

ASSEMBLY BILL NO. 348—ASSEMBLYMEN THOMPSON,
FLORES; ARAUJO, CARRILLO AND MUNFORD

MARCH 16, 2015

JOINT SPONSORS: SENATORS ATKINSON,
DENIS, FORD, MANENDO AND PARKS

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the consideration of the criminal history of an applicant for employment by the State or a county or city. (BDR 23-1053)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public employment; providing generally that the criminal history of an applicant or other qualified person under consideration for a position in the unclassified or classified service of the State may be considered only after the applicant has been certified by the Administrator of the Division of Human Resource Management of the Department of Administration or after a conditional offer of employment has been made to the applicant; prohibiting the Administrator, when examining an applicant for a position in the classified service of the State, from considering the criminal history of the applicant; providing that, except in certain circumstances, the criminal history of a person may serve as the basis for the Administrator to refuse to certify an applicant or for rescission of a conditional offer of employment in the unclassified or classified service of the State only after consideration of certain factors relating to the criminal history of the person; providing for written notice to a person if the criminal history of the person is the basis for the Administrator's refusal to certify the person or for the rescission of a conditional offer of employment; establishing similar provisions relating to the consideration by the governing body of a county or incorporated city of the criminal history of an applicant for employment by a county or incorporated city; and providing other matters properly relating thereto.



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Legislative Counsel's Digest:

Existing law governs generally the employment of persons in the classified and unclassified service of the State. Existing law further establishes the duties of the Administrator of the Division of Human Resource Management of the Department of Administration with regard to administering competitive examinations of persons seeking employment in the classified service of the State and maintaining a list of eligible persons for employment in the classified service. (Chapter 284 of NRS) Under existing law, the Administrator may refuse to examine an applicant or refuse to certify an eligible person if the person has been found guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct. (NRS 284.240)

Section 2 of this bill provides, with exceptions, that the criminal history of an applicant or other qualified person under consideration for employment in the unclassified service of the State may be considered only after an appointing authority has made a conditional offer of employment to the applicant or, if applicable, the applicant has been certified by the Administrator. **Section 3** of this bill prohibits the Administrator from considering the criminal history of an applicant in examining the applicant. Additionally, **section 3** provides, with exceptions, that the criminal history of an applicant for a position in the classified service may be considered only after the applicant has been certified by the Administrator or an appointing authority has made a conditional offer of employment to the applicant. **Sections 2 and 3** set forth specific factors that must be considered by an appointing authority or the Administrator before the criminal history of an applicant may be used as the basis for rescinding a conditional offer of employment or for rejection of the applicant, including: (1) whether any criminal offense committed by the person directly relates to the responsibilities of the position for which the person has applied; (2) the nature and severity of each criminal offense committed by the person; (3) the age of the person at the time of the commission of each criminal offense; (4) the period of time between the commission of each criminal offense and the date of the application for employment; and (5) any information or documentation demonstrating the person's rehabilitation. **Sections 5 and 6** of this bill establish similar provisions relating to the consideration by the governing body of a county or incorporated city of the criminal history of an applicant for employment by a county or incorporated city. **Sections 2, 3, 5 and 6** provide that if the criminal history of an applicant is used as the basis for rejecting the applicant or rescinding a conditional offer of employment extended to the applicant, the appointing authority or the governing body of the county or city, as applicable, must provide to the applicant a written statement which must specifically state the evidence presented and the reason for the rejection of the applicant or rescission of the conditional offer of employment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 284 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise authorized by specific statute, the criminal history of an applicant or other qualified person for a position in the unclassified service may be considered only after an appointing authority has extended to the applicant a*



conditional offer of employment or, if applicable, the applicant has been certified by the Administrator.

2. An appointing authority may, before examining an applicant or extending to an applicant a conditional offer of employment, notify the applicant of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular position because of the particular criminal history of the person, an appointing authority may rescind a conditional offer of employment extended to an otherwise qualified person who has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense committed by the person directly relates to the responsibilities of the position for which the person has applied or is being considered;

(b) The nature and severity of each criminal offense committed by the person;

(c) The age of the person at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for employment in the unclassified service; and

(e) Any information or documentation demonstrating the person's rehabilitation.

4. If the criminal history of an applicant is used as a basis for rescinding a conditional offer of employment, rescission of the conditional offer of employment must be made in writing and specifically state the evidence presented and the reasons for the rescission of the offer.

Sec. 3. 1. Except as otherwise authorized by specific statute:

(a) The Administrator shall not consider the criminal history of an applicant in examining the applicant.

(b) The criminal history of an applicant for a position in the classified service may be considered only after the applicant has been certified by the Administrator or an appointing authority has extended to the applicant a conditional offer of employment.

2. The Administrator may, before examining an applicant or certifying an eligible person, notify the applicant or eligible person of any provision of state or federal law that disqualifies a person with a particular criminal history from employment in a particular position.

3. Unless, pursuant to a specific provision of state or federal law, a person is disqualified from employment in a particular



position because of the particular criminal history of the person, the Administrator may refuse to certify an eligible person and an appointing authority may rescind a conditional offer of employment extended to an otherwise qualified person who has been convicted of a criminal offense only after considering:

(a) Whether any criminal offense committed by the person directly relates to the responsibilities of the position for which the person has applied or is being considered;

(b) The nature and severity of each criminal offense committed by the person;

(c) The age of the person at the time of the commission of each criminal offense;

(d) The period between the commission of each criminal offense and the date of the application for or consideration of employment in the classified service; and

(e) Any information or documentation demonstrating the person's rehabilitation.

