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February 13, 2023

AS AMENDED

SENATE BILL NO. 1077

By: Stewart and Young of the
Senate

and

Talley of the House

[discriminatory practices - compliance with federal law - disclosure - hiring process - liability - earned credits - retroactive application - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 24 O.S. 2021, Section 148, is amended to read as follows:

Section 148. A. Prior to requesting a consumer report for employment purposes, the requestor or user of the consumer report shall provide written notice to the person who is the subject of the consumer report. The notice shall inform the consumer that a consumer report will be used and the notice shall contain a box that the consumer may check to receive a copy of the consumer report. If the consumer requests a copy of the report, the user of the consumer report shall request that a copy be provided to the consumer when the user of the consumer report requests its copy from the credit reporting agency. The report sent to the consumer shall be provided

1 at no charge to the consumer. As used in this section, "consumer
2 report" shall have the same meaning as that term is defined in the
3 federal Fair Credit Reporting Act, 15 U.S.C., Sections 1681 et seq.

4 B. Consumer background reports as defined by 15 U.S.C., Section
5 1681 et seq., including criminal history background reports,
6 provided for any purpose other than law enforcement investigation or
7 a pending judicial proceeding provided by any consumer reporting
8 agency as defined by 15 U.S.C., Section 1681 et seq., including
9 state agencies and political subdivisions, shall comply with the
10 provisions of 15 U.S.C., Section 1681 et seq.

11 C. Prohibitions on disclosure of certain background information
12 and criminal history information as provided by 15 U.S.C., Section
13 1681 et seq. shall be considered a confidential privilege under the
14 Oklahoma Open Records Act.

15 D. Employees who maintain a policy of not hiring ex-felons for
16 whatever reason shall disclose on the job application and job
17 posting, wherever it is posted, the following statement:

18 "Individuals with felonies will not be considered for this
19 position."

20 E. Inquiring about Felonies on Employment Applications:

21 1. Employers may not ask on the application or throughout the
22 hiring process if an employment candidate has been convicted of a
23 felony, but may request a background report in compliance with the
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1 provision of this section if a conditional offer of employment has
2 been made to the candidate; and

3 2. Law enforcement, judiciary, education institutions care
4 facilities, medical facilities, and any institution that requires
5 security clearance are exempted from the provisions of paragraph 1
6 of subsection E of this section. Under this exemption, exempted
7 institutions may inquire about felonies immediately upon application
8 for employment and throughout the employment process. Further,
9 background checks requested may be provided without compliance with
10 subsections A through D of this section.

11 F. Any employer who makes an employment hire under the
12 provisions of this section shall be indemnified from civil liability
13 for causes of action directly stemming from the hired person unless
14 it can be shown the employer in some way acted with reckless
15 disregard for public or personal safety while in some direct
16 violation of these provisions.

17 G. No person shall be held liable for any violation of this
18 section if such person shows by a preponderance of the evidence
19 that, at the time of the alleged violation, such person maintained
20 reasonable procedures to assure compliance with this section.

21 SECTION 2. AMENDATORY 57 O.S. 2021, Section 138, is
22 amended to read as follows:

23 Section 138. A. Except as otherwise provided by law, every
24 inmate of a state correctional institution shall have their term of

1 imprisonment reduced monthly, based upon the class level to which
2 they are assigned. Earned credits may be subtracted from the total
3 credits accumulated by an inmate, upon recommendation of the
4 institution's disciplinary committee, following due process, and
5 upon approval of the warden or superintendent. Each earned credit
6 is equivalent to one (1) day of incarceration. Lost credits may be
7 restored by the warden or superintendent upon approval of the
8 classification committee. If a maximum and minimum term of
9 imprisonment is imposed, the provisions of this subsection shall
10 apply only to the maximum term. No deductions shall be credited to
11 any inmate serving a sentence of life imprisonment; however, a
12 complete record of the inmate's participation in work, school,
13 vocational training, or other approved program shall be maintained
14 by the Department for consideration by the paroling authority. No
15 earned credit deductions shall be credited or recorded for any
16 inmate serving any sentence for a criminal act which resulted in the
17 death of a police officer, a law enforcement officer, an employee of
18 the Department of Corrections, or an employee of a private prison
19 contractor and the death occurred while the police officer, law
20 enforcement officer, employee of the Department of Corrections, or
21 employee of a private prison contractor was acting within the scope
22 of their employment. No earned credit deductions shall be credited
23 or recorded for any person who is referred to an intermediate
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1 revocation facility for violating any of the terms and conditions of
2 probation.

