



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB2549

by Rep. Esther Golar

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Best Candidate for the Job Act. Provides that private employers shall properly consider for employment persons previously convicted of one or more criminal offenses. Prohibits discrimination against such persons unless there is a direct relationship between the offense and the specific employment sought. Establishes criteria for evaluating convictions. Provides that an employer that demonstrates that it has hired an individual pursuant to the Act, except for a willful or wanton act in hiring an individual, shall not be liable for acts or omissions by the employee. Exempts law enforcement agencies.

LRB099 07773 JLS 27906 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Best  
5 Candidate for the Job Act.

6 Section 5. Purpose. This Act is intended to ensure that  
7 private employers properly consider persons previously  
8 convicted of one or more criminal offenses for employment.

9 Section 10. Definitions. As used in this Act:

10 "Direct relationship" means that the nature of criminal  
11 conduct for which the person was convicted has a direct bearing  
12 on his or her fitness or ability to perform one or more of the  
13 duties or responsibilities necessarily related to the  
14 opportunity or job in question.

15 "Employment" means any occupation, vocation, or  
16 employment, or any form of vocational or educational training.  
17 "Employment" does not, for the purposes of this Act, however,  
18 include membership in any law enforcement agency.

19 "Private employer" means any person, company, corporation,  
20 labor organization, or association that employs one or more  
21 persons.

1           Section 15. Applicability. This Act applies to any person  
2 who applies for employment at any private employer or who is  
3 currently employed who has previously been convicted of one or  
4 more criminal offenses in any jurisdiction or whose conviction  
5 of one or more criminal offenses in any jurisdiction preceded  
6 such employment, except when a mandatory forfeiture,  
7 disability, or bar to employment is imposed by law and has not  
8 been removed by an executive pardon, certificate of relief from  
9 disabilities, or certificate of good conduct. Nothing in this  
10 Act shall be construed to affect any right an employer may have  
11 with respect to an intentional misrepresentation in connection  
12 with an application for employment made by a prospective  
13 employee or previously made by a current employee.

14           Section 20. Discrimination against persons previously  
15 convicted of one or more criminal offenses prohibited. No  
16 application for any employment and no employment held by an  
17 individual, to which the provisions of this Act are applicable,  
18 shall be denied or acted upon adversely by reason of the  
19 individual's having been previously convicted of one or more  
20 criminal offenses or by reason of a finding of lack of good  
21 moral character when such finding is based upon the fact that  
22 the individual has previously been convicted of one or more  
23 criminal offenses, unless, after carefully considering the  
24 factors specified in Section 25, the employer determines that:

25           (1) there is a direct relationship between one or more

1 of the previous criminal offenses and the specific  
2 employment sought or held by the individual; and

3 (2) the granting or continuation of the employment  
4 would involve a substantial risk to property or to the  
5 safety or welfare of specific individuals or the general  
6 public.

7 Section 25. Factors to be considered concerning a previous  
8 criminal conviction. In making a determination pursuant to  
9 Section 20, the private employer shall consider the following  
10 factors:

11 (1) The bearing, if any, the criminal offense or  
12 offenses for which the person was previously convicted will  
13 have on his or her fitness or ability to perform one or  
14 more of the duties or responsibilities necessarily related  
15 to the job or opportunity in question.

16 (2) The time that has elapsed since the occurrence of  
17 the criminal offense or offenses.

18 (3) The seriousness of the offense or offenses.

19 (4) Any information produced by the person, or produced  
20 on the person's behalf, in regard to the person's  
21 rehabilitation and good conduct.

22 Section 30. Employer protections. If an employer  
23 demonstrates and documents that it has hired an individual  
24 pursuant to this Act, except for a willful or wanton act by the

1 employer in hiring the individual, the employer shall not be  
2 civilly or criminally liable for an act or omission by the  
3 employee.

4 Section 35. Retaliatory or discriminatory acts. A person  
5 shall not retaliate or discriminate against a person because  
6 the person has done or was about to do any of the following:

7 (1) File a complaint under this Act.

8 (2) Testify, assist, or participate in an  
9 investigation, proceeding, or action concerning a  
10 violation of this Act.

11 (3) Oppose a violation of this Act.

12 Section 40. Waiver. An employer shall not require an  
13 applicant or employee to waive any right under this Act. An  
14 agreement by an applicant or employee to waive any right under  
15 this Act is invalid and unenforceable.

16 Section 45. Remedies.

17 (a) A person who is injured by a violation of this Act may  
18 bring a civil action in circuit court to obtain injunctive  
19 relief or damages, or both.

20 (b) The court shall award costs, reasonable litigation  
21 expenses, and reasonable attorney's fees to a person who  
22 prevails as a plaintiff in an action authorized under  
23 subsection (a) of this Section.