



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0765

Introduced 2/9/2009, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

20 ILCS 2630/12

Amends the Criminal Identification Act. Provides that the record of an arrest or criminal charge which did not result in a conviction may not be considered by any private or public entity in employment matters, certification, licensing, revocation of certification or licensure, or registration. Provides that employers may not ask if an applicant has been the subject of an arrest or criminal charge which did not result in a conviction. Provides that an employer who by means of an inquiry made to the applicant or an employment application form, which fails to comply with these provisions, obtains from an applicant information that the applicant has had records expunged or sealed or has been the subject of an arrest or criminal charge which did not result in a conviction, is presumed to have based the decision to hire or not hire the applicant on the applicant's disclosure of this information. Provides that the presumption may be rebutted by clear and convincing evidence.

LRB096 08589 RLC 18712 b

1 AN ACT concerning expunged and sealed records.

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

4 Section 5. The Criminal Identification Act is amended by
5 changing Section 12 as follows:

6 20 ILCS 2630/12)

7 Sec. 12. Entry of order; effect of expungement or sealing
8 records and effect of an arrest or charge that did not result
9 in a conviction.

10 (a) Except with respect to law enforcement agencies, the
11 Department of Corrections, State's Attorneys, or other
12 prosecutors, and as provided in Section 13 of this Act, an
13 expunged or sealed record or the record of an arrest or
14 criminal charge which did not result in a conviction may not be
15 considered by any private or public entity in employment
16 matters, certification, licensing, revocation of certification
17 or licensure, or registration. Applications for employment
18 must contain specific language which states that the applicant
19 is not obligated to disclose sealed or expunged records of
20 conviction or arrest. Employers may not ask if an applicant has
21 had records expunged or sealed or has been the subject of an
22 arrest or criminal charge which did not result in a conviction.

23 (a-5) An employer who by means of an inquiry made to the

1 applicant or an employment application form, which fails to
2 comply with the provisions of this Section, obtains from an
3 applicant information that the applicant has had records
4 expunged or sealed or has been the subject of an arrest or
5 criminal charge which did not result in a conviction, is
6 presumed to have based the decision to hire or not hire the
7 applicant on the applicant's disclosure of this information.
8 The presumption may be rebutted by clear and convincing
9 evidence.

10 (b) A person whose records have been sealed or expunged is
11 not entitled to remission of any fines, costs, or other money
12 paid as a consequence of the sealing or expungement. These ~~This~~
13 ~~amendatory Acts Act~~ of the 93rd and 96th General Assemblies do
14 ~~Assembly does~~ not affect the right of the victim of a crime to
15 prosecute or defend a civil action for damages. Persons engaged
16 in civil litigation involving criminal records that have been
17 sealed may petition the court to open the records for the
18 limited purpose of using them in the course of litigation.

19 (Source: P.A. 93-211, eff. 1-1-04; 93-1084, eff. 6-1-05.)