3 B. The Department of Corrections is directed to develop a
4 written policy and procedure whereby inmates shall be assigned to
5 one of four class levels determined by an adjustment review
6 committee of the facility to which the inmate is assigned. The
7 policies and procedures developed by the Department shall include,
8 but not be limited to, written guidelines pertaining to awarding
9 credits for rehabilitation, obtaining job skills and educational
10 enhancement, participation in and completion of alcohol/chemical
11 abuse programs, incentives for inmates to accept work assignments
12 and jobs, work attendance and productivity, conduct record,
13 participation in programs, cooperative general behavior, and
14 appearance. When assigning inmates to a class level the adjustment
15 review committee shall consider all aspects of the policy and
16 procedure developed by the Department including but not limited to
17 the criteria for awarding credits required by this subsection.

18 C. If an inmate is subject to misconduct, nonperformance or
19 disciplinary action, earned credits may be removed according to the
20 policies and procedures developed by the Department. Earned credits
21 removed for misconduct, nonperformance or disciplinary action may be
22 restored as provided by Department policy, if any.

23 D. 1. Class levels shall be as follows:
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- 1 a. Class level 1 shall include inmates not eligible to
2 participate in class levels 2 through 4, and shall
3 include, but not be limited to, inmates on escape
4 status.
- 5 b. Class level 2 shall include an inmate who has been
6 given a work, education, or program assignment, has
7 received a good evaluation for participation in the
8 work, education, or program assignment, and has
9 received a good evaluation for personal hygiene and
10 maintenance of living area.
- 11 c. Class level 3 shall include an inmate who has been
12 incarcerated at least three (3) months, has received
13 an excellent work, education, or program evaluation,
14 and has received an excellent evaluation for personal
15 hygiene and maintenance of living area.
- 16 d. Class level 4 shall include an inmate who has been
17 incarcerated at least eight (8) months, has received
18 an outstanding work, education, or program evaluation,
19 and has received an outstanding evaluation for
20 personal hygiene and maintenance of living area.

- 21 2. a. Until November 1, 2001, class level corresponding
22 credits are as follows:

23 Class 1 - 0 Credits per month;

24 Class 2 - 22 Credits per month;

1 Class 3 - 33 Credits per month;

2 Class 4 - 44 Credits per month.

3 b. Class level corresponding credits beginning November
4 1, 2001, for inmates who have ever been convicted as
5 an adult or a youthful offender or adjudicated
6 delinquent as a juvenile for a felony offense
7 enumerated in subsection E of this section are as
8 follows:

9 Class 1 - 0 Credits per month;

10 Class 2 - 22 Credits per month;

11 Class 3 - 33 Credits per month;

12 Class 4 - 44 Credits per month.

13 c. Class level corresponding credits beginning November
14 1, 2001, for inmates who have never been convicted as
15 an adult or a youthful offender or adjudicated
16 delinquent as a juvenile for a felony offense
17 enumerated in subsection E of this section are as
18 follows:

19 Class 1 - 0 Credits per month;

20 Class 2 - 22 Credits per month;

21 Class 3 - 45 Credits per month;

22 Class 4 - 60 Credits per month.

23 Each inmate shall receive the above specified monthly credits
24 for the class to which he or she is assigned. In determining the

1 prior criminal history of the inmate, the Department of Corrections
2 shall review criminal history records available through the Oklahoma
3 State Bureau of Investigation, Federal Bureau of Investigation, and
4 National Crime Information Center to determine the reported felony
5 convictions of all inmates. The Department of Corrections shall
6 also review the Office of Juvenile Affairs Juvenile On-line Tracking
7 System for inmates who were adjudicated delinquent or convicted as a
8 youthful offender for a crime that would be an offense enumerated in
9 subsection E of this section.

10 3. In addition to the criteria established for each class in
11 paragraph 1 of this subsection, the following requirements shall
12 apply to each of levels 2 through 4:

- 13 a. satisfactory participation in the work, education, or
14 program assignment at the standard required for the
15 particular class level,
- 16 b. maintenance of a clean and orderly living area and
17 personal hygiene at the standard required for the
18 particular class level,
- 19 c. cooperative behavior toward facility staff and other
20 inmates, and
- 21 d. satisfactory participation in the requirements of the
22 previous class level.

