



Rep. Esther Golar

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1 AMENDMENT TO HOUSE BILL 2846

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2846, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

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

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

10 Section 10. Definitions. As used in this Act:

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

1 "Employment" means any occupation, vocation, or  
2 employment, or any form of vocational or educational training.

3 "Employment" does not, for the purposes of this Act, however,  
4 include membership in any law enforcement agency.

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

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

21 Section 20. Discrimination against persons previously  
22 convicted of one or more criminal offenses prohibited. No  
23 application for any employment and no employment held by an  
24 individual, to which the provisions of this Act are applicable,

1 shall be denied or acted upon adversely by reason of the  
2 individual's having been previously convicted of one or more  
3 criminal offenses or by reason of a finding of lack of good  
4 moral character when such finding is based upon the fact that  
5 the individual has previously been convicted of one or more  
6 criminal offenses, unless, after carefully considering the  
7 factors specified in Section 25, the employer determines that:

8 (1) there is a direct relationship between one or more  
9 of the previous criminal offenses and the specific  
10 employment sought or held by the individual; and

11 (2) the granting or continuation of the employment  
12 would involve a substantial risk to property or to the  
13 safety or welfare of specific individuals or the general  
14 public.

15 Section 25. Factors to be considered concerning a previous  
16 criminal conviction. In making a determination pursuant to  
17 Section 20, the private employer shall consider the following  
18 factors:

19 (1) The bearing, if any, the criminal offense or  
20 offenses for which the person was previously convicted will  
21 have on his or her fitness or ability to perform one or  
22 more of the duties or responsibilities necessarily related  
23 to the job or opportunity in question.

24 (2) The time that has elapsed since the occurrence of  
25 the criminal offense or offenses.

1           (3) The seriousness of the offense or offenses.

2           (4) Any information produced by the person, or produced  
3           on the person's behalf, in regard to the person's  
4           rehabilitation and good conduct.

5           Section 30. Employer protections. If an employer  
6           demonstrates and documents that it has hired an individual  
7           pursuant to this Act, except for a willful or wanton act by the  
8           employer in hiring the individual, the employer shall not be  
9           civilly or criminally liable for an act or omission by the  
10          employee.

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

14                (1) File a complaint under this Act.

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

18                (3) Oppose a violation of this Act.

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

1           Section 45. Remedies.

2           (a) A person who is injured by a violation of this Act may  
3 bring a civil action in circuit court to obtain injunctive  
4 relief or damages, or both.

5           (b) The court shall award costs, reasonable litigation  
6 expenses, and reasonable attorney's fees to a person who  
7 prevails as a plaintiff in an action authorized under  
8 subsection (a) of this Section.".