



General Assembly

January Session, 2021

Raised Bill No. 6474

LCO No. 3505



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

***AN ACT CONCERNING COLLATERAL EMPLOYMENT
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 Section 46a-79 of the general statutes is repealed and the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, 2021*):

3 The General Assembly finds that the public is best protected when
4 [criminal offenders] people 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 is directly related to their normal functioning in the
9 community. The General Assembly further finds that African-
10 Americans and Hispanics are arrested and incarcerated at rates
11 disproportionate to their representation in the general population and
12 that discrimination in employment, housing and higher education on
13 the basis of criminal history record information has a disparate impact
14 based on race, ancestry and national origin. It is therefore the policy of
15 this state to [encourage] prohibit all employers, [to give favorable

16 consideration to providing jobs to qualified individuals, including those
17 who may have criminal conviction records] landlords and institutions
18 of higher education from discriminating on the basis of criminal history
19 record information, except as otherwise in this chapter.

20 Sec. 2. Section 46a-51 of the general statutes is repealed and the
21 following is substituted in lieu thereof (*Effective October 1, 2021*):

22 As used in section 4a-60a and this chapter:

23 (1) "Blind" refers to an individual whose central visual acuity does
24 not exceed 20/200 in the better eye with correcting lenses, or whose
25 visual acuity is greater than 20/200 but is accompanied by a limitation
26 in the fields of vision such that the widest diameter of the visual field
27 subtends an angle no greater than twenty degrees;

28 (2) "Commission" means the Commission on Human Rights and
29 Opportunities created by section 46a-52;

30 (3) "Commission legal counsel" means a member of the legal staff
31 employed by the commission pursuant to section 46a-54;

32 (4) "Commissioner" means a member of the commission;

33 (5) "Court" means the Superior Court or any judge of said court;

34 (6) "Discrimination" includes segregation and separation;

35 (7) "Discriminatory employment practice" means any discriminatory
36 practice specified in section 46a-60 or 46a-81c;

37 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
38 60a, 4a-60g, 31-40y, subparagraph (C) of subdivision (15) of section 46a-
39 54, subdivisions (16) and (17) of section 46a-54, section 46a-58, 46a-59, as
40 amended by this act, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-68, 46a-68c to
41 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive, subsection (a) of section
42 46a-80, as amended by this act, or sections 46a-81b to 46a-81o, inclusive;

43 (9) "Employee" means any person employed by an employer but shall

44 not include any individual employed by such individual's parents,
45 spouse or child;

46 (10) "Employer" includes the state and all political subdivisions
47 thereof and means any person or employer with three or more persons
48 in such person's or employer's employ;

49 (11) "Employment agency" means any person undertaking with or
50 without compensation to procure employees or opportunities to work;

51 (12) "Labor organization" means any organization which exists for the
52 purpose, in whole or in part, of collective bargaining or of dealing with
53 employers concerning grievances, terms or conditions of employment,
54 or of other mutual aid or protection in connection with employment;

55 (13) "Intellectual disability" means intellectual disability as defined in
56 section 1-1g;

57 (14) "Person" means one or more individuals, partnerships,
58 associations, corporations, limited liability companies, legal
59 representatives, trustees, trustees in bankruptcy, receivers and the state
60 and all political subdivisions and agencies thereof;

61 (15) "Physically disabled" refers to any individual who has any
62 chronic physical handicap, infirmity or impairment, whether congenital
63 or resulting from bodily injury, organic processes or changes or from
64 illness, including, but not limited to, epilepsy, deafness or being hard of
65 hearing or reliance on a wheelchair or other remedial appliance or
66 device;

67 (16) "Respondent" means any person alleged in a complaint filed
68 pursuant to section 46a-82 to have committed a discriminatory practice;

69 (17) "Discrimination on the basis of sex" includes but is not limited to
70 discrimination related to pregnancy, child-bearing capacity,
71 sterilization, fertility or related medical conditions;

72 (18) "Discrimination on the basis of religious creed" includes but is

73 not limited to discrimination related to all aspects of religious
74 observances and practice as well as belief, unless an employer
75 demonstrates that the employer is unable to reasonably accommodate
76 to an employee's or prospective employee's religious observance or
77 practice without undue hardship on the conduct of the employer's
78 business;

79 (19) "Learning disability" refers to an individual who exhibits a severe
80 discrepancy between educational performance and measured
81 intellectual ability and who exhibits a disorder in one or more of the
82 basic psychological processes involved in understanding or in using
83 language, spoken or written, which may manifest itself in a diminished
84 ability to listen, speak, read, write, spell or to do mathematical
85 calculations;

