12, 13, 16, 17 and 19 of this act, shall not be
131 applicable to any law enforcement agency, and it is not a discriminatory
132 practice for a law enforcement agency to refuse to hire or employ or to
133 bar or to discharge from employment any person or to discriminate
134 against that person in compensation or in terms, conditions or privileges
135 of employment on the basis of that person's criminal history record
136 information, provided nothing herein shall be construed to preclude a
137 law enforcement agency in its discretion from adopting the policy set
138 forth in said sections.

139 Sec. 5. (NEW) (*Effective October 1, 2020*) It shall be a discriminatory
140 practice under subdivision (8) of section 46a-51 of the general statutes,
141 as amended by this act, for any association, board or other organization,
142 the principal purpose of which is the furtherance of the professional or
143 occupational interests of its members, whose profession, trade or
144 occupation requires a state license, to refuse to accept an otherwise

145 qualified person as a member of such association, board or organization
146 on the basis of that person's criminal history record information.

147 (b) Any association, board or other organization that violates the
148 provisions of this section shall be fined not less than one hundred
149 dollars or more than five hundred dollars.

150 Sec. 6. (NEW) (*Effective October 1, 2020*) (a) It shall be a discriminatory
151 practice under subdivision (8) of section 46a-51 of the general statutes,
152 as amended by this act:

153 (1) To refuse to sell or rent after the making of a bona fide offer, or to
154 refuse to negotiate for the sale or rental of, or otherwise make
155 unavailable or deny, a dwelling to any person on the basis of the
156 criminal history record information of (A) such buyer or renter, (B) a
157 person residing in or intending to reside in such dwelling after it is so
158 sold, rented or made available, or (C) any person associated with such
159 buyer or renter;

160 (2) To discriminate against any person in the terms, conditions or
161 privileges of the sale or rental of a dwelling, or in the provision of
162 services or facilities in connection therewith, on the basis of the criminal
163 history record information of (A) such buyer or renter, (B) a person
164 residing in or intending to reside in such dwelling after it is so sold,
165 rented or made available, or (C) any person associated with such buyer
166 or renter;

167 (3) To make, print or publish, or cause to be made, printed or
168 published any notice, statement or advertisement, with respect to the
169 sale or rental of a dwelling that indicates any preference, limitation or
170 discrimination, or an intention to make any such preference, limitation
171 or discrimination, based on the criminal history record information of
172 (A) a potential buyer or renter, (B) a person intending to reside in such
173 dwelling after it is sold, rented or made available, or (C) any person
174 associated with such potential buyer or renter;

175 (4) To represent to any person that any dwelling is not available for

176 inspection, sale or rental when such dwelling is in fact so available, on
177 the basis of the criminal history record information of (A) a potential
178 buyer or renter, (B) a person intending to reside in such dwelling after
179 it is so sold, rented or made available, or (C) any person associated with
180 such potential buyer or renter;

181 (5) For profit, to induce or attempt to induce any person to sell or rent
182 any dwelling by representations regarding the entry or prospective
183 entry into the neighborhood of a person or persons with criminal history
184 record information;

185 (6) For any person or other entity engaging in residential-real-estate-
186 related transactions, to discriminate against any person in making
187 available such a transaction, or in the terms or conditions of such a
188 transaction, on the basis of the criminal history record information of
189 (A) the other party in the transaction, (B) a person residing in or
190 intending to reside in a dwelling with such other party, or (C) any
191 person associated with such other party;

192 (7) To deny any person access to or membership or participation in
193 any multiple-listing service, real estate brokers' organization or other
194 service, organization or facility relating to the business of selling or
195 renting dwellings, or to discriminate against that person in the terms or
196 conditions of such access, membership or participation, on account of
197 that person's criminal history record information; or

198 (8) To coerce, intimidate, threaten or interfere with any person in the
199 exercise or enjoyment of, or on account of that person having exercised
200 or enjoyed, or on account of that person having aided or encouraged
201 any other person in the exercise or enjoyment of, any right granted or
202 protected by this section.

