

2016 Regular Session

HOUSE BILL NO. 266

BY REPRESENTATIVES MARCELLE AND SMITH

CIVIL SERVICE: Prohibits certain questions regarding criminal history during the employment process for certain positions

1 AN ACT

2 To enact Chapter 29 of Title 42 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 42:1701, relative to state employment; to provide relative to the consideration
4 of criminal history in unclassified employment; to prohibit certain conduct; to
5 provide for applicability; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Chapter 29 of Title 42 of the Louisiana Revised Statutes of 1950,
8 comprised of R.S. 42:1701, is hereby enacted to read as follows:

9 CHAPTER 29. CONSIDERATION OF CRIMINAL HISTORY IN

10 STATE EMPLOYMENT

11 §1701. Consideration of criminal history; prohibited acts

12 A. No state employer, when filling a position, may inquire, including without
13 limitation on an initial application form, about a prospective employee's criminal
14 history until after the prospective employee has been given an opportunity to
15 interview for the position or, if no such interview is to be conducted, until after the
16 prospective employee has been given a conditional offer of employment.

17 B. Nothing in this Section shall be construed to prohibit a state employer
18 from considering the criminal history of a prospective employee in making the final
19 determination of whether to employ the person. In considering the criminal history
20 of the prospective employee, the state employer may consider the following:

21 (1) The nature and gravity of the criminal conduct.

(2) The time that has passed since the occurrence of the criminal conduct.

(3) The specific duties and essential functions of the position and the

bearing, if any, that the criminal conduct will have on the ability of the prospective

employee to perform one or more of those duties or functions.

C. For purposes of this Section, "state employer" means any department,

office, division, agency, commission, board, committee, or other organizational unit

of the state.

D. This Section applies to each position in the state unclassified service,

except a position in law enforcement or corrections or a position for which a criminal

background check is required by law.

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)]

HB 266 Engrossed

2016 Regular Session

Marcelle

Abstract: Prohibits a state employer from inquiring about a prospective unclassified employee's criminal history until after an interview or a conditional offer of employment is made and provides for the consideration of criminal history in making employment decisions.

Proposed law prohibits a state employer from inquiring about a prospective unclassified employee's criminal history until after the prospective employee has been given an opportunity to interview for the position or, if no such interview is to be conducted, until after the prospective employee has been given a conditional offer of employment.

Proposed law provides that it does not prohibit a state employer from considering the criminal history of a prospective employee in making the final determination of whether to employ the person. Provides that in considering the criminal history of the prospective employee, the state employer may consider the following:

- (1) The nature and gravity of the criminal conduct.
- (2) The time that has passed since the occurrence of the criminal conduct.
- (3) The specific duties and essential functions of the position and the bearing, if any, that the criminal conduct will have on the ability of the prospective employee to perform one or more of those duties or functions.

Proposed law defines "state employer" as any department, office, division, agency, commission, board, committee, or other organizational unit of the state. Provides that proposed law does not apply to positions in law enforcement or corrections or to positions for which a criminal background check is required by law.

(Adds R.S. 42:1701)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Make permissive rather than mandatory the provisions of proposed law relative to the consideration of the criminal history of a prospective employee in making the final employment decision.