

1 TO THE HONORABLE SENATE:

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

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

9 § 495j. CRIMINAL HISTORY RECORDS; EMPLOYMENT

10 APPLICATIONS

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

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

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

1 (B) the employer or an affiliate of the employer is subject to a federal
2 or State law or regulation that restricts its ability to employ individuals, in
3 either one or more positions, who have been convicted of one or more types of
4 criminal offenses; and

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

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

12 (d) An employer who violates the provisions of this section shall be
13 assessed a civil penalty of up to \$100.00 for each violation.

14 (e) The provisions against retaliation in subdivision 495(a)(8) of this
15 subchapter shall apply to a prospective employee that is covered under this
16 section.

17 (f) As used in this section:

18 (1) “Criminal history record” has the same meaning as set forth in
19 20 V.S.A. § 2056a.

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

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

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on July 1, 2017.

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7 (Committee vote: _____)

8

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Senator _____

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FOR THE COMMITTEE