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SENATE BILL 120

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Bill B. O'Neill

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO EMPLOYMENT OF EX-CONVICTS; EXTENDING THE PROVISIONS
OF THE CRIMINAL OFFENDER EMPLOYMENT ACT TO INCLUDE PRIVATE
EMPLOYERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 28-2-3 NMSA 1978 (being Laws 1974,
Chapter 78, Section 3, as amended) is amended to read:

"28-2-3. EMPLOYMENT ELIGIBILITY DETERMINATION.--

A. Subject to the provisions of Subsection B of
this section and Sections 28-2-4 and 28-2-5 NMSA 1978, in
determining eligibility for any private employment or
employment with the state or any of its political subdivisions
or for a license, permit, certificate or other authority to
engage in any regulated trade, business or profession, the
employer or the board or other department or agency having

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underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 jurisdiction may take into consideration a conviction, but the
2 conviction shall not operate as an automatic bar to obtaining
3 private or public employment or license or other authority to
4 practice the trade, business or profession. An employer or a
5 board, department or agency of the state or any of its
6 political subdivisions shall not make an inquiry regarding a
7 conviction on an initial application for employment and shall
8 only take into consideration a conviction after the applicant
9 has been selected as a finalist for the position.

10 B. The following criminal records shall not be
11 used, distributed or disseminated in connection with an
12 application for any [~~public~~] employment, license or other
13 authority:

14 (1) records of arrest not followed by a valid
15 conviction; and

16 (2) misdemeanor convictions not involving
17 moral turpitude."

18 SECTION 2. Section 28-2-4 NMSA 1978 (being Laws 1974,
19 Chapter 78, Section 4, as amended by Laws 1997, Chapter 238,
20 Section 5 and also by Laws 1997, Chapter 251, Section 1) is
21 amended to read:

22 "28-2-4. POWER TO REFUSE, RENEW, SUSPEND OR REVOKE
23 PRIVATE OR PUBLIC EMPLOYMENT OR LICENSE.--

24 A. Any private employer or board or other agency
25 having jurisdiction over employment by the state or any of its

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underscored material = new
[bracketed material] = delete

1 political subdivisions or the practice of any trade, business
2 or profession may refuse to grant or renew or may suspend or
3 revoke any private or public employment or license or other
4 authority to engage in the [~~public~~] employment, trade, business
5 or profession for any one or any combination of the following
6 causes:

7 (1) where the applicant, employee or licensee
8 has been convicted of a felony or a misdemeanor involving moral
9 turpitude and the criminal conviction directly relates to the
10 particular employment, trade, business or profession;

11 (2) where the applicant, employee or licensee
12 has been convicted of a felony or a misdemeanor involving moral
13 turpitude and the criminal conviction does not directly relate
14 to the particular employment, trade, business or profession, if
15 the private employer or the board or other agency determines
16 after investigation that the person so convicted has not been
17 sufficiently rehabilitated to warrant the public trust; or

18 (3) where the applicant, employee or licensee
19 has been convicted of homicide, kidnapping, trafficking in
20 controlled substances, criminal sexual penetration or related
21 sexual offenses or child abuse and the applicant, employee or
22 licensee has applied for reinstatement, renewal or issuance of
23 a teaching certificate, a license to operate a child-care
24 facility or employment at a child-care facility, regardless of
25 rehabilitation.

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