23 4. The evaluation scale for assessing performance shall be as
24 follows:

- 1 a. Outstanding - For inmates who display consistently
2 exceptional initiative, motivation, and work habits.
- 3 b. Excellent - For inmates who display above-average work
4 habits with only minor errors and rarely perform below
5 expectations.
- 6 c. Good - For inmates who perform in a satisfactory
7 manner and complete tasks as required, doing what is
8 expected, with only occasional performance above or
9 below expectations.
- 10 d. Fair - For inmates who may perform satisfactorily for
11 some periods of time, but whose performance is marked
12 by obviously deficient and weak areas and could be
13 improved.
- 14 e. Poor - For inmates whose performance is unsatisfactory
15 and falls below expected and acceptable standards.

16 E. No person ever convicted as an adult or a youthful offender
17 or adjudicated delinquent as a juvenile in this state for any felony
18 offense enumerated in this subsection or a similar felony offense
19 pursuant to the provisions of another state, the United States, or a
20 military court shall be eligible for the credits provided by the
21 provisions of subparagraph c of paragraph 2 of subsection D of this
22 section.

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- 1 1. Assault, battery, or assault and battery with a dangerous
2 weapon as defined by Section 645, subsection C of Section 652 of
3 Title 21 or Section 2-219 of Title 43A of the Oklahoma Statutes;
- 4 2. Aggravated assault and battery on a police officer, sheriff,
5 highway patrolman, or any other officer of the law as defined by
6 Section 650, subsection C of Section 650.2, 650.5, subsection B of
7 Section 650.6, or subsection C of Section 650.7 of Title 21 of the
8 Oklahoma Statutes;
- 9 3. Poisoning with intent to kill as defined by Section 651 of
10 Title 21 of the Oklahoma Statutes;
- 11 4. Shooting with intent to kill as defined by Section 652 of
12 Title 21 of the Oklahoma Statutes;
- 13 5. Assault with intent to kill as defined by Section 653 of
14 Title 21 of the Oklahoma Statutes;
- 15 6. Assault with intent to commit a felony as defined by Section
16 681 of Title 21 of the Oklahoma Statutes;
- 17 7. Assaults while masked or disguised as defined by Section
18 1303 of Title 21 of the Oklahoma Statutes;
- 19 8. Entering premises of another while masked as defined by
20 Section 1302 of Title 21 of the Oklahoma Statutes;
- 21 9. Murder in the first degree as defined by Section 701.7 of
22 Title 21 of the Oklahoma Statutes;
- 23 10. Solicitation for Murder in the first degree as defined by
24 Section 701.16 of Title 21 of the Oklahoma Statutes;

1 11. Murder in the second degree as defined by Section 701.8 of
2 Title 21 of the Oklahoma Statutes;

3 12. Manslaughter in the first degree as defined by Section 711,
4 712 or 714 of Title 21 of the Oklahoma Statutes;

5 13. Manslaughter in the second degree as defined by Section 716
6 or 717 of Title 21 of the Oklahoma Statutes;

7 14. Kidnapping as defined by Section 741 of Title 21 of the
8 Oklahoma Statutes;

9 15. Burglary in the first degree as defined by Section 1431 of
10 Title 21 of the Oklahoma Statutes;

11 16. Burglary with explosives as defined by Section 1441 of
12 Title 21 of the Oklahoma Statutes;

13 17. Kidnapping for extortion as defined by Section 745 of Title
14 21 of the Oklahoma Statutes;

15 18. Maiming as defined by Section 751 of Title 21 of the
16 Oklahoma Statutes;

17 19. Robbery as defined by Section 791 of Title 21 of the
18 Oklahoma Statutes;

19 20. Robbery in the first degree as defined by Section 797 of
20 Title 21 of the Oklahoma Statutes;

21 21. Robbery in the second degree as defined by Section 797 of
22 Title 21 of the Oklahoma Statutes;

23 22. Armed robbery as defined by Section 801 of Title 21 of the
24 Oklahoma Statutes;

1 23. Robbery by two or more persons as defined by Section 800 of
2 Title 21 of the Oklahoma Statutes;

3 24. Robbery with dangerous weapon or imitation firearm as
4 defined by Section 801 of Title 21 of the Oklahoma Statutes;

5 25. Any crime against a child provided for in Section 843.5 of
6 Title 21 of the Oklahoma Statutes;

7 26. Wiring any equipment, vehicle or structure with explosives
8 as defined by Section 849 of Title 21 of the Oklahoma Statutes;

