

Regular Session, 2014

HOUSE BILL NO. 849

BY REPRESENTATIVE HUNTER

EMPLOYMENT: Prohibits inquiries relating to an employee's criminal conviction history on job applications in certain municipalities

1 AN ACT

2 To enact Part VIII of Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 23:371, relative to employment discrimination; to prohibit
4 inquiries relating to a potential employee's arrest history on job applications in
5 municipalities with populations over forty-eight thousand; to provide exceptions; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part VIII of Chapter 3-A of Title 23 of the Louisiana Revised Statutes of
9 1950, comprised of R.S. 23:371, is hereby enacted to read as follows:

10 PART VIII. CRIMINAL HISTORY

11 §371. Prohibition of inquiry of arrest records on job applications; municipalities
12 with populations over forty-eight thousand; exceptions

13 A. No employer in a municipality with a population over forty-eight
14 thousand according to the last federal decennial census shall inquire about an
15 applicant's criminal history on a job application form if state or federal law does not
16 require a criminal background check for the position for which the applicant is
17 applying.

18 B. An employer may inquire about an applicant's criminal history at a
19 personal face-to-face interview or video interview conducted subsequent to

1 completion of the job application form or after the applicant has been given a
2 conditional offer of employment.

3 C. Before disqualifying an applicant because of his criminal history, an
4 employer must consider the following:

5 (1) The specific duties and responsibilities of the position sought.

6 (2) The bearing, if any, that an applicant's criminal background will have on
7 his ability to perform the role.

8 (3) The time that has elapsed since the occurrence of the criminal offense.

9 (4) The age of the applicant at the time of the criminal offense.

10 (5) The frequency and seriousness of the criminal offense or offenses.

11 (6) The applicant's rehabilitation.

12 (7) The public benefits of employing a person with a criminal record to
13 prevent recidivism.

14 D. If an employer considers all of the factors listed in Subsection C of this
15 Section and finds that the applicant's criminal history bears a rational relationship to
16 the position available, the employer may withdraw the offer if one had been
17 extended.

18 E. The provisions of this Section shall not apply to employers who are
19 required by law to conduct a criminal history background check or consider criminal
20 history in the hiring process.

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)]

Hunter

HB No. 849

Abstract: Prohibits employers in municipalities with populations greater than 48,000 from inquiring about criminal history on a job application.

Proposed law prohibits an employer in a municipality with a population greater than 48,000 from inquiring about an applicant's criminal history on a job application if state or federal law does not require a criminal background check for the position for which the applicant is applying.

Proposed law permits the employer to inquire about an applicant's criminal history in a personal face-to-face interview or video interview conducted subsequent to completion of the job application or after the applicant has been given a conditional offer of employment.

Proposed law provides a list of factors for an employer to consider when weighing whether he should hire the applicant regardless of the applicant's criminal history.

Proposed law provides that an offer may be withdrawn if the conviction bears a rational relationship to the duties and responsibilities of the position for which the applicant is being considered.

Proposed law provides exceptions for employers who are otherwise required by law to conduct criminal background checks on prospective employees.

(Adds R.S. 23:371)