
DIGEST

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HB 349 Original

2016 Regular Session

Emerson

Abstract: With specified exceptions, prohibits a state agency from inquiring about an applicant for employment's criminal history until after an interview or a conditional offer of employment is made. Provides for the consideration of criminal history in making employment decisions.

Proposed law provides that unless the employment of a person with a specific criminal conviction for a particular position is prohibited by law, no state agency shall advertise a position of employment with a statement that a person with a criminal record may not apply for the position. Further, except for inquiring into a conviction for a crime of violence or sex offense, prohibits a state agency from asking an applicant to disclose information concerning his criminal conviction history, on an employment application or verbally, prior to the applicant being given an opportunity to interview for the position or, if no such interview is to be conducted, until after the applicant has been given a conditional offer of employment. Proposed law defines for its purposes "applicant" and "state agency".

Proposed law specifies that it applies to each position in the unclassified service and specifically excludes from its application any position for which a criminal background check is required by law; any position in law enforcement or corrections; and any position for which the employee is required to exercise a substantial degree of trust or responsibility over public funds. Further specifies that proposed law shall not be construed to prevent or prohibit a state agency from conducting a criminal conviction history background check on any applicant for public employment.

Proposed law requires a state agency that determines an applicant has been convicted of a crime to consider the following factors in evaluating whether the conviction disqualifies the applicant for the position:

- (1) The nature of the conviction.
- (2) If there is a relationship between the conviction and the position's duties and responsibilities and the bearing the conviction may have on the fitness or ability to perform such duties and responsibilities, and whether the duties of employment would place any person or the state agency in a vulnerable position.
- (3) Any information regarding the applicant's rehabilitation and good conduct.
- (4) The time that has elapsed since the conviction.

Further provides that the legislature encourages and requests the State Civil Service Commission to establish the same or substantially similar provisions as provided in proposed law for each position in the classified service within its civil service system.

(Adds R.S. 42:1701 and 1702)