9 27. Forcible sodomy as defined by Section 888 of Title 21 of
10 the Oklahoma Statutes;

11 28. Rape in the first degree as defined by Sections 1111 and
12 1114 of Title 21 of the Oklahoma Statutes;

13 29. Rape in the second degree as defined by Sections 1111 and
14 1114 of Title 21 of the Oklahoma Statutes;

15 30. Rape by instrumentation as defined by Section 1111.1 of
16 Title 21 of the Oklahoma Statutes;

17 31. Lewd or indecent proposition or lewd or indecent act with a
18 child as defined by Section 1123 of Title 21 of the Oklahoma
19 Statutes;

20 32. Sexual battery of a person over 16 as defined by Section
21 1123 of Title 21 of the Oklahoma Statutes;

22 33. Use of a firearm or offensive weapon to commit or attempt
23 to commit a felony as defined by Section 1287 of Title 21 of the
24 Oklahoma Statutes;

1 34. Pointing firearms as defined by Section 1289.16 of Title 21
2 of the Oklahoma Statutes;

3 35. Rioting as defined by Section 1311 or 1321.8 of Title 21 of
4 the Oklahoma Statutes;

5 36. Inciting to riot as defined by Section 1320.2 of Title 21
6 of the Oklahoma Statutes;

7 37. Arson in the first degree as defined by Section 1401 of
8 Title 21 of the Oklahoma Statutes;

9 38. Endangering human life during arson as defined by Section
10 1405 of Title 21 of the Oklahoma Statutes;

11 39. Injuring or burning public buildings as defined by Section
12 349 of Title 21 of the Oklahoma Statutes;

13 40. Sabotage as defined by Section 1262, 1265.4 or 1265.5 of
14 Title 21 of the Oklahoma Statutes;

15 41. Extortion as defined by Section 1481 or 1486 of Title 21 of
16 the Oklahoma Statutes;

17 42. Obtaining signature by extortion as defined by Section 1485
18 of Title 21 of the Oklahoma Statutes;

19 43. Seizure of a bus, discharging firearm or hurling missile at
20 bus as defined by Section 1903 of Title 21 of the Oklahoma Statutes;

21 44. Mistreatment of a vulnerable adult as defined by Section
22 843.1 of Title 21 of the Oklahoma Statutes;

23 45. Sex offender providing services to a child as defined by
24 Section 404.1 of Title 10 of the Oklahoma Statutes;

1 46. A felony offense of domestic abuse as defined by subsection
2 C of Section 644 of Title 21 of the Oklahoma Statutes;

3 47. Prisoner placing body fluid on government employee as
4 defined by Section 650.9 of Title 21 of the Oklahoma Statutes;

5 48. Poisoning food or water supply as defined by Section 832 of
6 Title 21 of the Oklahoma Statutes;

7 49. Trafficking in children as defined by Section 866 of Title
8 21 of the Oklahoma Statutes;

9 50. Incest as defined by Section 885 of Title 21 of the
10 Oklahoma Statutes;

11 51. Procure, produce, distribute, or possess juvenile
12 pornography as defined by Section 1021.2 of Title 21 of the Oklahoma
13 Statutes;

14 52. Parental consent to juvenile pornography as defined by
15 Section 1021.3 of Title 21 of the Oklahoma Statutes;

16 53. Soliciting minor for indecent exposure as defined by
17 Section 1021 of Title 21 of the Oklahoma Statutes;

18 54. Distributing obscene material or child pornography as
19 defined by Section 1040.13 of Title 21 of the Oklahoma Statutes;

20 55. Child prostitution as defined by Section 1030 of Title 21
21 of the Oklahoma Statutes;

22 56. Procuring a minor for prostitution or other lewd acts as
23 defined by Section 1087 of Title 21 of the Oklahoma Statutes;

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1 57. Transporting a child under 18 for purposes of prostitution
2 as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

3 58. Inducing a minor to engage in prostitution as defined by
4 Section 1088 of Title 21 of the Oklahoma Statutes;

5 59. A felony offense of stalking as defined by subsection D of
6 Section 1173 of Title 21 of the Oklahoma Statutes;

7 60. Spread of infectious diseases as defined by Section 1192 of
8 Title 21 of the Oklahoma Statutes;

