

IN THE SENATE

SENATE BILL NO. 1307

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO LABOR; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW
2 CHAPTER 28, TITLE 44, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE
3 TERMS, TO PROVIDE CERTAIN REQUIREMENTS FOR EMPLOYERS AND TO PROVIDE EX-
4 EMPTIONS.
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6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Title 44, Idaho Code, be, and the same is hereby amended
8 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
9 ter 28, Title 44, Idaho Code, and to read as follows:

10 CHAPTER 28

11 REDUCING BARRIERS TO EMPLOYMENT FOR INDIVIDUALS WITH CRIMINAL RECORDS

12 44-2801. SHORT TITLE. This chapter shall be known and may be cited as
13 "Reducing Barriers to Employment for Individuals with Criminal Records."

14 44-2802. DEFINITIONS. As used in this chapter:

15 (1) "Applicant" means an individual who provides information to an em-
16 ployer for the purpose of obtaining employment.

17 (2) "Criminal conviction" or "conviction" means a verdict or finding
18 of guilt after a criminal trial or a plea of guilty or nolo contendere to a
19 criminal charge.

20 (3) "Employer" means any company with more than five (5) employees.

21 (4) "Public employer" means an employer that is:

22 (a) The state or any administrative subunit of the state, including a
23 department, division, board, council, committee, institution, office,
24 bureau or other similar administrative unit of state government;

25 (b) A state institution of higher education; or

26 (c) A municipal corporation, county, municipality, school district,
27 local district, special service district or other political subdivi-
28 sion of the state.

29 44-2803. EMPLOYER REQUIREMENTS. (1) An employer may not:

30 (a) Post language in a job description that seeks to exclude an appli-
31 cant with a criminal conviction;

32 (b) Ask an applicant about a criminal conviction on a job application
33 form;

34 (c) Exclude an applicant from an initial interview because of a crimi-
35 nal conviction;

36 (d) Question an applicant about a criminal conviction during an initial
37 interview or after an initial interview prior to a conditional offer of
38 employment;

- 1 (e) Consider an applicant's criminal conviction when making a condi-
2 tional hiring decision;
- 3 (f) Conduct a criminal background check on an applicant until a condi-
4 tional offer of employment is made. The employer shall not consider ar-
5 rests that did not result in a conviction, participation of the appli-
6 cant in a diversion program or any convictions that have been sealed,
7 dismissed or expunged; or
- 8 (g) Deny an applicant employment solely based on a criminal conviction
9 without first performing an individual assessment. Such individual as-
10 sessment shall include:
- 11 (i) The nature and gravity of the offense and conduct;
- 12 (ii) The time that has passed since the offense or conduct and the
13 completion of the sentence; and
- 14 (iii) The nature of the job held or sought and its relevance to the
15 conviction.
- 16 (2) If an applicant is denied employment based on the findings of a
17 criminal background check conducted pursuant to subsection (1) (f) of this
18 section, the employer shall notify the applicant in writing with clear jus-
19 tification that explains the disqualifying conviction, shall provide the
20 applicant with a copy of the criminal background report and explain in plain
21 language that the applicant has an opportunity to respond with evidence of
22 rehabilitation and mitigating circumstances within ten (10) days.
- 23 (3) The provisions of this section shall not apply:
- 24 (a) If federal, state, or local law, including corresponding adminis-
25 trative rules, requires the consideration of an applicant's criminal
26 conviction history;
- 27 (b) To a public employer that is a law enforcement agency;
- 28 (c) To a public employer that is part of the criminal or juvenile jus-
29 tice system;
- 30 (d) To a public employer seeking a nonemployee volunteer;
- 31 (e) To a public employer that works with children or vulnerable adults;
- 32 (f) To the bureau of alcohol beverage control;
- 33 (g) To the state tax commission; and
- 34 (h) To a public employer whose primary purpose is performing financial
35 or fiduciary functions.