

2 State of Arkansas
3 88th General Assembly
4 Regular Session, 2011

A Bill

SENATE BILL 920

5
6 By: Senator S. Flowers

7 Filed with: Interim Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

9 For An Act To Be Entitled

10 AN ACT CONCERNING THE USE PRIOR CRIMINAL CONVICTIONS
11 AS THE BASIS FOR DENYING A PERSON A STATE EMPLOYMENT
12 OPPORTUNITY; AND FOR OTHER PURPOSES.

13 Subtitle

14 CONCERNING THE USE OF PRIOR CRIMINAL
15 CONVICTIONS AS THE BASIS FOR DENYING A
16 PERSON A STATE EMPLOYMENT OPPORTUNITY.

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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code § 17-1-103 is amended to read as follows:

24 17-1-103. Registration, certification, ~~and~~ licensing, and state
25 employment for ~~criminal offenders~~ persons with a prior criminal history.

26 (a)(1) It is the policy of the State of Arkansas to encourage and
27 contribute to the rehabilitation of criminal offenders and to assist them in
28 the assumption of the responsibilities of citizenship.

29 (2) The public is best protected when offenders are given the
30 opportunity to secure employment or to engage in a meaningful trade,
31 occupation, or profession.

32 (b)(1)(A) Subject to ~~the provisions of~~ subdivision (b)(2) of this
33 section in determining eligibility under this section, a board, commission,
34 department, or an agency may take into consideration conviction of certain
35 crimes that have not been annulled, expunged, sealed, or pardoned.

1 (B) However, ~~such~~ felony or misdemeanor convictions shall
2 not operate as an automatic bar to:

3 (i) ~~registration~~ Registration, certification, or
4 licensing for any trade, profession, or occupation; or

5 (ii) The hiring for a state government job of an
6 employee who is subject to a background check.

7 (2) The following criminal records shall not be used,
8 distributed, or disseminated in connection with an application for a
9 registration, license, ~~or~~ certificate, or state employment:

10 (A) Records of arrest not followed by a valid felony
11 conviction by the courts;

12 (B) Convictions that have been annulled, ~~or~~ expunged,
13 sealed, or pardoned by the Governor; ~~and~~ or

14 (C) Misdemeanor convictions, ~~except misdemeanor sex~~
15 ~~offenses and misdemeanors involving violence~~ unless the convictions:

16 (i) Require the person to register as a sex offender
17 under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.; or

18 (ii) Involve violence.

19 (c) The board, commission, department, or agency shall state
20 explicitly in writing the reasons for a decision that prohibits the applicant
21 from practicing the trade, occupation, or profession, or from being hired by
22 the state if the decision is based, in whole or in part, on prior criminal
23 conviction of a felony.

24 (d) ~~For the purposes of~~ As used in this section, completion of the
25 following ~~shall be deemed~~ is prima facie evidence of sufficient
26 rehabilitation:

27 (1) ~~Probation~~ The person is currently on probation or parole
28 supervision; ~~and~~

29 (2) A period of five (5) years after final discharge or release
30 from any term of imprisonment in the ~~state penitentiary~~ Department of
31 Correction without any subsequent conviction; or

32 (3) If a misdemeanor conviction, a period of one (1) year since
33 the completion of the sentence.

34 (e) Any complaints concerning the violation of this section shall be
35 adjudicated in accordance with the procedure set forth in the Arkansas

1 Administrative Procedure Act, § 25-15-201 et seq., for administrative and
2 judicial review.

3 (f)(1) This section ~~shall apply~~ applies to any board, commission,
4 department, agency, or any other body that deals in licensing or regulating a
5 profession, trade, or occupation or that hires employees subject to a
6 background check in the State of Arkansas.

7 (2)(A) ~~It shall be the duty of the~~ The Secretary of State ~~to~~
8 shall make this section known to any board, commission, department, or agency
9 affected by this section.

10 (B) Notification shall be by official publication
11 distributed to all affected state entities on a yearly basis.

12 (g) This section ~~shall~~ does not apply to teacher licensure or
13 certification or nursing licensure and certification as governed by §§ 6-17-
14 410 and 17-87-312 respectively.

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16 Referred by the Arkansas Senate

17 Prepared by: BPG/VJF

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