HB 442 - AS INTRODUCED

2017 SESSION

17-0222
06/10

HOUSE BILL 442

AN ACT relative to criminal records checks in the employee application process.


COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill prohibits employers from asking a job applicant about his or her criminal history prior to an interview.

Explanation: Matter added to current law appears in **bold italics.**

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT relative to criminal records checks in the employee application process.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Use of Criminal Records in Employment Decisions. Amend RSA by inserting after chapter 275-G the following new chapter:

CHAPTER 275-H

USE OF CRIMINAL RECORDS IN EMPLOYMENT DECISIONS

275-H:1 Definitions. In this chapter:

I. "Commissioner" means the labor commissioner.

II. "Applicant" means a person who applies for employment for a wage, salary, fee, or payment to perform work for an employer, but excludes any person applying for employment in the domestic service of any family or person at the person's home.

III. "Employer" means any individual, partnership, association, corporation, or governmental agency or instrumentality employing any person.

275-H:2 Protections for Applicants with Criminal Records.

I. Except as provided in paragraph II, no employer shall include a question on any application for employment, as to whether the applicant has ever been arrested, charged with, or convicted of any crime or violation, or adjudicated as a juvenile delinquent, except when the applicant is applying for:

(a) A position with, or related to, a law enforcement agency.

(b) A position that requires a standard fidelity bond or equivalent bond, where the applicant's conviction of a crime would disqualify the applicant from obtaining such a bond.

(c) Any other position that requires automatic disqualification of an applicant with a criminal history pursuant to federal or state law.

II. An employer may inquire about an applicant's criminal history during an interview.

III. An employer may deny employment to an applicant because of a prior conviction of a crime after considering:

(a) The nature of the crime and its substantial and direct relationship to the job for which the applicant has applied;

(b) Information about the rehabilitation of the convicted person provided by the applicant or any other person on his or her behalf; and

(c) The amount of time that has passed since the conviction or release.

275-H:3 Penalty. An employer who violates RSA 275-H:2 may be subject to a civil penalty of up to $2,500, to be imposed by the labor commissioner in accordance with the procedures established in
RSA 273:11-a. Any person aggrieved by the commissioner's assessment of such penalty may appeal in accordance with RSA 273:11-c.

2 Effective Date. This act shall take effect January 1, 2018.