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HOUSE BILL NO. 892

Offered January 8, 2014

Prefiled January 8, 2014

A *BILL to amend the Code of Virginia by adding a section numbered 2.2-2812.1, relating to state agency inquiries of prospective employees regarding criminal convictions, charges, and arrests.*

Patron—Krupicka

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 2.2-2812.1 as follows:

§ 2.2-2812.1. *Employment applications and interviews; questions regarding arrests, charges, or convictions.*

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. "State agency" does not include any county, city, or town or any local or regional governmental authority.

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 prior to interviewing the prospective employee. During an interview of a prospective employee, the state agency may (i) advise the prospective employee that the state agency is prohibited from hiring for the position an individual who has been convicted of a specific crime or type of crime that bears a rational relationship to the duties and responsibilities of the position and (ii) ask if the prospective employee has a conviction of a specific crime or type of crime that bears a rational relationship to the duties and responsibilities of the position. A state agency shall not be required to offer a position to a prospective employee who has convicted of a crime 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 conviction record prior to the interview 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 prior to interviewing the prospective employee. During an interview of a prospective employee, the state agency may (i) advise the prospective employee that the state agency is prohibited from hiring for the position an individual who has been arrested for or charged with a specific crime or type of crime that bears a rational relationship to the duties and responsibilities of the position and (ii) ask if the prospective employee has been arrested for or charged with a specific crime or type of crime that bears a rational relationship to the duties and responsibilities of the position. A state agency shall not be required to offer a position to a prospective employee if (a) the prospective employee's criminal arrest or charge resulted in the prospective employee's conviction of a crime and (b) 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.

INTRODUCED

HB892