
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Yoursheka George.

DIGEST

SB 510 Original

2020 Regular Session

Bowie

Present law provides that an employer, or the owner of the facility where the employer does his business, who conducts a criminal background check with the employee or prospective employee's written consent is immune from civil liability regarding claims arising out of the disclosure of the background information obtained.

Proposed law retains present law but exempts those claims made pursuant to the Fair Chance Hiring Act from immunity.

Present law provides that an employer, general contractor, premises owner, or other third party shall not be subject to a cause of action for negligent hiring or the improper supervision of an employee or independent contractor who causes damages or injury solely because the employee or independent contractor's criminal conviction.

Proposed law retains present law but makes an employer, general contractor, premises owner, or other third party subject to a cause of action due to an employee or independent contractor who has been previously convicted of a crime of violence as enumerated in R.S. 14:2(B) or any sex offense as enumerated in R.S. 15:541 when the employer or general contractor knew or should have known of the conviction.

Present law provides that it is the purpose of the legislature to safeguard all individuals within the state from discrimination because of race, creed, color, religion, sex, age, disability, or national origin.

Proposed law retains present law and expands the purpose and intent of the legislature to include a requirement to provide a fair opportunity for people with criminal records to obtain employment.

Present law (R.S. 15:576(2)) defines "criminal history record" as information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, correctional supervision, and release. Present law further provides that the records of juvenile criminal conduct are not to be included.

Proposed law retains present law but includes records of juvenile criminal conduct.

Present law allows parishes and municipalities to adopt and enforce ordinances, orders, and resolutions prohibiting all forms of discrimination based on race, creed, color, religion, national origin, sex, disability, or age. Present law also allows parishes and municipalities to prescribe penalties for violators.

Proposed law retains present law but adds that parishes and municipalities prohibit discrimination on the basis of an applicant's criminal history.

Present law grants a local commission the power to receive, initiate, investigate, hear, and determine charges of violations of ordinances, orders, or resolution forbidding discrimination adopted by the parish or municipality.

Proposed law retains present law but adds that the local commission may also receive, initiate, hear, and determine whether or not fair chance hiring adopted by the parish or municipality has been violated.

Proposed law authorizes an employer to inquire about a prospective employee's criminal record only after the prospective employee has been given a conditional offer of employment.

Proposed law prohibits employers from considering an applicant's criminal arrest and sealed, dismissed or expunged convictions.

Proposed law authorizes employers to make an individualized assessment of whether the applicant's criminal record has a direct and adverse relationship with the specific duties of the job. Proposed law requires the employer to consider all of the following:

- (1) The nature and gravity of the offense or conduct.
- (2) The time that has passed since the offense or conduct and completion of the sentence.
- (3) The nature of the job held or sought.

Proposed law requires an employer who makes a preliminary decision to disqualify an applicant due to the applicant's criminal record notify the applicant of the decision in writing explaining the reason, the disqualifying conviction, and a copy of the conviction history report upon which the decision was based. Proposed law also provides that an applicant shall be given five days to respond.

Proposed law provides that the response period does not apply if the employer hires the applicant. Proposed law requires the employer to consider information submitted by the applicant prior to making a final hiring decision. If the employer denies the application solely or partly because of the criminal record, the employer must notify the applicant in writing of the final denial and the right to file a complaint with the state or local human rights commission. Proposed law provides that in addition to remedies provided in present law, an employer who violates proposed law shall be subject to a penalty of not more than \$5,000 per violation.

Proposed law shall not be construed to supercede the federal Fair Credit Reporting Act.

Proposed law is to be known and may be cited as the "Fair Chance Hiring Act."

Effective August 1, 2020.

(Amends R.S. 23:291(D)(1) and (E)(2) and R.S. 51:2231(A), 2232, 2236(A), and 2238(1); adds R.S. 51:2247.2)