86 (20) "Mental disability" refers to an individual who has a record of, or
87 is regarded as having one or more mental disorders, as defined in the
88 most recent edition of the American Psychiatric Association's
89 "Diagnostic and Statistical Manual of Mental Disorders"; [and]

90 (21) "Gender identity or expression" means a person's gender-related
91 identity, appearance or behavior, whether or not that gender-related
92 identity, appearance or behavior is different from that traditionally
93 associated with the person's physiology or assigned sex at birth, which
94 gender-related identity can be shown by providing evidence including,
95 but not limited to, medical history, care or treatment of the gender-
96 related identity, consistent and uniform assertion of the gender-related
97 identity or any other evidence that the gender-related identity is
98 sincerely held, part of a person's core identity or not being asserted for
99 an improper purpose; [.]

100 (22) "Veteran" means veteran as defined in subsection (a) of section
101 27-103;

102 (23) "Criminal history record information" means court records and
103 information obtained from the Judicial Department relating to arrests,
104 releases, detentions, indictments, information, other formal criminal

105 charges or any events and outcomes arising from those arrests, releases,
106 detentions, including pleas, trials, convictions, sentences, appeals,
107 incarcerations, correctional supervision, paroles and releases,
108 outstanding judgments and any other conviction information, as
109 defined in subsection (c) of section 54-142g, or any records, documents
110 and information based thereon;

111 (24) "Occupational license" means any licenses, permits, certificates,
112 registrations, or other means to engage in an occupation, trade,
113 vocation, business or profession; and

114 (25) "Licensing agency" means any board, agency, department,
115 commission or other state agency which has the authority to grant or
116 deny occupational licenses.

117 Sec. 3. Section 46a-80 of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective October 1, 2021*):

119 (a) Except as provided in subsection [(c)] (d) of this section,
120 subsection (b) of section 46a-81, as amended by this act, and section 36a-
121 489, and notwithstanding any other provisions of law to the contrary, a
122 person shall not be disqualified from employment or discriminated
123 against in terms, conditions or privileges of employment by [the state or
124 any of its agencies] an employer, acting directly or through an agent,
125 nor shall a person be disqualified to practice, pursue or engage in any
126 occupation, trade, vocation, profession or business for which a license,
127 permit, certificate or registration is required to be issued by the state or
128 any of its agencies solely because of [a prior conviction of a crime] that
129 person's criminal history record information.

130 (b) Except for a position for which any provision of the general
131 statutes specifically disqualifies a person from employment [by the state
132 or any of its agencies] because of that person's criminal history record
133 information of a prior conviction of a crime, no employer [, as defined
134 in section 5-270,] or employment agency shall [inquire about a
135 prospective employee's past convictions until such prospective
136 employee has been deemed otherwise qualified for the position.

137 (c) A person may be denied employment by the state or any of its
138 agencies, or a person may be denied] deny employment, nor may the
139 state or any of its agencies deny a license, permit, certificate or
140 registration to pursue, practice or engage in an occupation, trade,
141 vocation, profession or business, by reason of [the prior conviction of a
142 crime if, after considering] the person's criminal history record
143 information, unless, after conducting an individualized assessment, the
144 employer or employment agency determines in good faith that denial is
145 consistent with business necessity because: (1) [the nature of the crime
146 and its relationship to the job for which the person has applied] There is
147 a substantial nexus between the circumstances of the person's criminal
148 history record information and the employment the person is seeking or
149 has, taking into account the specific facts of the criminal history record
150 information and the essential functions and specific circumstances of the
151 job; (2) [information pertaining to the degree of rehabilitation of] there
152 is substantial evidence that the [convicted] person with criminal history
153 record information has not been rehabilitated; and (3) [the] insufficient
154 time has elapsed since the [conviction or release, the state or any of its
155 agencies determines that the applicant is not suitable for the position of
156 employment sought or the specific occupation, trade, vocation,
157 profession or business for which the license, permit, certificate or
158 registration is sought] acts underlying the criminal history record
159 information. In making a determination under subdivision (2) of this
160 subsection, [the state or any of its agencies] an employer shall give
161 consideration to a provisional pardon issued pursuant to section 54-
162 130e, or a certificate of rehabilitation issued pursuant to section 54-108f
163 or 54-130e, and such provisional pardon or certificate of rehabilitation
164 shall establish a presumption that such applicant has been rehabilitated.
165 If an application is denied based, in whole or in part, on [a conviction
166 for which the applicant has received a provisional pardon or certificate
167 of rehabilitation] a person's criminal history record information, the
168 [state or any of its agencies, as the case may be,] employer shall provide
169 a written statement to the applicant of its reasons for such denial.