4. If the criminal history of an applicant is used as a basis for rejecting an applicant or rescinding a conditional offer of employment, such rejection or rescission of a conditional offer of employment must be made in writing and specifically state the evidence presented and the reasons for the rejection or rescission of the offer.

Sec. 4. NRS 284.240 is hereby amended to read as follows:

284.240 The Administrator may refuse to examine an applicant or, after examination, may refuse to certify an eligible person who:

1. Lacks any of the preliminary requirements established for the examination for the position or employment for which the applicant or eligible person applies.

2. Submitted to a screening test administered pursuant to NRS 284.4066, the results of which indicated the presence of a controlled substance, and the person did not provide the proof required by NRS 284.4066.

~~3. Has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct.~~

~~—4.]~~ Has been dismissed from the public service for delinquency or misconduct.

~~5.]~~ 4. Has made a false statement of any material fact.

~~6.]~~ 5. Has, directly or indirectly, given, rendered or paid, or promised to give, render or pay, any money, service or other valuable thing to any person for, or on account of or in connection with, the examination, appointment or proposed appointment of the applicant or eligible person.

~~7.]~~ 6. Has practiced, or attempted to practice, any deception or fraud in the application, certificate or examination of the applicant



1 or eligible person, or in securing the eligibility or appointment of the
2 applicant or eligible person.

3 **Sec. 5.** Chapter 245 of NRS is hereby amended by adding
4 thereto a new section to read as follows:

5 *1. Except as otherwise authorized by specific statute, the*
6 *criminal history of an applicant for employment by a county may*
7 *be considered only after the applicant is a finalist for a position or*
8 *the county has extended to the applicant a conditional offer of*
9 *employment.*

10 *2. The board of county commissioners, a county officer or*
11 *any other person acting on behalf of a county may, before*
12 *selecting an applicant as a finalist for a position or extending to*
13 *an applicant a conditional offer of employment, notify the*
14 *applicant of any provision of state or federal law that disqualifies*
15 *a person with a particular criminal history from employment in a*
16 *particular position.*

17 *3. Unless, pursuant to a specific provision of state or federal*
18 *law, a person is disqualified from employment in a particular*
19 *position because of the particular criminal history of the person,*
20 *the board of county commissioners, a county officer or any other*
21 *person acting on behalf of a county may decline to make an offer*
22 *of employment or rescind a conditional offer of employment*
23 *extended to an otherwise qualified applicant who has been*
24 *convicted of a criminal offense only after considering:*

25 *(a) Whether any criminal offense committed by the applicant*
26 *directly relates to the responsibilities of the position for which the*
27 *applicant has applied;*

28 *(b) The nature and severity of each criminal offense*
29 *committed by the applicant;*

30 *(c) The age of the applicant at the time of the commission of*
31 *each criminal offense;*

32 *(d) The period between the commission of each criminal*
33 *offense and the date of the application for employment; and*

34 *(e) Any information or documentation demonstrating the*
35 *applicant's rehabilitation.*

36 *4. If the criminal history of an applicant is used as a basis for*
37 *rejecting an applicant or rescinding a conditional offer of*
38 *employment, such rejection or rescission of a conditional offer of*
39 *employment must be made in writing and specifically state the*
40 *evidence presented and the reasons for the rejection or rescission*
41 *of the offer.*

42 **Sec. 6.** Chapter 268 of NRS is hereby amended by adding
43 thereto a new section to read as follows:

44 *1. Except as otherwise authorized by specific statute, the*
45 *criminal history of an applicant for employment by an*



1 *incorporated city may be considered only after the applicant is a*
2 *finalist for a position or the incorporated city has extended to the*
3 *applicant a conditional offer of employment.*

4 2. *The governing body of an incorporated city or a city officer*
5 *may, before selecting an applicant as a finalist for a position or*
6 *extending to an applicant a conditional offer of employment,*
7 *notify the applicant of any provision of state or federal law that*
8 *disqualifies a person with a particular criminal history from*
9 *employment in a particular position.*

10 3. *Unless, pursuant to a specific provision of state or federal*
11 *law, a person is disqualified from employment in a particular*
12 *position because of the particular criminal history of the person,*
13 *the governing body or a city officer may decline to make an offer*
14 *of employment or rescind a conditional offer of employment*
15 *extended to an otherwise qualified applicant who has been*
16 *convicted of a criminal offense only after considering:*

17 (a) *Whether any criminal offense committed by the applicant*
18 *directly relates to the responsibilities of the position for which the*
19 *applicant has applied;*

20 (b) *The nature and severity of each criminal offense*
21 *committed by the applicant;*

22 (c) *The age of the applicant at the time of the commission of*
23 *each criminal offense;*

24 (d) *The period between the commission of each criminal*
25 *offense and the date of the application for employment; and*

26 (e) *Any information or documentation demonstrating the*
27 *applicant's rehabilitation.*

28 4. *If the criminal history of an applicant is used as a basis for*
29 *rejecting an applicant or rescinding a conditional offer of*
30 *employment, such rejection or rescission of a conditional offer of*
31 *employment must be made in writing and specifically state the*
32 *evidence presented and the reasons for the rejection or rescission*
33 *of the offer.*

34 **Sec. 7.** This act becomes effective:

35 1. Upon passage and approval for the purposes of adopting
36 regulations and performing any other preparatory administrative
37 tasks; and

38 2. On January 1, 2016, for all other purposes.

