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November 13, 2017

The Honorable Robert A DeLeo, Speaker
Members of the Massachusetts House of Representatives
State House
Boston, Massachusetts

Via Email

Dear Mr. Speaker and Members of the House:

AIM told members of the state House of Representatives this morning that proposed changes in employer access to the criminal records of job applicants will narrow employment opportunities for former offenders.

On behalf of thousands of members of Associated Industries of Massachusetts (AIM), we wish to express our concerns with H.4011, An Act relative to criminal justice reform currently pending before the House.

AIM is concerned about language in a criminal justice reform to be debated today that would make access to information through the Criminal Offender Record Information (CORI) more difficult by sealing records and limiting access.

AIM believes the changes would harm the very people those the measure is designed to help. Without access, employers are left without relevant information about potential hiring decisions. Restricting an employer's access to information has been shown to hinder job applicants and employer's ability to maintain a safe workplace.

The commonwealth's largest employer association has provided feedback in a number of ways during the current legislative session. We sent letters to the Joint Committee on the Judiciary on April 28, 2017 and on July 17, 2017, and also hosted a briefing on this topic with the legislative sponsor and AIM members.

AIM appreciates that those and other conversations resulted in the inclusion of a negligent-hiring provision contained in SECTION 87 subsection 100S of the proposed reform bill. AIM is also supportive of a provision that would enable the commonwealth to move towards fingerprinting and exchanging data with the National Criminal Information Center (NCIS) to ensure that records are accurate and connected to the correct person.

AIM is concerned about the following provisions:

Sections 81-86 and 87: Sealing and Expungement of a Criminal Record: As proposed, the language would reduce the wait time to seal a misdemeanor conviction from five years to three years and a felony conviction from 10 years to seven years. To address this AIM supports:

- Amendment #50 to remove sealing and expungement provisions

- Amendment #132 to allow employers that have employees with access to financial information, cash instruments and vulnerable populations to retain access to five years of misdemeanors and 10 years for felony convictions as currently provided under law
- Amendment #134, to provide employers with six months to make changes to job applications, internal policies and to conduct training for hiring managers

Section 84 and 87 Job Applications: This language requires employers to amend job applications to acknowledge the candidate’s proposed rights under the expungement provision. Employers would be required to add the language from section 84 and section 87, which contains similar language for job applications. To address this AIM supports:

- Amendment #130 and #131, to retain currently proposed language into one paragraph to address a candidate’s rights regarding sealing and expungement.
- Amendment #120, to provide employers with six months to a year to fully implement changes in job applications, internal policy documents and to conduct training for hiring managers.

Sections 40 and 41: Employment Discrimination: This language places employers in a position of having to prove that they did not use information from another source. Employers receive reports from business services that collect publicly available data. Even if a record is expunged, the incident could have been reported and collected or available on the Internet. AIM supports amendment #50 to strike the language and amendment #118, which would provide for six months for employers to be in compliance and conduct training for hiring managers.

Sections 49-56, 62: Felony Thresholds: This language will make it challenging for employers to address growing concerns with larceny and ongoing threats related to personal information and credit card fraud. AIM supports amendment #126, which would strike these provisions.

In advance of the House’s formal debate of H.4011, AIM wishes to express our positions regarding the various amendments that have been offered.

AIM Support	
Amendment	Title
<u>50</u>	Sealing of Records
<u>92</u>	Employer Tax Incentives
<u>118</u>	Employment Discrimination Effective Date
<u>120</u>	Job Application Language Effective Date
<u>124</u>	Retaining record access
<u>126</u>	Retaining thresholds
<u>130</u>	Uniform Job Application Language Effective Date I
<u>131</u>	Uniform Job Application Language II
<u>132</u>	Vulnerable Populations

134	Sealing & Expungement Effective Date
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AIM Opposes	
Amendment	Title
2	Felony larceny threshold
56	Small Claims Increase
89	Raising the Felony-Larceny Threshold
148	Raising the upper age of delinquency jurisdiction
202	Fines and fees
203	Fines and fees
204	Fines and fees

AIM appreciates the House's consideration and stands ready to provide further assistance to members of the House and legislative sponsors working on this legislation.

Should you have any questions, please contact me directly at 617-262-1180.

Sincerely,



Bradley A. MacDougall
Vice President for Government Affairs
Associated Industries of Massachusetts (AIM)