9 61. Advocate overthrow of government by force, commit or
10 attempt to commit acts to overthrow the government, organize or
11 provide assistance to groups to overthrow the government as defined
12 by Section 1266, 1266.4 or 1267.1 of Title 21 of the Oklahoma
13 Statutes;

14 62. Feloniously discharging a firearm as defined by Section
15 1289.17A of Title 21 of the Oklahoma Statutes;

16 63. Possession, use, manufacture, or threat of incendiary
17 device as defined by Section 1767.1 of Title 21 of the Oklahoma
18 Statutes;

19 64. Causing a personal injury accident while driving under the
20 influence as defined by Section 11-904 of Title 47 of the Oklahoma
21 Statutes; or

22 65. Using a motor vehicle to facilitate the discharge of a
23 firearm as defined by Section 652 of Title 21 of the Oklahoma
24 Statutes.

1 F. The policy and procedure developed by the Department of
2 Corrections shall include provisions for adjustment review
3 committees of not less than three members for each such committee.
4 Each committee shall consist of a classification team supervisor who
5 shall act as chairman, the case manager for the inmate being
6 reviewed or classified, a correctional officer or inmate counselor,
7 and not more than two other members, if deemed necessary, determined
8 pursuant to policy and procedure to be appropriate for the specific
9 adjustment review committee or committees to which they are
10 assigned. At least once every four (4) months the adjustment review
11 committee for each inmate shall evaluate the class level status and
12 performance of the inmate and determine whether or not the class
13 level for the inmate should be changed.

14 Any inmate who feels aggrieved by a decision made by an
15 adjustment review committee may utilize normal grievance procedures
16 in effect with the Department of Corrections and in effect at the
17 facility in which the inmate is incarcerated.

18 G. Inmates granted medical leaves for treatment that cannot be
19 furnished at the penal institution where incarcerated shall be
20 allowed the time spent on medical leave as time served. Any inmate
21 placed into administrative segregation for nondisciplinary reasons
22 by the institution's administration may be placed in Class 2. The
23 length of any jail term served by an inmate before being transported
24 to a state correctional institution pursuant to a judgment and

1 sentence of incarceration shall be deducted from the term of
2 imprisonment at the state correctional institution. Inmates
3 sentenced to the Department of Corrections and detained in a county
4 jail as a result of the Department's reception scheduling procedure
5 shall be awarded earned credits as provided for in subparagraph b of
6 paragraph 1 of subsection D of this section, beginning on the date
7 of the judgment and sentence, unless the inmate is convicted of a
8 misdemeanor or felony committed in the jail while the inmate is
9 awaiting transport to the Lexington Assessment and Reception Center
10 or other assessment and reception location determined by the
11 Director of the Department of Corrections.

12 H. Additional achievement earned credits for successful
13 completion of departmentally approved programs or for attaining
14 goals or standards set by the Department, acquiring postsecondary
15 education or vocation training and securing and maintaining
16 employment shall be awarded to any inmate, parolee, or probationer
17 as follows:

18 Bachelor's degree.....200 credits;
19 Associate's degree.....100 credits;
20 High School Diploma or High School
21 Equivalency Diploma.....90 credits;
22 Certification of Completion of
23 Vocational Training.....80 credits;
24

1 Successful completion of
2 Alcohol/Chemical Abuse Treatment
3 Program of not less than four (4)
4 months continuous participation.....70 credits;
5 Successful completion of other
6 Educational Accomplishments or
7 other programs not specified in
8 this subsection.....10-~~30~~ 200 credits;
9 Continuous Employment for one
10 hundred eighty (180) days while on
11 parole or probation; for each one
12 hundred twenty (120) days..... 45
13 credits

14 Achievement earned credits are subject to loss and restoration in
15 the same manner as earned credits.

16 I. Any inmate who is paroled shall remained on the earned cred
17 class level he or she was on when they were granted parole while on
18 parole as long as the conditions of parole are satisfactorily
19 maintained and their sentence shall be reduced accordingly.

20 J. The provisions of subsection H and I of this section shall
21 be applied to those prior to the effective date of this act.

22 K. The accumulated time of every inmate shall be tallied
23 monthly and maintained by the institution where the term of
24

1 imprisonment is being served. A record of said accumulated time
2 shall be:

3 1. Sent to the administrative office of the Department of
4 Corrections on a quarterly basis; and

5 2. Provided to the inmate.

6 SECTION 3. This act shall become effective November 1, 2023.

7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
8 February 13, 2023 - DO PASS AS AMENDED
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