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HOUSE BILL NO. 2402

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend the Code of Virginia by adding sections numbered 2.2-2812.1 and 15.2-1505.3, relating to public employment; limitations on inquiries by state agencies and localities regarding criminal arrests, charges, or convictions.*

Patrons—Aird and Davis; Senator: McClellan

Referred to Committee on General Laws

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 15.2-1505.3 as follows:

§ 2.2-2812.1. State agencies prohibited from inquiring about arrests, charges, or convictions on employment applications; exceptions.

A. As used in this section:

"Conviction" means any adjudication that an individual committed a crime, any 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.

"Staff interview" means any interview of a prospective employee for a job by current state agency staff.

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

B. No state agency shall request a prospective employee to complete an application for employment which includes 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 any employment-related applications or questionnaires provided during or after a staff interview.

C. No state agency shall inquire whether a prospective employee has ever been arrested or charged with or convicted of any crime unless the inquiry takes place during or after a staff interview of the prospective employee.

D. Nothing in this section shall prevent a state agency from considering information received during or after a staff interview pertaining to a prospective employee having been arrested or charged with or convicted of any crime.

E. The prohibition in this section shall not apply to positions designated as sensitive pursuant to § 2.2-1201.1, to law-enforcement agency positions or positions related to law-enforcement agencies, 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.

§ 15.2-1505.3. Localities prohibited from inquiring about arrests, charges, or convictions on employment applications; exceptions.

A. As used in this section, "conviction" means any adjudication that an individual committed a crime, any 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. No locality shall request a prospective employee to complete an application for employment which includes 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 (i) law-enforcement agency positions or positions related to law-enforcement agencies or (ii) any employment-related applications or questionnaires provided during or after a staff interview.

C. No locality shall inquire whether a prospective employee has ever been convicted of any crime unless the inquiry takes place during or after a staff interview of the prospective employee.

D. No locality shall inquire whether a prospective employee has ever been arrested or charged with a crime unless the inquiry takes place during or after a staff interview of the prospective employee.

E. Nothing in this section shall prevent a locality from considering information received during or after a staff interview pertaining to a prospective employee having been arrested or charged with or convicted of any crime.

INTRODUCED

HB2402