CIVIL SERVICE: Prohibits certain questions regarding criminal history during the employment process for certain positions

AN ACT
To enact Chapter 29 of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 42:1701, relative to state employment; to provide relative to the consideration of criminal history in unclassified employment; to prohibit certain conduct; to provide for applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 29 of Title 42 of the Louisiana Revised Statutes of 1950, comprised of R.S. 42:1701, is hereby enacted to read as follows:

CHAPTER 29. CONSIDERATION OF CRIMINAL HISTORY IN STATE EMPLOYMENT

§1701. Consideration of criminal history; prohibited acts

A. No state employer, when filling a position, may inquire, including without limitation on an initial application form, about a prospective employee's criminal history until after the prospective employee has been given an opportunity to interview for the position or, if no such interview is to be conducted, until after the prospective employee has been given a conditional offer of employment.

B. Nothing in this Section shall be construed to prohibit a state employer from considering the criminal history of a prospective employee in making the final determination of whether to employ the person. However, in considering the
criminal history of the prospective employee, the state employer shall consider the
following:

(1) The nature and gravity of the criminal conduct.

(2) The time that has passed since the occurrence of the criminal conduct.

(3) The specific duties and essential functions of the position and the
bearing, if any, that the criminal conduct will have on the ability of the prospective
employee to perform one or more of those duties or functions.

C. For purposes of this Section, "state employer" means any department,
office, division, agency, commission, board, committee, or other organizational unit
of the state.

D. This Section applies to each position in the state unclassified service,
except a position in law enforcement or corrections or a position for which a criminal
background check is required by law.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part
of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute
part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abstract: Prohibits a state employer from inquiring about a prospective unclassified
employee's criminal history until after an interview or a conditional offer of
employment is made and provides for the consideration of criminal history in
making employment decisions.

Proposed law prohibits a state employer from inquiring about a prospective unclassified
employee's criminal history until after the prospective employee has been given an
opportunity to interview for the position or, if no such interview is to be conducted, until
after the prospective employee has been given a conditional offer of employment.

Proposed law provides that it does not prohibit a state employer from considering the
criminal history of a prospective employee in making the final determination of whether to
employ the person. Provides, however, that in considering the criminal history of the
prospective employee, the state employer shall consider the following:

(1) The nature and gravity of the criminal conduct.

(2) The time that has passed since the occurrence of the criminal conduct.

(3) The specific duties and essential functions of the position and the bearing, if any, that
the criminal conduct will have on the ability of the prospective employee to perform
one or more of those duties or functions.

CODING: Words in struck through type are deletions from existing law; words underscored
are additions.
Proposed law defines "state employer" as any department, office, division, agency, commission, board, committee, or other organizational unit of the state. Provides that proposed law does not apply to positions in law enforcement or corrections or to positions for which a criminal background check is required by law.

(Adds R.S. 42:1701)