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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- BACKGROUND CHECKS FOR  
PROSPECTIVE EMPLOYEES

Introduced By: Representatives Slater, Williams, and Chippendale

Date Introduced: February 28, 2012

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR  
2 RELATIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 6.13

4 BACKGROUND CHECKS FOR PROSPECTIVE EMPLOYEES

5 **28-6.13-1. Purpose.** – This chapter is intended to ensure that businesses employ fair  
6 policies relating to the screening and identification of persons with criminal backgrounds through  
7 the BCI system.

8 **28-6.13-2. Definitions.** – As used in this chapter, the following terms, unless the context  
9 requires a different interpretation, have the following meanings:

10 (1) "Applicant" means any current or prospective employee, licensee, or volunteer.

11 (2) "BCI" means the department of attorney general, bureau of criminal identification.

12 (3) "Otherwise Qualified" means any applicant that meets all other criteria for a position  
13 or consideration for a position.

14 (4) "RILETS" means Rhode Island law enforcement transmission system.

15 (5) "State" means the State of Rhode Island or department, agency, or office thereof.

16 (6) "Employer" means any business, department, office, or agency which hires personnel.

17 **28-6.13-3. BCI-related standards of the State of Rhode Island.** – (a) Except as  
18 provided in subsection (c) of this section, and notwithstanding any other provisions of law to the

1 contrary, a person shall not be disqualified from employment, nor shall a person be disqualified to  
2 practice, pursue, or engage in any occupation, trade, vocation, profession or business for which a  
3 license, permit, certificate or registration is required to be issued by the state or any of its  
4 agencies solely because of a BCI report.

5 (b) Except for a position for which any provision of the general statutes specifically  
6 disqualifies a person from employment because of a prior conviction of a crime, no employer  
7 shall inquire about a prospective employee's past convictions until such prospective employee  
8 has been otherwise qualified for the position.

9 (c) A person may be denied employment, or a person may be denied a license, permit, or  
10 certificate, or registration to pursue, practice, or engage in an occupation, trade, vocation,  
11 profession or business by reason of the prior conviction of a crime after considering:

12 (1) The nature of the crime and its relationship to the job for which the person has  
13 applied;

14 (2) Information pertaining to the degree of rehabilitation of the convicted person;

15 (3) The time elapsed since the conviction or release.

16 (d) If a conviction of a crime is used as a basis for a rejection of an applicant, such  
17 rejection shall:

18 (1) Be in writing and specifically state the evidence presented and reasons for rejection.

19 A copy of such rejection shall be sent by registered mail to the applicant;

20 (2) Offer the applicant the opportunity to present rebuttal evidence regarding the accuracy  
21 and/or relevance of the report.

22 (e) In no case may records of arrest, which are not followed by a conviction, or records of  
23 convictions which have been erased, be used, distributed, or disseminated by RILETS, or BCI in  
24 connection with an application for employment or for a permit, license, certificate, or registration.

25 (f) The state shall not grant public access, directly or through private vendors, to records  
26 of arrest which are not followed by conviction or which have been expunged or sealed.

27 **28-6.13-4. Applicability.** – If any of these sections imposes greater restrictions or  
28 obligations than those imposed by any other general law, special law, regulation, rule, ordinance,  
29 order, or policy then the provision of these sections shall control.

30 **28-6.13-5. Regulatory authority.** – The department of attorney general bureau of  
31 criminal identification shall have the authority to promulgate rules and regulations necessary to  
32 implement and enforce these sections.

33 **28-6.13-6. Severability.** – If any provisions of these sections shall be held to be invalid  
34 by a court of competent jurisdiction, then such provision shall be considered separately and apart

1 [from the remaining provisions, which shall have full force and effect.](#)

2 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- BACKGROUND CHECKS FOR  
PROSPECTIVE EMPLOYEES

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- 1           This act would ensure that businesses employ fair policies relating to the screening and
- 2   identification of persons with criminal backgrounds through the BCI system.
- 3           This act would take effect upon passage.

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