

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing and Military Affairs to which was
3 referred House Bill No. 261 entitled “An act relating to criminal record
4 inquiries by an employer” respectfully reports that it has considered the same
5 and recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 21 V.S.A. § 495j is added to read:

8 § 495j. CRIMINAL HISTORY RECORDS; EMPLOYMENT

9 APPLICATIONS

10 (a) Except as provided in subsection (b) of this section, an employer shall
11 not request criminal history record information on its initial employee
12 application form. An employer may inquire about a prospective employee’s
13 criminal history record during an interview or once the prospective employee
14 has been deemed otherwise qualified for the position, whichever comes later.

15 (b) An employer may inquire about criminal convictions on an initial
16 employee application form if the following conditions are met:

17 (1)(A) the applicant is applying for a position for which any federal or
18 State law or regulation creates a mandatory or presumptive disqualification
19 based on a conviction for one or more types of criminal offenses; or

20 (B) the employer or an affiliate of the employer is subject to an
21 obligation imposed by any federal or State law or regulation not to employ

1 individuals, in either one or more positions, who have been convicted of one or
2 more types of criminal offenses; and

3 (2) the questions on the application form are limited to the types of
4 criminal offenses creating the disqualification or obligation.

5 (c) If an employer inquires about a prospective employee's criminal history
6 record information, the prospective employee, if still eligible for the position
7 under applicable federal or State law, must be afforded an opportunity to
8 explain the information and the circumstances regarding any convictions,
9 including postconviction rehabilitation.

10 (d) This section shall not diminish an employer's obligation to comply with
11 other federal or State laws, including section 495 of this chapter and Title VII
12 of the federal Civil Rights Act of 1964.

13 (e)(1) An employer shall not retaliate against a prospective employee
14 exercising his or her rights under this section.

15 (2) The provisions against retaliation in subdivision 495(a)(8) of this
16 title and the penalty and enforcement provisions of section 495b of this title
17 shall apply to this section.

18 (3) In addition, an employer who violates the provisions of this section
19 shall be assessed a civil penalty of up to \$100.00 for each violation.

1 (f) As used in this section:

2 (1) “Criminal history record” has the same meaning as set forth in
3 20 V.S.A. § 2056a.

4 (2) “Employee” has the same meaning as set forth in section 495d of
5 this chapter.

6 (3) “Employer” has the same meaning as set forth in section 495d of this
7 chapter.

8 Sec. 2. EFFECTIVE DATE

9 This act shall take effect on July 1, 2016.

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12 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE