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SENATE BILL NO. 250

Offered January 8, 2014

Prefiled January 3, 2014

A *BILL to amend the Code of Virginia by adding sections numbered 2.2-2812.1 and 15.2-1500.1, relating to inquiries by a state agency or locality regarding criminal convictions, charges, and arrests.*

Patrons—McEachin; Delegate: Krupicka

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 2.2-2812.1 and 15.2-1500.1 as follows:

§ 2.2-2812.1. Prohibition of questions on employment applications regarding arrests, charges, or convictions; limitations on such inquiries prior to conditional offer of employment.

A. As used in this section:

"Conviction" means any adjudication that an individual committed a crime, a finding of guilt after a criminal trial by a court of competent jurisdiction, or any plea of guilty or nolo contendere to a criminal charge.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government.

B. No state agency shall include on any application for employment a question inquiring whether the prospective employee has ever been arrested or charged with, or convicted of, any crime. The prohibition in this subsection against including such a question on any employment application shall not apply to applications for positions designated as sensitive pursuant to § 2.2-1201.1, law-enforcement agency positions, or positions related to law-enforcement agencies.

C. No state agency shall inquire whether a prospective employee has ever been convicted of any crime unless the inquiry takes place after the prospective employee has received a conditional offer of employment, which offer may be withdrawn if the prospective employee has a conviction record that bears a rational relationship to the duties and responsibilities of the position. The prohibition in this subsection against a state agency's inquiring into a prospective employee's criminal conviction record prior to the time that the prospective employee has received a conditional offer of employment shall not apply to applications for positions designated as sensitive pursuant to § 2.2-1201.1 or to state agencies that are expressly permitted to inquire into an individual's criminal history for employment purposes pursuant to any provision of federal or state law.

D. No state agency shall inquire whether a prospective employee has ever been arrested or charged with a crime unless the inquiry takes place after the prospective employee has received a conditional offer of employment, which offer may be withdrawn if (i) the prospective employee's criminal arrest or charge resulted in the prospective employee's conviction of a crime and (ii) the crime of which he was convicted bears a rational relationship to the duties and responsibilities of the position. The prohibition in this subsection against a state agency's inquiring into a prospective employee's record of criminal arrests or charges shall not apply to applications for positions designated as sensitive pursuant to § 2.2-1201.1 or to state agencies that are expressly permitted to inquire into an individual's criminal arrests or charges for employment purposes pursuant to any provision of federal or state law.

§ 15.2-1500.1. Authority to prohibit questions on employment applications regarding arrests, charges, or convictions; limitations on such inquiries prior to conditional offer of employment.

A. As used in this section, "conviction" means any adjudication that an individual committed a crime, a finding of guilt after a criminal trial by a court of competent jurisdiction, or any plea of guilty or nolo contendere to a criminal charge.

B. Any locality may, by ordinance, prohibit the inclusion on any application for employment a question inquiring whether the prospective employee has ever been arrested or charged with, or convicted of, any crime. Such a prohibition shall not apply to applications for law-enforcement agency positions or positions related to law-enforcement agencies.

C. An ordinance adopted pursuant to subsection B shall prohibit a locality from inquiring whether a prospective employee has ever been convicted of any crime unless the inquiry takes place after the prospective employee has received a conditional offer of employment, which offer may be withdrawn if the prospective employee has a conviction record that bears a rational relationship to the duties and responsibilities of the position.

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59 *D. An ordinance adopted pursuant to subsection B shall prohibit a locality from inquiring whether a*
60 *prospective employee has ever been arrested or charged with a crime unless the inquiry takes place*
61 *after the prospective employee has received a conditional offer of employment, which offer may be*
62 *withdrawn if (i) the prospective employee's criminal arrest or charge resulted in the prospective*
63 *employee's conviction of a crime and (ii) the crime of which he was convicted bears a rational*
64 *relationship to the duties and responsibilities of the position.*