

AN ACT

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Columbia
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Human Rights Act of 1977 to prohibit employment, housing, and educational discrimination based upon conviction record, with certain exceptions based on the relationship of the conviction to the position sought, lack of knowledge of the conviction, reliance upon an authorized certification, or positions specifically exempt.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Human Rights for Ex-Offenders Amendment Act of 2006".

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 2-1401.01) is amended by striking the phrase "source of income" and inserting the phrase "source of income, conviction record," in its place.

Amend
§ 2-1401.01

(b) Section 102 (D.C. Official Code § 2-1401.02) is amended as follows:

Amend
§ 2-1401.02

(1) A new paragraph (4A) is added to read as follows:

"(4A) "Conviction record" includes information indicating that an individual has been adjudicated by a court of competent jurisdiction of any felony, misdemeanor, or other offense, has been adjudicated delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned, placed on extended supervision, or paroled pursuant to any law enforcement or military authority for any offenses other than criminal convictions that are sexually related."

(2) A new paragraph (25A) is added to read as follows:

"(25A) "Rational relationship" means considering the following factors when determining whether there is a rational relationship between the conviction record and the position sought:

"(A) The public policy of the District to encourage the employment of persons previously convicted of criminal offenses;

"(B) The specific duties and responsibilities necessarily related to the employment sought;

"(C) The bearing, if any, that the criminal offenses for which the person was previously convicted will have on his or her fitness or ability to perform one or more of the duties or responsibilities of the position;

"(D) The time which has elapsed since the occurrence of the criminal offense;

"(E) The age of the person at the time of the occurrence of the criminal offense;

"(F) The seriousness of the offense;

“(G) Any information produced by the person, or produced on his or her behalf, in regard to his or her rehabilitation and good conduct since the time of the occurrence of the criminal offense; and

“(H) The legitimate interest of the public agency or private employer in protecting the safety and welfare of specific individuals or of the general public and property.”.

(c) A new section 106 is added to read as follows:

“Sec. 106. Rulemaking.

“The Mayor shall issue rules to implement the provisions of the Human Rights for Ex-Offenders Amendment Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-909). The proposed rules shall be submitted to the Council for a 90-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 90-day review period, the proposed rules shall be deemed approved.”.

(d) Section 211 (D.C. Official Code § 2-1402.11) is amended as follows:

Amend
§ 2-1402.11

(1) Subsection (a) is amended as follows :

(A) The lead-in text is amended by striking the phrase “matriculation,” and inserting the phrase “matriculation, conviction record,” in its place.

(B) Paragraph (3) is amended by striking the word “or” at the end.

(C) Paragraph (4) is amended by adding a new subparagraph (D) to read as follows:

“(D) To consider an individual’s conviction record in connection with hiring, termination, or the terms, conditions, or privileges of employment or membership; provided, that it shall not be an unlawful discriminatory practice to consider an individual’s conviction record in connection with hiring, termination, or the terms, conditions, or privileges of employment or membership if:

“(i)(I) The conviction record bears a rational relationship to the duties and responsibilities of the particular position or membership;

“(II) The conviction record falls within a period that shall not exceed the most recent 10 years, excluding periods of incarceration, and the position applied for does not involve law enforcement or unsupervised contact with children; and

“(III) The prospective employee has received a conditional offer of employment, which may be withdrawn if the prospective employee has a conviction record that bears a rational relationship to the duties and responsibilities of the particular position or membership;

“(ii) The records are sealed and a court finds that an employer had no knowledge of the prior arrest or conviction record;

“(iii) An employer relies on evidence of a pardon, the expungement of a criminal conviction, or a certification by a judge of the Superior Court of the District of Columbia, a Court Services and Offender Supervision Agency, or the Chief Probation Officer of a United States District Court who has supervised the applicant's probation and determined that the ex-offender has achieved a degree of rehabilitation that would indicate that the applicant would not be incompatible with the welfare of society; or

“(iv) The employer is one of the following:

“(I) A court;

“(II) A federal, state, or local prosecutor;

“(III) A law enforcement agency;

“(IV) A licensing agency with respect to an offense

that may disqualify a person from obtaining the license;

“ (V) A licensed school, day care center, before or after school facility or other educational or child protection agency or facility; or

“ (VI) A government employer or nominating or tenure commission with respect to employment of a judicial or quasi-judicial officer, or employment at a senior-level, executive-grade government position.”.

(4) A new subparagraph (5) is added to read as follows:

“(5) *For any person.* To aid, abet, incite, compel, or coerce the doing of any of the unlawful discriminatory practices forbidden by this part, or to attempt to do so.”.

(5) Section (b) is amended by striking the phrase “disability,” and inserting the phrase “disability, conviction record,” in its place.

(e) Section 212 (D.C. Official Code § 2-1402.12) is amended by adding a new subsection (c) to read as follows:

Amend
§ 2-1402.12

“(c) Nothing in this act shall supersede any federal rule, regulation, or act.”.

(f) Section 221 (D.C. Official Code § 2-1402.21) is amended as follows:

Amend
§ 2-1402.21

(1) Subsection (a) is amended as follows:

(A) The lead-in text is amended by striking the phrase “source of income,” and inserting the phrase “source of income, conviction record (not including felony convictions involving the destruction of real property falling within a period that shall not exceed the most recent 2 years, excluding periods of incarceration),” in its place.

(B) Paragraph (5) is amended by striking the phrase “source of income,” and inserting the phrase “source of income, conviction record (not including felony convictions involving the destruction of real property falling within a period that shall not exceed the most recent 2 years, excluding periods of incarceration),” in its place.

(2) Section (b) is amended by striking the phrase “source of income,” and inserting the phrase “source of income, conviction record,” in its place.

(g) Section 224 (D.C. Official Code § 2-1402.24) is amended by adding a new subsection (d) to read as follows:

Amend
§ 2-1402.24

“(d) Nothing in this act involving housing for ex-offenders shall apply to persons subleasing property.”.

(h) Section 241 (D.C. Official Code § 2-1402.41) is amended as follows:

Amend
§ 2-1402.41

(1) Paragraph (1) is amended by striking the phrase “source of income,” and inserting the phrase “source of income, conviction record,” in its place.

(2) Paragraph (2) is amended by striking the phrase “religion,” and inserting the phrase “religion, or conviction record,” in its place.

Sec. 3. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the

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Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602 (c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia