

Regular Session, 2014

HOUSE BILL NO. 813

BY REPRESENTATIVE HUNTER

EMPLOYMENT: Prohibits inquiries relating to an employee's criminal convictions on job applications

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 and 372, relative to employment discrimination; to
4 prohibit inquiries relating to a potential employee's arrest history on job applications;
5 to provide for enforcement; to provide penalties; to provide exceptions; and to
6 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 and 372, is hereby enacted to read as follows:

10 PART VIII. CRIMINAL HISTORY

11 §371. Prohibition of inquiry of arrest records on job applications; exceptions

12 A. No employer shall inquire about an applicant's criminal history on a job
13 application form if state or federal law does not require a criminal background check
14 for the position for which the applicant is applying.

15 B. An employer may inquire about an applicant's criminal history at a
16 personal face-to-face interview or video interview conducted subsequent to
17 completion of the job application form or after the applicant has been given a
18 conditional offer of employment.

19 C. Before disqualifying an applicant because of his criminal history, an
20 employer shall consider the following:

- 1 (1) The specific duties and responsibilities of the position sought.
- 2 (2) The bearing, if any, that an applicant's criminal background will have on
3 his ability to perform the role.
- 4 (3) The time that has elapsed since the occurrence of the criminal offense.
- 5 (4) The age of the applicant at the time of the criminal offense.
- 6 (5) The frequency and seriousness of the criminal offense or offenses.
- 7 (6) The applicant's rehabilitation.
- 8 (7) The public benefits of employing a person with a criminal record to
9 prevent recidivism.

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

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

17 §372. Enforcement; penalties

18 A. The Louisiana Workforce Commission shall enforce the provisions of this
19 Part, and may promulgate any rules and regulations necessary in the implementation
20 of this Part pursuant to the Administrative Procedure Act, R.S. 49:950 et seq.

21 B.(1) Employers with ten or fewer employees shall pay a fine of one hundred
22 dollars per violation.

23 (2) Employers with more than ten employees shall pay a fine of two hundred
24 dollars per violation.

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. 813

Abstract: Prohibits a potential employer from inquiring about criminal history on a job application.

Proposed law prohibits an employer 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.

Proposed law provides that the La. Workforce Commission (LWC) will enforce proposed law. Authorizes LWC to promulgate any necessary rules.

Proposed law provides that employers with 10 or fewer employees shall pay a fine of \$100 per violation and that employers with more than 10 employees shall pay a fine of \$200 per violation.

(Adds R.S. 23:371 and 372)