



Substitute House Bill No. 5237

Public Act No. 16-83

AN ACT CONCERNING FAIR CHANCE EMPLOYMENT.

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

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 Section 31-51i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2017*):

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

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

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

[(c)] (d) An employment application form that contains any question concerning the criminal history of the applicant shall contain a notice,

Substitute House Bill No. 5237

in clear and conspicuous language: (1) That the applicant is not required to disclose the existence of any arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to a finding of delinquency or that a child was a member of a family with service needs, an adjudication as a youthful offender, a criminal charge that has been dismissed or nolle, a criminal charge for which the person has been found not guilty or a conviction for which the person received an absolute pardon, and (3) that any person whose criminal records have been erased pursuant to section 46b-146, 54-76o or 54-142a shall be deemed to have never been arrested within the meaning of the general statutes with respect to the proceedings so erased and may so swear under oath.

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

[(e)] (f) No employer or employer's agent, representative or designee shall discharge, or cause to be discharged, or in any manner discriminate against, any employee solely on the basis that the employee had, prior to being employed by such employer, an arrest, criminal charge or conviction, the records of which have been erased pursuant to section 46b-146, 54-76o or 54-142a or that the employee had, prior to being employed by such employer, a prior conviction for which the employee has received a provisional pardon or certificate of

Substitute House Bill No. 5237

rehabilitation pursuant to section 54-130a, or a certificate of rehabilitation pursuant to section 54-108f.

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

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

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

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

Substitute House Bill No. 5237

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

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

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

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

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

Substitute House Bill No. 5237

date the consumer report is issued, which procedures shall, at a minimum, conform to the requirements set forth in section 54-142e, as amended by this act.

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

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

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

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

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

Substitute House Bill No. 5237

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

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

(2) One appointed by the president pro tempore of the Senate;

(3) One appointed by the majority leader of the House of Representatives;

(4) One appointed by the majority leader of the Senate;

(5) One appointed by the minority leader of the House of Representatives;

(6) One appointed by the minority leader of the Senate; and

(7) The executive director of the African-American Affairs Commission, or the executive director's designee.

(c) Any member of the task force appointed under subdivisions (1) to (7), inclusive, of subsection (b) of this section may be a member of the General Assembly.

(d) All appointments to the task force shall be made not later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(e) The speaker of the House of Representatives and the president pro tempore of the Senate shall select two chairpersons of the task force from among the members of the task force. Such chairpersons shall schedule the first meeting of the task force, which shall be held not later than sixty days after the effective date of this section.

(f) The administrative staff of the African-American Affairs Commission shall serve as administrative staff of the task force.

(g) Not later than January 1, 2017, and the January first thereafter,

Substitute House Bill No. 5237

the task force shall submit a report on its findings and offer recommendations for any administrative or legislative action necessary to address such findings to the joint standing committees of the General Assembly having cognizance of matters relating to labor and the judiciary, in accordance with the provisions of section 11-4a of the general statutes. The task force shall terminate on the date that it submits its final report or January 1, 2018, whichever is later.

Approved June 1, 2016