

**Senate File 2319 - Introduced**

SENATE FILE 2319

BY BENNETT

**A BILL FOR**

1 An Act prohibiting employers and employment agencies from  
2 seeking the criminal record or criminal history from  
3 applicants for employment under certain circumstances,  
4 establishing a criminal history employment application task  
5 force, providing penalties, and including effective date  
6 provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I  
2 PROHIBITED HIRING PRACTICES — CRIMINAL RECORD OR CRIMINAL  
3 HISTORY

4 Section 1. Section 10A.202, subsection 2, Code 2024, is  
5 amended to read as follows:

6 2. The department is responsible for the administration of  
7 the laws of this state under [chapters 88A, 88B, 89, 89A, 90A,](#)  
8 [91A, 91C, 91D, 91E, 91F, and 92,](#) and such other labor-services  
9 duties assigned to the department or director.

10 Sec. 2. Section 10A.204, subsection 3, Code 2024, is amended  
11 to read as follows:

12 3. The director, in consultation with the labor  
13 commissioner, shall, at the time provided by law, make an  
14 annual report to the governor setting forth in appropriate  
15 form the business and expense of the division and department  
16 under [this subchapter](#) for the preceding year, the number  
17 of remedial actions taken under [chapter 89A,](#) the number of  
18 disputes or violations processed by the division or department  
19 and the disposition of the disputes or violations, and other  
20 matters pertaining to the division or department under this  
21 subchapter ~~which~~ that are of public interest, together with  
22 recommendations for change or amendment of the laws in this  
23 chapter and [chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C,](#)  
24 [91D, 91E, 91F, and 92,](#) and [sections 85.67A and 85.68,](#) and the  
25 recommendations, if any, shall be transmitted by the governor  
26 to the first general assembly in session after the report is  
27 filed.

28 Sec. 3. NEW SECTION. **91F.1 Declarations and purpose.**

29 1. The general assembly declares that:

30 a. Removing obstacles to employment for individuals with  
31 criminal records provides economic and social opportunities  
32 to a large group of individuals in Iowa and increases the  
33 productivity, health, and safety of Iowa communities.

34 b. Employment advertisements in Iowa frequently include  
35 language regarding criminal records that is unrelated to the

1 employment vacancy and that either explicitly precludes or  
2 strongly dissuades individuals from applying for employment for  
3 which they are otherwise qualified.

4     *c.* Individuals with criminal records represent a group of  
5 job seekers ready and able to enlarge and contribute to the  
6 workforce.

7     *d.* Securing employment significantly reduces the risk of  
8 recidivism for individuals with criminal records.

9     *e.* The opportunity for individuals with criminal records  
10 to secure employment or to pursue, practice, or engage in  
11 a meaningful and profitable trade, occupation, vocation,  
12 profession, or business is essential to rehabilitation and  
13 their resumption of the responsibilities of citizenship.

14     2. It is the purpose of this chapter to improve the economic  
15 viability, health, and security of Iowa communities and to  
16 assist individuals with criminal records to reintegrate into  
17 the community, become productive members of the workforce, and  
18 provide for their families and themselves.

19     Sec. 4. NEW SECTION. 91F.2 **Definitions.**

20     1. "*Applicant*" means a person pursuing employment with an  
21 employer or with or through an employment agency.

22     2. "*Criminal record or criminal history*" means information  
23 collected or possessed by any criminal justice agency or  
24 judicial system in this state or in another jurisdiction,  
25 including a federal, military, tribal, or foreign jurisdiction,  
26 concerning individuals which information includes identifiable  
27 descriptions and notations of arrests, detentions, indictments,  
28 or other formal criminal charges, and any disposition arising  
29 therefrom, including acquittal, deferred judgment, sentencing,  
30 correctional supervision, release, or conviction, and any  
31 sentence arising from a verdict or plea of guilty or nolo  
32 contendere, including a sentence of incarceration, a suspended  
33 sentence, a sentence of probation, or a sentence of conditional  
34 discharge.