203 (b) The provisions of this section shall not apply to (1) the rental of a
204 room or rooms in a unit in a dwelling if the owner actually maintains
205 and occupies part of such unit as the owner's residence, or (2) a unit in
206 a dwelling containing not more than four units if the owner actually
207 maintains and occupies one of such other units as the owner's residence.

208 (c) Nothing in this section shall limit the applicability of any
209 reasonable state statute or municipal ordinance restricting the
210 maximum number of persons permitted to occupy a dwelling.

211 (d) Nothing in this section shall prohibit a person engaged in the
212 business of furnishing appraisals of real property to take into
213 consideration factors other than a person's criminal history record
214 information.

215 (e) Nothing in this section shall require a landlord, seller of real
216 property or other person engaged in residential-real-estate-related
217 transactions to investigate the criminal history record information of a
218 tenant, buyer, potential tenant, potential buyer, person intending to
219 reside in the dwelling that is the subject of the residential-real-estate-
220 related transaction or any person associated with a tenant, buyer,
221 potential tenant or potential buyer.

222 Sec. 7. Section 8-265c of the general statutes is repealed and the
223 following is substituted in lieu thereof (*Effective October 1, 2020*):

224 The authority shall require that occupancy of all housing financed or
225 otherwise assisted under this chapter be open to all persons regardless
226 of race, creed, color, national origin or ancestry, sex or gender identity
227 or expression or criminal history record information and that the
228 contractors and subcontractors engaged in the construction or
229 rehabilitation of such housing shall take affirmative action to provide
230 equal opportunity for employment without discrimination as to race,
231 creed, color, national origin or ancestry, sex, [or] gender identity or
232 expression or criminal history record information.

233 Sec. 8. Section 8-315 of the general statutes is repealed and the
234 following is substituted in lieu thereof (*Effective October 1, 2020*):

235 The municipality shall take all necessary steps to insure that
236 occupancy of all housing financed or otherwise assisted pursuant to this
237 chapter be open to all persons regardless of race, creed, color, national
238 origin or ancestry, sex, gender identity or expression, age, [or] physical

239 disability or criminal history record information.

240 Sec. 9. (NEW) (*Effective October 1, 2020*) It shall be a discriminatory
241 practice pursuant to subdivision (8) of section 46a-51 of the general
242 statutes, as amended by this act: (1) To deny any person within the
243 jurisdiction of this state full and equal accommodations in any place of
244 public accommodation on the basis of that person's criminal history
245 record information, subject only to the conditions and limitations
246 established by law and applicable alike to all persons; or (2) to
247 discriminate, segregate or separate on account of criminal history record
248 information.

249 Sec. 10. (NEW) (*Effective October 1, 2020*) It shall be a discriminatory
250 practice under subdivision (8) of section 46a-51 of the general statutes,
251 as amended by this act, for the state system of higher education to deny
252 a person the opportunity for higher education on the basis of criminal
253 history record information.

254 Sec. 11. Subsection (b) of section 10a-6 of the general statutes is
255 repealed and the following is substituted in lieu thereof (*Effective October*
256 *1, 2020*):

257 (b) Within the limits of authorized expenditures, the policies of the
258 state system of higher education shall be consistent with (1) the
259 following goals: (A) To ensure that no qualified person be denied the
260 opportunity for higher education on the basis of age, sex, gender
261 identity or expression, ethnic background, criminal history record
262 information or social, physical or economic condition, (B) to protect
263 academic freedom, (C) to provide opportunities for education and
264 training related to the economic, cultural and educational development
265 of the state, (D) to assure the fullest possible use of available resources
266 in public and private institutions of higher education, (E) to maintain
267 standards of quality ensuring a position of national leadership for state
268 institutions of higher education, (F) to apply the resources of higher
269 education to the problems of society, and (G) to foster flexibility in the
270 policies and institutions of higher education to enable the system to

271 respond to changes in the economy, society, technology and student
272 interests; and (2) the goals for higher education in the state identified in
273 section 10a-11c. Said board shall review recent studies of the need for
274 higher education services, with special attention to those completed
275 pursuant to legislative action, and to meet such needs shall initiate
276 additional programs or services through one or more of the constituent
277 units.

