

4869

2013-2014 Regular Sessions

I N A S S E M B L Y

February 12, 2013

Introduced by M. of A. AUBRY, KAVANAGH, MAISEL, PRETLOW, STEVENSON,
COLTON, O'DONNELL -- read once and referred to the Committee on
Correction

AN ACT to amend the executive law, in relation to requiring employers to
make a conditional offer of employment before inquiring about any
criminal convictions of a prospective employee

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 296 of the executive law is amended by adding a new
2 subdivision 15-a to read as follows:
3 15-A. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE, UNLESS SPECIF-
4 ICALLY REQUIRED OR PERMITTED BY STATUTE, FOR ANY PROSPECTIVE EMPLOYER,
5 INCLUDING ANY PERSON, AGENCY, BUREAU, CORPORATION OR ASSOCIATION,
6 INCLUDING THE STATE AND ANY POLITICAL SUBDIVISION THEREOF, TO MAKE AN
7 INQUIRY ABOUT, WHETHER IN ANY FORM OF APPLICATION OR OTHERWISE, OR TO
8 ACT UPON ADVERSELY TO THE INDIVIDUAL INVOLVED BASED UPON, ANY CRIMINAL
9 CONVICTION OF SUCH INDIVIDUAL UNLESS SUCH EMPLOYER FIRST MAKES A CONDI-
10 TIONAL OFFER OF EMPLOYMENT TO SUCH INDIVIDUAL. SUCH CONDITIONAL OFFER OF
11 EMPLOYMENT MAY ONLY SUBSEQUENTLY BE WITHDRAWN ON THE BASIS OF A CRIMINAL
12 CONVICTION IN ACCORDANCE WITH ARTICLE TWENTY-THREE-A OF THE CORRECTION
13 LAW WHERE SUCH CONVICTION BEARS A DIRECT RELATIONSHIP, AS SUCH TERM IS
14 DEFINED IN SUBDIVISION THREE OF SECTION SEVEN HUNDRED FIFTY OF THE
15 CORRECTION LAW, TO THE SPECIFIC POSITION BEING OFFERED, OR THE GRANTING
16 OF SUCH EMPLOYMENT WOULD INVOLVE AN UNREASONABLE RISK TO PROPERTY OR TO
17 THE SAFETY OR WELFARE OF SPECIFIC INDIVIDUALS OR THE GENERAL PUBLIC.
18 S 2. This act shall take effect on the ninetieth day after it shall
19 have become a law.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD06254-01-3