35     3. "*Director*" means the director of the department of

1 inspections, appeals, and licensing.

2 4. "Employer" means a person who has four or more employees  
3 in the current or preceding calendar year and includes an agent  
4 of such a person. For purposes of this chapter, individuals  
5 who are members of the employer's family shall not be counted  
6 as employees.

7 5. "Employment agency" means a person who, with or without  
8 compensation, regularly brings together those desiring to  
9 employ and those desiring employment and includes an agent of  
10 such a person.

11 Sec. 5. NEW SECTION. 91F.3 Prohibited hiring practices —  
12 exceptions.

13 1. An employer or employment agency shall not inquire  
14 about or require disclosure of the criminal record or criminal  
15 history of an applicant until the applicant's interview is  
16 being conducted or, if an interview will not be conducted,  
17 until after a conditional offer of employment is made to the  
18 applicant by the employer or employment agency.

19 2. Subsection 1 does not apply to the following positions  
20 if an employer or employment agency establishes a separate  
21 application form for such positions that includes the title and  
22 job description of the position, the specific state or federal  
23 law or bonding requirement that applies to the position, and  
24 the types of criminal offenses that would preclude an applicant  
25 from being hired for the position:

26 a. Positions for which employers are required to exclude  
27 applicants with certain criminal convictions from employment  
28 due to federal or state law.

29 b. Positions for which a fidelity bond or an equivalent  
30 bond is required and an applicant's conviction of one or more  
31 specified criminal offenses would disqualify the applicant from  
32 obtaining such bond, in which case an employer may include a  
33 question or otherwise inquire whether the applicant has ever  
34 been convicted of such specified criminal offenses.

35 3. Subsection 1 does not prohibit an employer or employment

1 agency from notifying applicants in writing of specific  
2 offenses that will disqualify an applicant from employment in a  
3 particular position as permitted by subsection 2.

4 4. Subsection 1 does not apply to the following positions:

5 a. Positions for which an employee will work within the  
6 residence of the employer if the employer or members of the  
7 employer's family reside therein during such employment.

8 b. Positions for which an employee will have entry access to  
9 a personal residence or an occupied unit in a multiple housing  
10 structure.

11 c. Positions for which an employee will render personal  
12 service to the person of the employer or members of the  
13 employer's family.

14 5. An employment agency shall not be liable for a violation  
15 of subsection 1 if the employment agency can demonstrate by  
16 clear and convincing evidence that such violation was caused by  
17 the employment agency's good-faith reliance on an affirmative  
18 representation by an employer that one of the exceptions listed  
19 in subsection 2 or 4 applied to the position in question. The  
20 employer shall be liable for any such violations.

21 **Sec. 6. NEW SECTION. 91F.4 Powers and duties of the**  
22 **director.**

23 1. The director may hold hearings and investigate alleged  
24 violations of this chapter by an employer or employment agency.

25 2. The director may assess and recover civil penalties in  
26 accordance with sections 91F.5 and 91F.6.

27 3. The director shall adopt rules pursuant to chapter 17A to  
28 administer this chapter.

29 **Sec. 7. NEW SECTION. 91F.5 Civil penalties — amount.**

30 An employer or employment agency who violates the provisions  
31 of this chapter shall be subject to a penalty as follows:

32 1. For a first violation, the director shall issue a written  
33 warning to the employer or employment agency that includes  
34 notice regarding penalties for subsequent violations and the  
35 employer or employment agency shall have thirty days to remedy

1 the violation.

2 2. For a second violation, or if a previous violation is  
3 not remedied within thirty days of notice by the director,  
4 the director may impose a civil penalty of up to five hundred  
5 dollars.

6 3. For a third violation, or if a previous violation is  
7 not remedied within sixty days of notice by the director, the  
8 director may impose a civil penalty of up to one thousand five  
9 hundred dollars.

