

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 196

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE FAIR CHANCE EMPLOYMENT ACT; AMENDING TITLE 44, IDAHO CODE,
BY THE ADDITION OF A NEW CHAPTER 28, TITLE 44, IDAHO CODE, TO PROVIDE A
SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, AND TO ES-
TABLISH CERTAIN REQUIREMENTS FOR EMPLOYERS AND EMPLOYMENT AGENCIES AND
TO PROVIDE APPLICABILITY.

Be It Enacted by the Legislature of the State of Idaho:

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

CHAPTER 28

FAIR CHANCE EMPLOYMENT ACT

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

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

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

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

- (1) "Applicant" means an individual who provides information to an em-
ployer for the purpose of obtaining employment.
- (2) "Conditional employment offer" means an offer of employment made
upon the condition of satisfying a criminal background check.
- (3) "Criminal background check" means an investigation into an indi-
vidual's criminal record.
- (4) "Criminal conviction" or "conviction" means a verdict or finding of
guilt after a criminal trial or a plea of guilty or no contest to a criminal
charge.
- (5) "Employer" means an organization with twenty (20) or more employ-
ees.
- (6) "Employment agency" means an organization that finds jobs for per-
sons seeking them or finds persons to fill open jobs.

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

- (a) Post language in a job posting that seeks to exclude an applicant
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;
- 18 (d) To an employer seeking a nonemployee volunteer;
- 19 (e) To an employer that holds a tax-exempt status pursuant to section
20 501(c)(3) of the Internal Revenue Code and that is affiliated and in
21 good standing with a congressionally chartered organization and the
22 standards set forth for it pursuant to 36 U.S.C. subtitle II, part B; or
- 23 (f) To positions that are master key holders or keepers of the key or
24 combination to a safe or room dedicated to the counting and storage of
25 cash.