

2021 Regular Session

HOUSE BILL NO. 447

BY REPRESENTATIVE BUTLER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH CARE: Provides relative to employment of licensed ambulance personnel and nonlicensed providers of health-related services convicted of certain offenses

1 AN ACT

2 To enact R.S. 40:1203.3(E), relative to employment of certain nonlicensed persons and
3 licensed ambulance personnel; to provide relative to the prohibition on employment
4 of such persons who have been convicted of certain offenses; to allow for the
5 prohibition to be waived in certain instances; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:1203.3(E) is hereby enacted to read as follows:

8 §1203.3. Refusal to hire or contract; termination of employment; exemption; appeal
9 procedure; waiver

10 * * *

11 E.(1) The employer may waive the provisions of this Section unless the
12 licensed ambulance personnel or nonlicensed person has been convicted of any crime
13 enumerated in R.S. 14:31, 34, 34.7, 35.2, 37, 37.1, 37.4, 42.1, 43.1, 44.2, 64, 80,
14 81.2, 93, 93.3, 93.4, or 93.5.

15 (2) If the licensed ambulance personnel or nonlicensed person has been
16 convicted of any crime identified in Paragraph (1) of this Subsection, then the
17 employer shall not hire or contract with such person and shall not grant a waiver to
18 such person.

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

- 1 (a) The age of the person when he committed the crime.
- 2 (b) The circumstances surrounding the crime.
- 3 (c) The length of time since the conviction.
- 4 (d) The criminal history of the person since his conviction.
- 5 (e) The person's work history.
- 6 (f) The person's current employment references.
- 7 (g) The person's character references.
- 8 (h) Direct service worker registry and nurse aide registry records.
- 9 (i) Other factors demonstrating the ability of the person to perform the
 10 employment responsibilities competently and that the person does not pose a threat
 11 to the health or safety of patients or clients.
- 12 (4) The granting of a waiver as authorized in this Subsection shall not be
 13 construed as creating an obligation upon an employer to offer permanent
 14 employment to a person.

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)]

HB 447 Original

2021 Regular Session

Butler

Abstract: Allows employers to waive provisions prohibiting employment of licensed ambulance personnel and nonlicensed providers of health-related services who have been convicted of certain offenses.

Present law provides that, for purposes of present law, "nonlicensed person" means any person who is not a licensed health provider and provides for compensation nursing care or other health-related services directly related to patient care to residents in or patients of a nursing facility, intermediate care facility for people with developmental disabilities, adult residential care facility or provider, pediatric day health care facility, adult day health care center, psychiatric residential treatment facility, end stage renal disease facility, behavioral health services provider, home health agency, hospice agency, provider of ambulance services, hospital, adult brain injury facility, crisis receiving center, pain management clinic, outpatient abortion facility, rural health clinic, ambulatory surgical center, therapeutic group home, forensic supervised transitional residential and aftercare facility, case management provider, or home- and community-based service provider. Provides that "nonlicensed person" also means any person who provides such services to individuals in their own homes as an employee or contract provider of a home health agency, hospice, or home- and community-based service provider. Provides further that "nonlicensed person" also means any other direct service worker as defined in present law and any student or trainee applying for enrollment in a clinical preceptor training program authorized by present law or enrollment in a nurse aide training program approved by the state.

Present law prohibits employers from hiring any licensed ambulance personnel or nonlicensed person when the results of a criminal history check reveal that the person has been convicted of any criminal offense enumerated in present law.

Proposed law amends present law to allow employers to waive the prohibition on employment of licensed ambulance personnel and nonlicensed persons based on criminal history provided in present law unless the person seeking such employment has been convicted of any of the following crimes:

- (1) Manslaughter (R.S. 14:31).
- (2) Aggravated battery (R.S. 14:34).
- (3) Aggravated second degree battery (R.S. 14:34.7).
- (4) Simple battery of persons with infirmities (R.S. 14:35.2).
- (5) Aggravated assault (R.S. 14:37).
- (6) Assault by drive-by shooting (R.S. 14:37.1).
- (7) Aggravated assault with a firearm (R.S. 14:37.4).
- (8) Second degree rape (R.S. 14:42.1).
- (9) Sexual battery (R.S. 14:43.1).
- (10) Aggravated kidnapping of a child (R.S. 14:44.2).
- (11) Armed robbery (R.S. 14:64).
- (12) Felony carnal knowledge of a juvenile (R.S. 14:80).
- (13) Molestation of a juvenile or a person with a physical or mental disability (R.S. 14:81.2).
- (14) Cruelty to juveniles (R.S. 14:93).
- (15) Cruelty to persons with infirmities (R.S. 14:93.3).
- (16) Exploitation of persons with infirmities (R.S. 14:93.4).
- (17) Sexual battery of persons with infirmities (R.S. 14:93.5).

Proposed law provides that if the licensed ambulance personnel or nonlicensed person has been convicted of any crime listed above, then the employer shall not hire or contract with such person and shall not grant a waiver to such person.

Proposed law provides that a waiver may be granted for mitigating circumstances, which shall include but not be limited to:

- (1) The age of the person when he committed the crime.
- (2) The circumstances surrounding the crime.
- (3) The length of time since the conviction.
- (4) The criminal history of the person since his conviction.

- (5) The person's work history.
- (6) The person's current employment references.
- (7) The person's character references.
- (8) Direct service worker registry and nurse aide registry records.
- (9) Other factors demonstrating the ability of the person to perform the employment responsibilities competently and that the person does not pose a threat to the health or safety of patients or clients.

Proposed law stipulates that the granting of a waiver as authorized in proposed law shall not be construed as creating an obligation upon an employer to offer permanent employment to a person.

(Adds R.S. 40:1203.3(E))