10 4. For subsequent violations, or if a previous violation  
11 is not remedied within ninety days of notice by the director,  
12 the director may impose a civil penalty of up to one thousand  
13 five hundred dollars for every thirty days that pass thereafter  
14 without compliance.

15 Sec. 8. NEW SECTION. 91F.6 Civil penalties — recovery.

16 1. The director may propose that an employer be assessed  
17 a civil penalty as provided in section 91F.4 by serving the  
18 employer with notice of such proposal in the same manner as an  
19 original notice is served under the rules of civil procedure.  
20 Upon service of such notice, the proposed assessment shall be  
21 treated as a contested case under chapter 17A. However, an  
22 employer or employment agency must request a hearing within  
23 thirty days of being served.

24 2. If an employer or employment agency does not request a  
25 hearing pursuant to subsection 1 or if the director determines,  
26 after an appropriate hearing, that an employer or employment  
27 agency is in violation of this chapter, the director shall  
28 assess a civil penalty in accordance with section 91F.5.

29 3. An employer or employment agency may seek judicial  
30 review of any assessment made under subsection 2 by instituting  
31 proceedings for judicial review pursuant to chapter 17A.  
32 However, such proceedings must be instituted in the district  
33 court of the county in which the violation or one of the  
34 violations occurred and within thirty days of the day on which  
35 the employer was notified that an assessment has been made.

1 4. After the time for seeking judicial review has expired or  
2 after all judicial review has been exhausted and the director's  
3 assessment has been upheld, the director shall request the  
4 attorney general to recover the assessed penalties in a civil  
5 action.

6 5. Civil penalties recovered pursuant to this section shall  
7 be remitted by the director to the treasurer of state for  
8 deposit in the general fund of the state.

9 Sec. 9. NEW SECTION. 91F.7 Construction.

10 This chapter shall not be construed to require an employer to  
11 employ an individual with a criminal record.

12 Sec. 10. EFFECTIVE DATE. This division of this Act takes  
13 effect January 1, 2025.

14 DIVISION II

15 CRIMINAL HISTORY EMPLOYMENT APPLICATION TASK FORCE

16 Sec. 11. CRIMINAL HISTORY EMPLOYMENT APPLICATION TASK FORCE  
17 AND REPORT.

18 1. A criminal history employment application task force  
19 is created. The task force shall consist of the following  
20 members:

21 a. The director of the department of inspections, appeals,  
22 and licensing or the director's designee, who shall represent  
23 public sector employers.

24 b. Two representatives of established civil rights and  
25 civil liberties organizations appointed by the director.

26 c. Two representatives of private sector employers  
27 appointed by the director.

28 d. One representative of a private sector labor  
29 organization appointed by the director.

30 e. One representative of a statewide public sector labor  
31 organization appointed by the director.

32 2. The task force shall study appropriate voluntary  
33 standards and procedures for evaluating employment applications  
34 from an individual with a criminal history, including but not  
35 limited to the nature of the crime, the age at which the crime

1 was committed, the nature of the duties of the position applied  
2 for, and relevant evidence of the individual's rehabilitation.

3 3. The department of inspections, appeals, and licensing  
4 shall provide staffing services for the task force. The  
5 director or the director's designee shall serve as the  
6 chairperson of the task force.

7 4. The members of the task force shall serve without  
8 compensation and shall not be reimbursed for their expenses.

9 5. The task force shall submit a report regarding its  
10 findings and recommendations to the governor and the general  
11 assembly no later than January 1, 2025. The report shall  
12 include a model pamphlet or other publication in both printed  
13 and electronic form on evaluating employment applications  
14 from individuals with criminal histories to be distributed to  
15 employers in Iowa in a manner similar to other information  
16 distributed by the director.

17 Sec. 12. EFFECTIVE DATE. This division of this Act, being  
18 deemed of immediate importance, takes effect upon enactment.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with  
21 the explanation's substance by the members of the general assembly.