278 Sec. 12. (NEW) (*Effective October 1, 2020*) All educational, counseling
279 and vocational guidance programs and all apprenticeship and on-the-
280 job training programs of state agencies, or in which state agencies
281 participate, shall be open to all qualified persons, without regard to a
282 person's criminal history record information.

283 Sec. 13. (NEW) (*Effective October 1, 2020*) It shall be a discriminatory
284 practice under subdivision (8) of section 46a-51 of the general statutes,
285 as amended by this act, for any creditor to discriminate, on the basis of
286 criminal record history information, against any person eighteen years
287 of age or older in any credit transaction.

288 Sec. 14. Section 38a-358 of the general statutes is repealed and the
289 following is substituted in lieu thereof (*Effective October 1, 2020*):

290 The declination, cancellation or nonrenewal of a policy for private
291 passenger nonfleet automobile insurance is prohibited if the declination,
292 cancellation or nonrenewal is based: (1) On the race, religion, nationality
293 or ethnicity of the applicant or named insured; (2) solely on the lawful
294 occupation or profession of the applicant or named insured, except that
295 this provision shall not apply to any insurer which limits its market to
296 one lawful occupation or profession or to several related lawful
297 occupations or professions; (3) on the principal location of the insured
298 motor vehicle unless such decision is for a business purpose which is
299 not a mere pretext for unfair discrimination; (4) solely on the age, sex,
300 gender identity or expression, [or] marital status or criminal history
301 record information of an applicant or an insured, except that this
302 subdivision shall not apply to an insurer in an insurer group if one or

303 more other insurers in the group would not decline an application for
304 essentially similar coverage based upon such reasons; (5) on the fact that
305 the applicant or named insured previously obtained insurance coverage
306 through a residual market; (6) on the fact that another insurer previously
307 declined to insure the applicant or terminated an existing policy in
308 which the applicant was the named insured; (7) the first or second
309 accident within the current experience period in relation to which the
310 applicant or insured was not convicted of a moving traffic violation and
311 was not at fault; or (8) solely on information contained in an insured's
312 or applicant's credit history or credit rating or solely on an applicant's
313 lack of credit history. For the purposes of subdivision (8) of this section,
314 an insurer shall not be deemed to have declined, cancelled or
315 nonrenewed a policy if coverage is available through an affiliated
316 insurer.

317 Sec. 15. Section 38a-447 of the general statutes is repealed and the
318 following is substituted in lieu thereof (*Effective October 1, 2020*):

319 No life insurance company doing business in this state may: (1) Make
320 any distinction or discrimination between persons on the basis of race
321 or criminal history record information, as to the premiums or rates
322 charged for policies upon the lives of such persons; (2) demand or
323 require greater premiums from persons of one race than such as are at
324 that time required by that company from persons of another race of the
325 same age, sex, general condition of health and hope of longevity; (3)
326 demand or require greater premiums from persons with criminal
327 history record information than are at that time required by the
328 company from persons without criminal history record information of
329 the same age, sex, general conditions of health and hope of longevity; or
330 ~~[(3)]~~ (4) make or require any rebate, diminution or discount on the basis
331 of race or criminal history record information upon the sum to be paid
332 on any policy in case of the death of any person insured, nor insert in
333 the policy any condition, nor make any stipulation whereby such person
334 insured shall bind himself, his heirs, executors, administrators or
335 assigns to accept any sum less than the full value or amount of such
336 policy, in case of a claim accruing thereon by reason of the death of such

337 person insured, other than such as are imposed upon all persons in
338 similar cases; and each such stipulation or condition so made or inserted
339 shall be void.

340 Sec. 16. (NEW) (*Effective October 1, 2020*) Criminal history record
341 information shall not be considered as a limiting factor in state-
342 administered programs involving the distribution of funds to qualify
343 applicants for benefits authorized by law.

344 Sec. 17. (NEW) (*Effective October 1, 2020*) All services of every state
345 agency shall be performed without discrimination on the basis of
346 criminal history record information.

