



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2846

by Rep. Esther Golar

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Best Candidate for the Job Act. Provides that private and public employers shall properly consider for employment and licenses persons previously convicted of one or more criminal offenses. Prohibits discrimination against such persons unless there is a direct relationship between the offense and the specific license or employment sought. Establishes criteria for evaluating convictions. Exempts law enforcement agencies.

LRB098 09845 JLS 40001 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Best  
5 Candidate for the Job Act.

6 Section 5. Purpose. This Act is intended to ensure that  
7 public agencies and private employers properly consider  
8 persons previously convicted of one or more criminal offenses  
9 for employment and licenses.

10 Section 10. Definitions. For the purposes of this Act, the  
11 following terms shall have the following meanings:

12 "Direct relationship" means that the nature of criminal  
13 conduct for which the person was convicted has a direct bearing  
14 on his fitness or ability to perform one or more of the duties  
15 or responsibilities necessarily related to the license,  
16 opportunity, or job in question.

17 "Employment" means any occupation, vocation, or  
18 employment, or any form of vocational or educational training.  
19 "Employment" does not, for the purposes of this Act, however,  
20 include membership in any law enforcement agency.

21 "License" means any certificate, license, permit, or grant  
22 of permission required by the laws of this State, its political

1 subdivisions or instrumentalities as a condition for the lawful  
2 practice of any occupation, employment, trade, vocation,  
3 business, or profession.

4 "Private employer" means any person, company, corporation,  
5 labor organization, or association that employs one or more  
6 persons.

7 "Public agency" means the State or any local subdivision  
8 thereof, or any State or local department, agency, board or  
9 commission.

10 Section 15. Applicability. This Act applies to any person  
11 who applies for a license or employment at any public or  
12 private employer or who is currently employed or in possession  
13 of a license who has previously been convicted of one or more  
14 criminal offenses in any jurisdiction or whose conviction of  
15 one or more criminal offenses in any jurisdiction preceded such  
16 employment or granting of a license, except when a mandatory  
17 forfeiture, disability, or bar to employment is imposed by law  
18 and has not been removed by an executive pardon, certificate of  
19 relief from disabilities, or certificate of good conduct.  
20 Nothing in this Act shall be construed to affect any right an  
21 employer may have with respect to an intentional  
22 misrepresentation in connection with an application for  
23 employment made by a prospective employee or previously made by  
24 a current employee.

1           Section 20. Discrimination against persons previously  
2 convicted of one or more criminal offenses prohibited. No  
3 application for any license or employment and no employment or  
4 license held by an individual, to which the provisions of this  
5 Act are applicable, shall be denied or acted upon adversely by  
6 reason of the individual's having been previously convicted of  
7 one or more criminal offenses or by reason of a finding of lack  
8 of "good moral character" when such finding is based upon the  
9 fact that the individual has previously been convicted of one  
10 or more criminal offenses, unless, after carefully considering  
11 the factors specified in Section 25, the employer or licensing  
12 agency determines that:

13           (1) there is a direct relationship between one or more  
14 of the previous criminal offenses and the specific license  
15 or employment sought or held by the individual; and

16           (2). the issuance or continuation of the license or the  
17 granting or continuation of the employment would involve a  
18 unreasonable risk to property or to the safety or welfare  
19 of specific individuals or the general public.

20           Section 25. Factors to be considered concerning a previous  
21 criminal conviction.

22           (a) In making a determination pursuant to Section 20, the  
23 public agency or private employer shall consider the following  
24 factors:

25           (1) The public policy of this State to encourage the

1 licensure and employment of persons previously convicted  
2 of one or more criminal offenses.

3 (2) The specific duties and responsibilities  
4 necessarily related to the license or employment sought or  
5 held by the person.

6 (3) The bearing, if any, the criminal offense or  
7 offenses for which the person was previously convicted will  
8 have on his fitness or ability to perform one or more such  
9 duties or responsibilities.

10 (4) The time that has elapsed since the occurrence of  
11 the criminal offense or offenses.

12 (5) The age of the person at the time of occurrence of  
13 the criminal offense or offenses.

14 (6) The seriousness of the offense or offenses.

15 (7) The circumstances surrounding the offense or  
16 offenses.

17 (8) Any information produced by the person, or produced  
18 on the person's behalf, in regard to the person's  
19 rehabilitation and good conduct.

20 (9) The legitimate interest of the public agency or  
21 private employer in protecting property, and the safety and  
22 welfare of specific individuals or the general public.

23 (b) In making a determination pursuant to Section 20, the  
24 public agency or private employer shall also give consideration  
25 to a certificate of relief from disabilities or a certificate  
26 of good conduct issued to the applicant, which certificate

1 shall create a presumption of rehabilitation in regard to the  
2 offense or offenses specified therein.

3 Section 30. Written statement upon denial of license or  
4 employment. At the request of any person previously convicted  
5 of one or more criminal offenses who has been denied a license  
6 or employment, a public agency or private employer shall  
7 provide, within 30 days of a request, a written statement  
8 setting forth the reasons for such denial.

9 Section 35. Retaliatory or discriminatory acts. A person  
10 shall not retaliate or discriminate against a person because  
11 the person has done or was about to do any of the following:

12 (1) File a complaint under this Act.

13 (2) Testify, assist, or participate in an  
14 investigation, proceeding, or action concerning a  
15 violation of this Act.

16 (3) Oppose a violation of this Act.

17 Section 40. Waiver. An employer shall not require an  
18 applicant or employee to waive any right under this Act. An  
19 agreement by an applicant or employee to waive any right under  
20 this Act is invalid and unenforceable.

21 Section 45. Remedies.

22 (a) A person who is injured by a violation of this Act may

1 bring a civil action in circuit court to obtain injunctive  
2 relief or damages, or both.

3 (b) The court shall award costs and reasonable attorney's  
4 fees to a person who prevails as a plaintiff in an action  
5 authorized under subsection (a) of this Section.