

IN THE SENATE

SENATE BILL NO. 1318

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE FAIR CHANCE EMPLOYMENT ACT; AMENDING TITLE 44, IDAHO CODE,
2 BY THE ADDITION OF A NEW CHAPTER 28, TITLE 44, IDAHO CODE, TO PROVIDE A
3 SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, AND TO ES-
4 TABLISH CERTAIN REQUIREMENTS FOR EMPLOYERS AND EMPLOYMENT AGENCIES AND
5 TO PROVIDE APPLICABILITY.
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7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Title 44, Idaho Code, be, and the same is hereby amended
9 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
10 ter 28, Title 44, Idaho Code, and to read as follows:

11 CHAPTER 28

12 FAIR CHANCE EMPLOYMENT ACT

13 44-2801. SHORT TITLE. This chapter shall be known and may be cited as
14 the "Fair Chance Employment Act."

15 44-2802. LEGISLATIVE INTENT. In enacting this chapter, it is the in-
16 tent of the legislature to:

- 17 (1) Encourage the full participation of motivated and qualified per-
18 sons with criminal histories in our state's workforce;
19 (2) Reduce recidivism; and
20 (3) Assure public safety through furthering economic participation.

21 44-2803. DEFINITIONS. As used in this chapter:

- 22 (1) "Applicant" means an individual who provides information to an em-
23 ployer for the purpose of obtaining employment.
24 (2) "Conditional employment offer" means an offer of employment made
25 upon the condition of satisfying a criminal background check.
26 (3) "Criminal background check" means an investigation into an indi-
27 vidual's criminal record.
28 (4) "Criminal conviction" or "conviction" means a verdict or finding of
29 guilt after a criminal trial or a plea of guilty or no contest to a criminal
30 charge.
31 (5) "Employer" means an organization with more than five (5) employees.
32 (6) "Employment agency" means an organization that finds jobs for per-
33 sons seeking them or finds persons to fill open jobs.

34 44-2804. EMPLOYER AND EMPLOYMENT AGENCY REQUIREMENTS. (1) An employer
35 or an employment agency may not:

- 36 (a) Post language in a job posting that seeks to exclude an applicant
37 with a criminal conviction;

- 1 (b) Ask an applicant about a criminal conviction on a job application
2 form; or
- 3 (c) Inquire about or into, consider, or require disclosure of the crim-
4 inal conviction record of an applicant until the applicant has been de-
5 termined qualified for the position and notified that the applicant has
6 been selected for an interview by the employer or employment agency or,
7 if there is not an interview, until after a conditional offer of employ-
8 ment is made to the applicant by the employer or employment agency.
- 9 (2) Subject to the provisions of subsection (1) of this section,
10 nothing in this section shall prevent an employer from considering an appli-
11 cant's criminal conviction record when making a hiring decision.
- 12 (3) The provisions of this section shall not apply:
- 13 (a) If federal, state, or local law, including corresponding rules and
14 regulations, requires the consideration of an applicant's criminal
15 history;
- 16 (b) To an employer that is a law enforcement agency;
- 17 (c) To an employer in the criminal justice system; or
- 18 (d) To an employer seeking a nonemployee volunteer.