170 (c) Except for a position for which any provision of the general

171 statutes specifically disqualifies a person from employment because of
172 that person's criminal history record information, no employer or
173 employment agency shall advertise employment opportunities in such
174 a manner as to restrict such employment for applicants with criminal
175 history record information.

176 (d) If [a conviction of a crime] criminal history record information is
177 used as a basis for rejection of an applicant, such rejection shall be in
178 writing and specifically state the evidence presented and reasons for
179 rejection. A copy of such rejection shall be sent by registered mail to the
180 applicant.

181 (e) In no case may records of arrest, which are not followed by a
182 conviction, or records of convictions, which have been erased, be used,
183 distributed or disseminated by the state or any of its agencies in
184 connection with an application for employment or for a permit, license,
185 certificate or registration.

186 Sec. 4. Section 46a-81 of the general statutes is repealed and the
187 following is substituted in lieu thereof (*Effective October 1, 2021*):

188 (a) Except as provided in section 36a-489, the provisions of sections
189 46a-79 to 46a-81, inclusive, as amended by this act, shall prevail over any
190 other provisions of law which purport to govern the denial of [licenses,
191 permits, certificates, registrations, or other means to engage in an
192 occupation, trade, vocation, business or profession,] occupational
193 licenses on the grounds of a person's criminal history record information
194 or on the grounds of lack of good moral character, or which purport to
195 govern the suspension or revocation of [a license, permit, certificate or
196 registration] an occupational license on the grounds of [conviction of a
197 crime] a person's criminal history record information. An occupational
198 license shall not be denied to any person on the basis of that person's
199 criminal history record information unless, after conducting an
200 individualized assessment, the licensing agency responsible for the
201 issuance of the occupational license determines in good faith that denial
202 is consistent with business necessity because: (1) There is a substantial

203 nexus between the circumstances of the person's criminal history record
204 information and the occupational license the person is seeking or has,
205 taking into account the specific facts of the criminal history record
206 information and the essential functions of a person holding such
207 occupational license; (2) there is substantial evidence that the person
208 with criminal history record information has not been rehabilitated; and
209 (3) insufficient time has elapsed since the acts underlying the person's
210 criminal history record information. In making a determination under
211 subdivision (2) of this subsection, the licensing agency shall give
212 consideration to a provisional pardon issued pursuant to section 54-
213 130e, or a certificate of rehabilitation issued pursuant to section 54-108f
214 or 54-130e, and such provisional pardon or certificate of rehabilitation
215 shall establish a presumption that such applicant has been rehabilitated.
216 If an application for an occupational license is denied based, in whole or
217 in part, on criminal history record information, the licensing agency
218 shall provide a written statement to the applicant of its reasons for such
219 denial.

220 (b) Sections 46a-79 to 46a-81, inclusive, as amended by this act, shall
221 not be applicable to any law enforcement agency, and it is not a
222 discriminatory practice for a law enforcement agency to refuse to hire
223 or employ or to bar or to discharge from employment any person or to
224 discriminate against that person in compensation or in terms, conditions
225 or privileges of employment on the basis of that person's criminal
226 history record information, provided nothing herein shall be construed
227 to preclude a law enforcement agency in its discretion from adopting
228 the policy set forth in [said] this section, sections 7 and 9 of this act and
229 sections 46a-51, as amended by this act, 46a-74, as amended by this act,
230 46a-79, as amended by this act, 46a-80, as amended by this act.

231 Sec. 5. Section 46a-59 of the general statutes is repealed and the
232 following is substituted in lieu thereof (*Effective October 1, 2021*):

233 (a) It shall be a discriminatory practice in violation of this section for
234 any association, board or other organization the principal purpose of
235 which is the furtherance of the professional or occupational interests of

236 its members, whose profession, trade or occupation requires a state
237 license, to refuse to accept a person as a member of such association,
238 board or organization because of [his] such person's race, national
239 origin, creed, sex, gender identity or expression, color, [or] status as a
240 veteran or criminal history record information.

241 (b) Any association, board or other organization which violates the
242 provisions of this section shall be fined not less than one hundred
243 dollars nor more than five hundred dollars.

244 Sec. 6. Section 46a-74 of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective October 1, 2021*):

246 No state department, board or agency may permit any
247 discriminatory practice in violation of section 46a-59, as amended by
248 this act, 46a-64, [or] 46a-64c or 46a-80, as amended by this act.