22 DIVISION I — PROHIBITED HIRING PRACTICES — CRIMINAL  
23 RECORD OR CRIMINAL HISTORY. Division I of this bill prohibits  
24 an employer or employment agency from inquiring about or  
25 requiring disclosure of the criminal record or criminal  
26 history of an applicant until the applicant's interview is  
27 being conducted. If an interview for the position will not be  
28 conducted, the prohibition applies until after a conditional  
29 offer of employment is made to the applicant by the employer or  
30 employment agency.

31 The prohibition does not apply to certain positions listed  
32 in the division if an employer or employment agency establishes  
33 a separate application form for such positions that includes  
34 certain information listed in the division. The division does  
35 not prohibit an employer or employment agency from notifying

1 applicants in writing of specific offenses that will disqualify  
2 an applicant from employment in a particular position as  
3 permitted by these exceptions.

4 The prohibition does not apply to certain additional  
5 positions listed in the division.

6 An employment agency shall not be liable for a violation of  
7 the prohibition if the employment agency can demonstrate by  
8 clear and convincing evidence that such violation was caused by  
9 the employment agency's good-faith reliance on an affirmative  
10 representation by an employer that one of the exceptions listed  
11 in the bill applied to the position in question. The employer  
12 shall be liable for any such violations.

13 The division defines "applicant" as a person pursuing  
14 employment with an employer or with or through an employment  
15 agency. The division defines "employer" as a person who has  
16 four or more employees in the current or preceding calendar  
17 year and an agent of such a person, excluding family members.  
18 The division defines "employment agency" as a person who,  
19 with or without compensation, regularly brings together those  
20 desiring to employ and those desiring employment and an agent  
21 of such a person.

22 The division defines "criminal record or criminal history"  
23 as information collected or possessed by any criminal  
24 justice agency or judicial system in this state or in another  
25 jurisdiction, including a federal, military, tribal, or  
26 foreign jurisdiction, concerning individuals which information  
27 includes identifiable descriptions and notations of arrests,  
28 detentions, indictments, or other formal criminal charges,  
29 and any disposition arising therefrom, including acquittal,  
30 deferred judgment, sentencing, correctional supervision,  
31 release, or conviction, and any sentence arising from a verdict  
32 or plea of guilty or nolo contendere, including a sentence of  
33 incarceration, a suspended sentence, a sentence of probation,  
34 or a sentence of conditional discharge.

35 An employer or employment agency that violates the

1 provisions of the division is subject to civil penalties  
2 ranging from a written warning for a first violation to up to  
3 \$1,500 every 30 days for a fourth or subsequent violation not  
4 remedied within 90 days.

5 The director of the department of inspections, appeals, and  
6 licensing may hold hearings and investigate alleged violations  
7 of the division by an employer or employment agency, may assess  
8 and recover civil penalties and seek assistance from the  
9 attorney general in such recovery, and shall adopt rules to  
10 administer the division.

11 The division shall not be construed to require an employer to  
12 employ an individual with a criminal record.

13 The division takes effect January 1, 2025.

14 DIVISION II — CRIMINAL HISTORY EMPLOYMENT APPLICATION TASK  
15 FORCE. Division II of the bill creates a criminal history  
16 employment application task force. The task force shall study  
17 appropriate voluntary standards and procedures for evaluating  
18 employment applications from an individual with a criminal  
19 history, including but not limited to the nature of the crime,  
20 the age at which the crime was committed, the nature of the  
21 duties of the position applied for, and relevant evidence of  
22 the individual's rehabilitation.

23 The division lists the membership of the task force. The  
24 director shall be the chairperson of the task force and  
25 the labor services division of the department of workforce  
26 development shall provide staffing services for the task force.

27 The task force shall submit a report regarding its findings  
28 and recommendations to the governor and the general assembly no  
29 later than January 1, 2025. The report shall include a model  
30 pamphlet or other publication in both printed and electronic  
31 form on evaluating employment applications from individuals  
32 with criminal histories to be distributed to employers in Iowa  
33 in a manner similar to other information distributed by the  
34 director.

35 The division takes effect upon enactment.