

A bill for an act

relating to civil liability; limiting admission of criminal history evidence in actions against private employers; proposing coding for new law in Minnesota Statutes, chapter 181.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [181.986] EMPLOYMENT OF INDIVIDUAL WITH CRIMINAL HISTORY RECORD; LIMITATION ON ADMISSIBILITY OF EVIDENCE.

Subdivision 1. Limitation on admissibility of criminal history. A criminal history record of an employee or former employee may not be introduced as evidence in a civil action against a private employer or its employees or agents, if:

(1) the duties of the position of employment did not expose members of the public to a greater degree of risk than that created by the employee or former employee interacting with the public outside of the duties of the position or that might be created by being employed in general;

(2) before the occurrence of the act giving rise to the civil action, the employee or former employee provided the employer with evidence of sufficient rehabilitation to safely perform the duties of the position;

(3) before the occurrence of the act giving rise to the civil action, a court order sealed any record of the criminal case or the employee or former employee received a certificate of rehabilitation or good conduct from this or another state; or

(4) the record is of an arrest or charge that was not still pending final disposition and did not lead to a conviction or was dismissed before the occurrence of the act giving rise to the civil action.

Subd. 2. **Evidence of rehabilitation.** In determining if an individual has shown evidence of sufficient rehabilitation, the employer may consider:

- (1) the nature and seriousness of the crime;
- (2) all circumstances relative to the crime, including mitigating circumstances surrounding the commission of the crime;
- (3) the age of the person at the time the crime was committed;
- (4) the length of time elapsed since the crime was committed;
- (5) the completion of sentence;
- (6) the completion of relevant treatment programs;
- (7) subsequent work or educational experience and military or national service; and
- (8) other competent evidence of rehabilitation and fitness presented.

Subd. 3. **Exceptions; no additional duty created.** (a) This section does not relieve an employer from a duty that is created by statute to conduct a criminal history background investigation or consider criminal history records in hiring.

(b) This section does not create a duty on the part of an employer greater than any duty established under other law.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to actions commenced on or after that date.