347 Sec. 18. Section 46a-74 of the general statutes is repealed and the
348 following is substituted in lieu thereof (*Effective October 1, 2020*):

349 No state department, board or agency may permit any
350 discriminatory practice in violation of section 46a-59, 46a-64, [or] 46a-
351 64c or 46a-80, as amended by this act, or section 5, 6, 9, 10 or 13 of this
352 act.

353 Sec. 19. (NEW) (*Effective October 1, 2020*) (a) To the extent that other
354 governing laws, including, but not limited to, the laws of the United
355 States of America, mandate that an employer, seller or renter of real
356 property, place of public accommodation, institute of higher education
357 or other post-secondary school or provider of credit or insurance
358 products discriminate on the basis of criminal history record
359 information, such other governing law is a defense to a claim of
360 discriminatory practice.

361 (b) In a civil action for the death to, injury of or damage to a third
362 person caused by the intentional act of a person with criminal history
363 record information, any person who employs, rents, sells to, admits or
364 otherwise provides services to such person with criminal history record
365 information shall be presumed not to have been negligent in entering
366 into transactions mandated by 8-265c, as amended by this act, 8-315, as
367 amended by this act, 10a-6, as amended by this act, 38a-58, as amended

368 by this act, 38a-447, as amended by this act, 46a-51, as amended by this
 369 act, 46a-74, as amended by this act, sections 46a-80, as amended by this
 370 act, and 46a-81, as amended by this act, and sections 2, 5, 6, 9, 10, 12, 13,
 371 16, 17 and 19 of this act.

372 Sec. 20. Subdivision (7) of section 46a-51 of the 2020 supplement to
 373 the general statutes is repealed and the following is substituted in lieu
 374 thereof (*Effective October 1, 2020*):

375 (7) "Discriminatory employment practice" means any discriminatory
 376 practice specified in section 46a-60, 46a-80, as amended by this act, or
 377 46a-81c;

378 Sec. 21. Subdivision (8) of section 46a-51 of the 2020 supplement to
 379 the general statutes is repealed and the following is substituted in lieu
 380 thereof (*Effective October 1, 2020*):

381 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
 382 60a, 4a-60g, 31-40y, subparagraph (C) of subdivision (15) of section 46a-
 383 54, subdivisions (16) and (17) of section 46a-54, section 46a-58, 46a-59,
 384 46a-60, 46a-64, 46a-64c, 46a-66, 46a-68, 46a-68c to 46a-68f, inclusive, [or]
 385 46a-70 to 46a-78, inclusive, [subsection (a) of section] 46a-80 as
 386 amended by this act, [or sections] 46a-81b to 46a-81o, inclusive, or
 387 section 5, 6, 9, 10 or 13 of this act;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	46a-79
Sec. 2	<i>October 1, 2020</i>	New section
Sec. 3	<i>October 1, 2020</i>	46a-80
Sec. 4	<i>October 1, 2020</i>	46a-81
Sec. 5	<i>October 1, 2020</i>	New section
Sec. 6	<i>October 1, 2020</i>	New section
Sec. 7	<i>October 1, 2020</i>	8-265c
Sec. 8	<i>October 1, 2020</i>	8-315
Sec. 9	<i>October 1, 2020</i>	New section
Sec. 10	<i>October 1, 2020</i>	New section
Sec. 11	<i>October 1, 2020</i>	10a-6(b)

Sec. 12	<i>October 1, 2020</i>	New section
Sec. 13	<i>October 1, 2020</i>	New section
Sec. 14	<i>October 1, 2020</i>	38a-358
Sec. 15	<i>October 1, 2020</i>	38a-447
Sec. 16	<i>October 1, 2020</i>	New section
Sec. 17	<i>October 1, 2020</i>	New section
Sec. 18	<i>October 1, 2020</i>	46a-74
Sec. 19	<i>October 1, 2020</i>	New section
Sec. 20	<i>October 1, 2020</i>	46a-51(7)
Sec. 21	<i>October 1, 2020</i>	46a-51(8)

Statement of Purpose:

To protect individuals from discrimination based on criminal history record information.

[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.]