
DIGEST

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HB 480 Original

2021 Regular Session

Willard

Abstract: Prohibits employment discrimination based on criminal history records and creates the Fair Chance Hiring Act.

Present law provides that an employer who has conducted a background check of an employee or prospective employee after having obtained written consent from the employee or prospective employee or at the request of the owner or operator of any facility where the employer performs or may perform all or part of its work shall be immune from civil liability for any and all claims arising out of the disclosure of the background information obtained.

Present law further provides that this limitation of liability shall extend to all claims of the employee based upon a failure to hire, wrongful termination, and invasion of privacy, as well as all claims of any owner, operator, or any third person for claims of negligent hiring or negligent retention.

Proposed law retains present law, with the exception that this limitation of liability shall not extend to claims provided for in proposed law.

Present law provides that it is the purpose and intent of the legislature to provide for execution within La. of policies embodied by federal legislation.

Proposed law retains present law and adds that it is the purpose and intent of the legislature to provide a fair opportunity for people with criminal history records to obtain employment.

Present law provides that parishes and municipalities may adopt and enforce ordinances, orders, and resolutions prohibiting all forms of discrimination, including discrimination on the basis of race, creed, color, religion, national origin, sex, disability, or age.

Proposed law retains present law and adds that parishes and municipalities may adopt and enforce ordinances, orders, and resolutions providing for fair chance hiring pursuant to proposed law.

Present law provides that a local human rights commission may receive, initiate, investigate, hear, and determine charges of violations of ordinances, orders, or resolutions forbidding discrimination adopted by the parish or municipality.

Proposed law retains present law and adds that such discrimination can include discrimination on the basis of race, creed, color, religion, national origin, sex, disability, or age. Proposed law further provides that a local commission may receive, initiate, investigate, hear, and determine charges of

violations of ordinances, orders, or resolutions providing for fair chance hiring pursuant to proposed law.

Proposed law provides that no employer, when filling a position, shall inquire on an initial application form, about an applicant's criminal history, until after the applicant has been given a conditional offer of employment.

Proposed law provides that an employer shall not consider an arrest record or charge that did not result in a conviction or consider a sealed, dismissed, set aside, expunged, or pardoned conviction when making a final hiring decision.

Proposed law provides that an employer, when considering other types of criminal history records, shall make an individual assessment of whether an applicant's criminal history record has a direct and adverse relationship with the specific duties of the job that may justify denying the applicant the position. Proposed law further provides that when making this assessment, an employer shall consider all of the following:

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

Proposed law provides that if, after the conditional offer of employment, the employer makes a preliminary decision based on the applicant's criminal history record that would disqualify the applicant from employment, the employer shall provide the applicant with written notification of this decision along with an explanation of his reasoning for this decision, the disqualifying conviction, the applicant's right to respond within at least five business days, and a copy of the conviction history report or document upon which the decision was based.

Proposed law provides that an applicant shall have at least five business days to respond to an employer's written notice before the employer makes a final hiring decision.

Proposed law provides that an employer shall consider any and all information submitted by an applicant before making a final hiring decision.

Proposed law provides that if an employer makes a final hiring decision to deny an application in part or solely because of an applicant's criminal history record, the employer shall notify the applicant in writing of the denial and the applicant's right to file a complaint with the state or local human rights commission.

Proposed law provides that in addition to the remedies contained in present law, an employer that violates proposed law is subject to a penalty of \$5,000 for each violation.

Proposed law provides that nothing in proposed law shall be construed to override the applicability

of the Fair Credit Report Act, 15 U.S.C. §1681.

Proposed law provides that proposed law shall be known as the "Fair Chance Hiring Act".

(Amends R.S. 23:291(D)(1), and R.S. 51:2231(A), 2236(A), and 2238(1); Adds R.S. 51:2232(11) and 2247.2)