

HB0212S01 compared with HB0212

~~{deleted text}~~ shows text that was in HB0212 but was deleted in HB0212S01.

Inserted text shows text that was not in HB0212 but was inserted into HB0212S01.

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Representative Stewart E. Barlow proposes the following substitute bill:

EXPUNGEMENT CHANGES

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the labor code regarding ~~{employer inquiries into}~~ an applicant's expunged criminal history.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits public employer inquiry into an applicant's expunged criminal history, except in certain circumstances;
- ▶ permits an applicant to answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred, except in certain circumstances; and
- ▶ makes technical and conforming changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-52-102, as enacted by Laws of Utah 2017, Chapter 242

34-52-201, as enacted by Laws of Utah 2017, Chapter 242

ENACTS:

34-52-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-52-102** is amended to read:

34-52-102. Definitions.

As used in this chapter:

- (1) "Applicant" means an individual who provides information to a public or private employer for the purpose of obtaining employment.
- (2) (a) "Criminal conviction" means a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.
 - (b) "Criminal conviction" does not include an expunged criminal conviction.
- (3) (a) "Private employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.
 - (b) "Private employer" does not include a public employer.
- ~~(3)~~ (4) "Public employer" means an employer that is:
 - (a) the state or any administrative subunit of the state, including a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government;
 - (b) a state institution of higher education; or
 - (c) a municipal corporation, county, municipality, school district, local district, special service district, or other political subdivision of the state.

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Section 2. Section 34-52-201 is amended to read:

34-52-201. Public employer requirements.

(1) A public employer may not exclude an applicant from an initial interview because of a past criminal conviction.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction; or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction.

(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal history.

(b) An applicant seeking employment from a public employer may answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred.

~~(3)~~ (4) Subject to Subsections (1) ~~and (2)~~ through (3), nothing in this section prevents ~~an~~ a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction history when making a hiring decision.

~~(4)~~ (5) Subsections (1) ~~and (2)~~ through (3) do not apply:

(a) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

(f) to the Department of Alcoholic Beverage Control created in Section 32B-2-203;

(g) to the State Tax Commission; and

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(h) to a public employer whose primary purpose is performing financial or fiduciary functions.

Section 3. Section 34-52-301 is enacted to read:

Part 3. ~~{Restrictions on}~~ Applicants for Private ~~{Employers}~~ Employment
34-52-301. ~~{Private employer requirements.}~~

~~(1) A private employer may not make any inquiry related to an applicant's}~~ Permitted applicant response regarding expunged criminal history.

~~{(2)}~~ An applicant seeking employment from a private employer may answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred.