FIRST REGULAR SESSION

SENATE BILL NO. 44

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 1, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

01058.011

AN ACT

To repeal section 213.055, RSMo, and to enact in lieu thereof one new section relating
to criminal history inquiries of applicants for employment.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 213.055, RSMo, is repealed and one new section
enacted in lieu thereof, to be known as section 213.055, to read as follows:

213.055. 1. It shall be an unlawful employment practice:

(1) For an employer, because of the race, color, religion, national origin, sex, ancestry, age or disability of any individual:

(a) To fail or refuse to hire or to discharge any individual, or otherwise to
discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, sex, ancestry, age or disability;

(b) To limit, segregate, or classify his employees or his employment applicants in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, national origin, sex, ancestry, age or disability;

(2) For a labor organization to exclude or to expel from its membership any individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer because of race, color, religion, national origin, sex, ancestry, age or disability of any individual; or to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee.
or as an applicant for employment, because of such individual's race, color, religion, national origin, sex, ancestry, age or disability; or for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, national origin, sex, ancestry, age or disability in admission to, or employment in, any program established to provide apprenticeship or other training;

(3) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination, because of race, color, religion, national origin, sex, ancestry, age or disability unless based upon a bona fide occupational qualification or for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of his race, color, religion, national origin, sex, ancestry, age as it relates to employment, or disability, or to classify or refer for employment any individual on the basis of his race, color, religion, national origin, sex, ancestry, age or disability;

(4) For an employer to inquire into or consider the criminal record of an applicant for employment until the employer has extended a conditional offer of employment to the applicant. Once the employer has offered the applicant a position of employment, the applicant's criminal record may be considered pursuant to the following restrictions:

(a) The employer may only consider a finding of guilt for a felony offense if no more than ten years have passed from the date the applicant was released from custody or completed a term of supervised release, whichever occurred later. Employers may only consider findings of guilt for misdemeanor offenses if no more than five years have passed from the date the applicant was released from custody or completed of a term of supervised release, whichever occurred later;

(b) The employer may only withdraw an offer of employment based on an offense that bears a rational relationship to the duties and responsibilities of the position;
(c) Before deciding whether to withdraw an offer of employment based on the applicant's criminal record, the employer shall consider the following factors in evaluating the applicant and the results of any criminal history inquiry:

a. The nature of the offense;

b. Any information pertaining to the degree of rehabilitation and good conduct, including any information produced by the applicant, or produced on his or her behalf;

c. Whether the prospective job provides an opportunity for the commission of a similar offense;

d. Whether the circumstances leading to the offense are likely to reoccur; and

e. The length of time that has elapsed since the offense.

2. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences or such systems are not the result of an intention or a design to discriminate, and are not used to discriminate, because of race, color, religion, sex, national origin, ancestry, age or disability, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results thereof, is not designed, intended or used to discriminate because of race, color, religion, national origin, sex, ancestry, age or disability.

3. Nothing contained in this chapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to any individual or to any group because of the race, color, religion, national origin, sex, ancestry, age or disability of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, ancestry, age or disability employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training...
program, in comparison with the total number or percentage of persons of such
race, color, religion, national origin, sex, ancestry, age or disability in any
community, state, section, or other area, or in the available workforce in any
community, state, section, or other area.

4. Notwithstanding any other provision of this chapter, it shall not be an
unlawful employment practice for the state or any political subdivision of the
state to comply with the provisions of 29 U.S.C. 623 relating to employment as
firefighters or law enforcement officers.

5. Subdivision (4) of subsection 1 of this section does not apply
to any state, county or municipal law enforcement agency, the
department of corrections, or any position where federal or state law
requires or expressly permits the consideration of an applicant's
criminal history.