249 Sec. 7. (NEW) (*Effective October 1, 2021*) (a) To the extent that other
250 governing laws, including, but not limited to, the laws of the United
251 States of America, mandate that an employer discriminate on the basis
252 of criminal history record information, such other governing law is a
253 defense to a claim of discriminatory practice.

254 (b) In a civil action for the death to, injury of, or damage to a third
255 person caused by the intentional act of a person with criminal history
256 record information, any person who employs such person with criminal
257 history record information shall be presumed to have been not negligent
258 in entering into transactions mandated by relevant provisions of the
259 general statutes.

260 Sec. 8. Section 46a-51 of the general statutes is repealed and the
261 following is substituted in lieu thereof (*Effective October 1, 2021*):

262 As used in section 4a-60a and this chapter:

263 (1) "Blind" refers to an individual whose central visual acuity does
264 not exceed 20/200 in the better eye with correcting lenses, or whose
265 visual acuity is greater than 20/200 but is accompanied by a limitation

266 in the fields of vision such that the widest diameter of the visual field
267 subtends an angle no greater than twenty degrees;

268 (2) "Commission" means the Commission on Human Rights and
269 Opportunities created by section 46a-52;

270 (3) "Commission legal counsel" means a member of the legal staff
271 employed by the commission pursuant to section 46a-54;

272 (4) "Commissioner" means a member of the commission;

273 (5) "Court" means the Superior Court or any judge of said court;

274 (6) "Discrimination" includes segregation and separation;

275 (7) "Discriminatory employment practice" means any discriminatory
276 practice specified in section 46a-60, [or] 46a-81c or 46a-80, as amended
277 by this act;

278 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
279 60a, 4a-60g, 31-40y, subparagraph (C) of subdivision (15) of section 46a-
280 54, subdivisions (16) and (17) of section 46a-54, section 46a-58, 46a-59, as
281 amended by this act, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-68, 46a-68c to
282 46a-68f, inclusive, [or] 46a-70 to 46a-78, inclusive, [subsection (a) of]
283 section 46a-80, as amended by this act, or sections 46a-81b to 46a-81o,
284 inclusive;

285 (9) "Employee" means any person employed by an employer but shall
286 not include any individual employed by such individual's parents,
287 spouse or child;

288 (10) "Employer" includes the state and all political subdivisions
289 thereof and means any person or employer with three or more persons
290 in such person's or employer's employ;

291 (11) "Employment agency" means any person undertaking with or
292 without compensation to procure employees or opportunities to work;

293 (12) "Labor organization" means any organization which exists for the

294 purpose, in whole or in part, of collective bargaining or of dealing with
295 employers concerning grievances, terms or conditions of employment,
296 or of other mutual aid or protection in connection with employment;

297 (13) "Intellectual disability" means intellectual disability as defined in
298 section 1-1g;

299 (14) "Person" means one or more individuals, partnerships,
300 associations, corporations, limited liability companies, legal
301 representatives, trustees, trustees in bankruptcy, receivers and the state
302 and all political subdivisions and agencies thereof;

303 (15) "Physically disabled" refers to any individual who has any
304 chronic physical handicap, infirmity or impairment, whether congenital
305 or resulting from bodily injury, organic processes or changes or from
306 illness, including, but not limited to, epilepsy, deafness or being hard of
307 hearing or reliance on a wheelchair or other remedial appliance or
308 device;

309 (16) "Respondent" means any person alleged in a complaint filed
310 pursuant to section 46a-82 to have committed a discriminatory practice;

311 (17) "Discrimination on the basis of sex" includes but is not limited to
312 discrimination related to pregnancy, child-bearing capacity,
313 sterilization, fertility or related medical conditions;

314 (18) "Discrimination on the basis of religious creed" includes but is
315 not limited to discrimination related to all aspects of religious
316 observances and practice as well as belief, unless an employer
317 demonstrates that the employer is unable to reasonably accommodate
318 to an employee's or prospective employee's religious observance or
319 practice without undue hardship on the conduct of the employer's
320 business;

321 (19) "Learning disability" refers to an individual who exhibits a severe
322 discrepancy between educational performance and measured
323 intellectual ability and who exhibits a disorder in one or more of the

324 basic psychological processes involved in understanding or in using
325 language, spoken or written, which may manifest itself in a diminished
326 ability to listen, speak, read, write, spell or to do mathematical
327 calculations;

328 (20) "Mental disability" refers to an individual who has a record of, or
329 is regarded as having one or more mental disorders, as defined in the
330 most recent edition of the American Psychiatric Association's
331 "Diagnostic and Statistical Manual of Mental Disorders"; [and]

332 (21) "Gender identity or expression" means a person's gender-related
333 identity, appearance or behavior, whether or not that gender-related
334 identity, appearance or behavior is different from that traditionally
335 associated with the person's physiology or assigned sex at birth, which
336 gender-related identity can be shown by providing evidence including,
337 but not limited to, medical history, care or treatment of the gender-
338 related identity, consistent and uniform assertion of the gender-related
339 identity or any other evidence that the gender-related identity is
340 sincerely held, part of a person's core identity or not being asserted for
341 an improper purpose; and [.]

342 (22) "Veteran" means veteran as defined in subsection (a) of section
343 27-103.

344 Sec. 9. (NEW) (*Effective July 1, 2021*) (a) There is established a Council
345 on the Elimination of Occupational License Collateral Consequences,
346 which shall be part of the Legislative Department. The Council on the
347 Elimination of Occupational License Collateral Consequences shall
348 identify any and all state statutes, regulations and other state governing
349 law that create barriers for a person to obtain an occupational license on
350 the basis of that person's criminal history record information or that
351 otherwise conflict with subsection (a) of section 46a-81 of the general
352 statutes, as amended by this act, and shall develop recommendations
353 for amending or eliminating all such state statutes, regulations and
354 other state governing law to ensure their compliance with this section,
355 section 7 of this act, section 46a-51 of the general statutes, as amended

356 by this act, section 46a-74 of the general statutes, as amended by this act,
357 section 46a-79 of the general statutes, as amended by this act, and section
358 46a-80 of the general statutes, as amended by this act.

359 (b) The Council on the Elimination of Occupational License Collateral
360 Consequences shall consist of the following members: (1) The House
361 chairperson of the joint standing committee of the General Assembly
362 having cognizance of matters relating to labor and public employees or
363 the chairperson's designee, who shall be a member of the General
364 Assembly; (2) the Senate chairperson of the joint standing committee of
365 the General Assembly having cognizance of matters relating to labor
366 and public employees, or the chairperson's designee, who shall be a
367 member of the General Assembly; (3) the House and Senate ranking
368 members of the joint standing committee of the General Assembly
369 having cognizance of matters relating to labor and public employees or
370 their designees, who shall be members of the General Assembly; (4) the
371 Labor Commissioner, or the commissioner's designee; (5) the
372 Commissioner of Consumer Protection, or the commissioner's designee;
373 (6) the executive director of the Connecticut Commission on Human
374 Rights and Opportunities, or the executive director's designee; (7) a
375 justice-impacted person, to be appointed by the House chairperson of
376 the joint standing committee of the General Assembly having
377 cognizance of matters relating to labor and public employees; (8) a
378 representative from the American Civil Liberties Union of Connecticut,
379 to be appointed by the Senate chairperson of the joint standing
380 committee of the General Assembly having cognizance of matters
381 relating to labor and public employees; and (9) a representative from the
382 Institute for Municipal and Regional Policy, to be appointed by the
383 House chairperson of the joint standing committee of the General
384 Assembly having cognizance of matters relating to labor and public
385 employees.

386 (c) The House and Senate chairpersons of the joint standing
387 committee of the General Assembly having cognizance of matters
388 relating to labor and public employees shall serve as the chairpersons of
389 the council.

390 (d) The chairpersons of the council shall schedule the first meeting of
391 the council, which shall be held not later than sixty days after the
392 effective date of this section. Thereafter, the council shall meet upon the
393 call of the chairpersons or upon the call of a majority of the council
394 members.

395 (e) The administrative staff of the joint standing committee of the
396 General Assembly having cognizance of matters relating to labor and
397 public employees shall serve as administrative staff of the council.

398 (f) Not later than February 1, 2021, the council shall submit a report,
399 in accordance with the provisions of section 11-4a of the general statutes,
400 on its recommendations to the joint standing committee of the General
401 Assembly having cognizance of matters relating to labor and public
402 employees.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2021</i>	46a-79
Sec. 2	<i>October 1, 2021</i>	46a-51
Sec. 3	<i>October 1, 2021</i>	46a-80
Sec. 4	<i>October 1, 2021</i>	46a-81
Sec. 5	<i>October 1, 2021</i>	46a-59
Sec. 6	<i>October 1, 2021</i>	46a-74
Sec. 7	<i>October 1, 2021</i>	New section
Sec. 8	<i>October 1, 2021</i>	46a-51
Sec. 9	<i>July 1, 2021</i>	New section

Statement of Purpose:

To address the collateral employment consequences of a criminal record.

[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.]