

SENATE BILL NO. 204

BY SENATOR MCPHERSON

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AN ACT

To amend and reenact R.S. 40:1300.53, relative to criminal history checks of licensed ambulance personnel or nonlicensed persons; to remove provisions which allow an employer to waive certain provisions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1300.53 is hereby amended and reenacted to read as follows:

§1300.53. Refusal to hire or contract; termination of employment; exemption; appeal procedure; waiver

A.~~(†)~~ Except as otherwise provided in R.S. 40:1300.52(C), **if no employer shall hire any licensed ambulance personnel or nonlicensed person when** the results of a criminal history check reveal that **any the** licensed ambulance personnel or nonlicensed person has been convicted of any of the following offenses, ~~the employer shall not hire or contract with such person:~~

(a) ~~(1) Any crime of violence as enumerated by R.S. 14:2(B), R.S. 14:34.7, R.S. 14:35, R.S. 14:36, R.S. 14:37.1, R.S. 14:37.4, R.S. 14:38, R.S. 14:41, R.S. 14:43.3, R.S. 14:43.5, R.S. 14:52 through R.S. 14:54.4, R.S. 14:64.3, R.S. 14:64.4, R.S. 14:78, R.S. 14:80 through R.S. 14:83.3, R.S. 14:86, R.S. 14:89, R.S. 14:93, R.S. 14:93.3 through 14:93.5, R.S. 14:102.1, R.S. 14:282, R.S. 14:286, R.S. 14:281, 30, 30.1, 31, 32.6, 32.7, 32.12, 34, 34.1, 34.7, 35.2, 37, 37.1, 37.4, 38.1, 42, 42.1, 43, 43.1, 43.2, 43.3, 43.5, 44, 44.1, 46.2, 51, 60, 62.1, 64, 64.1, 64.4, 66, 67.21, 89, 89.1, 93.3, 93.4, 93.5 or distribution or possession with the intent to distribute controlled dangerous substances as listed in Schedules I through V of the Uniform Controlled Dangerous Substances Act.~~

(b) ~~(2) An attempt or conspiracy to commit any of the offenses listed in Subparagraph Paragraph~~ **Paragraph** (1)(a) of this Subsection.

1                   ~~(2) If the results of a criminal history check reveal that any licensed~~  
 2                   ~~ambulance personnel or nonlicensed person has been convicted of any of the~~  
 3                   ~~following offenses, the employer may refuse to hire or contract with such person:~~

4                   ~~(a) R.S. 14:55, R.S. 14:60 through R.S. 14:62.3, R.S. 14:74, R.S. 14:79.1,~~  
 5                   ~~R.S. 14:83.4 through R.S. 14:85.1, R.S. 14:92, R.S. 14:93.2.1, or R.S. 14:106.~~

6                   ~~(b) An attempt or conspiracy to commit any of the offenses listed in~~  
 7                   ~~Subparagraph (1)(a) of this Subsection.~~

8                   **B. Additionally, except as otherwise provided in R.S. 40:1300.52(C), no**  
 9                   **employer who provides care or services to any person under the age of twenty-**  
 10                   **one shall hire any licensed ambulance personnel or nonlicensed person when the**  
 11                   **results of the criminal history check reveal that the licensed ambulance**  
 12                   **personnel or nonlicensed person has been convicted of any of the following**  
 13                   **offenses:**

14                   **(1) R.S. 14:44.2, 80, 81.2, or 93.**

15                   **(2) An attempt or conspiracy to commit any of the offenses listed in**  
 16                   **Paragraph (1) of this Subsection.**

17                   B C.(1) If the results of a criminal history check reveal that a nonlicensed  
 18                   person or any licensed ambulance personnel hired on a temporary basis or any other  
 19                   person who is an employee has been convicted of any of the offenses listed in  
 20                   Subsection A or B of this Section, the employer shall immediately terminate the  
 21                   person's employment.

22                   (2) The provisions of this Subsection shall not apply to an employee or  
 23                   contract provider who has been employed for twenty-four months of the preceding  
 24                   thirty-six months, or a person who has received a pardon of the conviction.

25                   C.(1) ~~The employer may waive the provisions of this Part, unless the licensed~~  
 26                   ~~ambulance personnel or nonlicensed person has been convicted of any crime as~~  
 27                   ~~enumerated by R.S. 14:31, 34, 34.7, 35.2, 37, 37.1, 37.4, 42.1, 43.1, 44.2, 64, 80,~~  
 28                   ~~81.2, 93, 93.3, 93.4, or 93.5. If the licensed ambulance personnel or nonlicensed~~  
 29                   ~~person has been convicted of any crime as enumerated by R.S. 14:31, 34, 34.7, 35.2,~~  
 30                   ~~37, 37.1, 37.4, 42.1, 43.1, 44.2, 64, 80, 81.2, 93, 93.3, 93.4, or 93.5, then the~~

1 employer shall not hire or contract with such person and shall not grant a waiver to  
2 such person.

3 ~~(2) A waiver may be granted for mitigating circumstances, which shall~~  
4 ~~include but not be limited to:~~

5 ~~(a) Age at which the crime was committed.~~

6 ~~(b) Circumstances surrounding the crime.~~

7 ~~(c) Length of time since the conviction.~~

8 ~~(d) Criminal history since the conviction.~~

9 ~~(e) Work history.~~

10 ~~(f) Current employment references.~~

11 ~~(g) Character references.~~

12 ~~(h) Nurse aide registry records.~~

13 ~~(i) Other evidence demonstrating the ability of the person to perform the~~  
14 ~~employment responsibilities competently and that the person does not pose a threat~~  
15 ~~to the health or safety of patients or clients.~~

16 ~~(3) The granting of a waiver shall not be construed as creating an obligation~~  
17 ~~upon an employer to offer permanent employment to such person.~~

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_