

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Workforce

REVENUE: No revenue impact**FISCAL: Fiscal statement issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Matthew Germer, Administrator**Meeting Dates:** 5/20, 6/3

WHAT THE MEASURE DOES: Establishes unlawful employment practice for employer in the following cases: use of a job application form that inquires about applicant's conviction history; inquiring about or considering an applicant's conviction history prior to an interview; or inquiring about or considering an applicant's conviction history prior to making a conditional offer of employment when no interview is conducted. Creates right of civil action for violation.

ISSUES DISCUSSED:

- Purpose of criminal punishments
- Attempts to reduce recidivism
- Effectiveness of "ban the box" legislation in other states
- Difficulty in finding employment as a convicted felon
- Transition process for convicted felons returning to civil society
- Prohibitions against employing convicted felons for certain industries, such as law enforcement
- Private right of action compared to administrative remedies
- Certificates of rehabilitation
- Negligent hiring liability

EFFECT OF COMMITTEE AMENDMENT:

(-A29) Replaces the measure. Establishes unlawful employment practice for employer to exclude an applicant from initial interview solely because of a past criminal conviction if employer requires disclosure of convictions on employment application or prior to initial interview. Establishes unlawful employment practice for employer to require applicant to disclose convictions prior to conditional offer of employment if no interview is conducted. Creates exceptions for employers subject to federal, state or local law requiring consideration of applicant's criminal history, law enforcement agencies, employers in criminal justice system and employers seeking nonemployee volunteers. Grants enforcement authority to the Bureau of Labor and Industries under ORS chapter 659A.

BACKGROUND: After release, ex-offenders are expected to reintegrate into society by obtaining suitable housing, complying with court-ordered payment of debts such as restitution and/or child support in arrears, and supporting themselves, all of which being predicated on their ability to secure gainful employment. Studies have also found that employment can reduce recidivism. According to the National Conference of State Legislatures (NCSL), at least 27 states limit or prohibit the use of criminal records for public or private employment and/or licensing eligibility. NCSL also reports that 13 states, plus the District of Columbia, have enacted "Ban the Box" legislation restricting or prohibiting employers from using applicant's criminal history in employment consideration, with few exceptions. Title VII of the Civil Rights Act of 1964 does not prohibit employment discrimination on the basis of criminal history.

House Bill 3025-A establishes an unlawful employment practice for an employer to ask about an applicant's conviction history on a job application or prior to an interview. If no interview is conducted, the measure prohibits employers from asking about an applicant's criminal history prior to a conditional offer of employment. The measure creates a right of civil action for violations.

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This summary has not been adopted or officially endorsed by action of the committee.