

CCAP AASEW

Marlin Schneider's letter seeking support

From: tim ballering
Date: Wed, 14 Jan 2009 at 8:02pm
Category: [Assets](#)

Reps. Tamara Grigsby, Annette Williams, Amy Sue Vruwink, and Fred Kessler are co-sponsoring.

From: Schneider, Marlin
Sent: Wednesday, December 17, 2008 12:35 PM
To: *Legislative All Senate; *Legislative All Assembly
Subject: Co-Sponsor LRB-0747/1 RE: Discrimination in housing or employment with use of CCAP —Deadline January 9th
To: Legislative Colleagues

From: Representative Marlin Schneider

Re: Co-Sponsor LRB-0747/1

I am introducing LRB-0747/1, Relating to: prohibiting discrimination in housing because of arrest or conviction record, making it a Class I felony to discriminate in employment or housing because of arrest or conviction record, and providing a penalty.

In response to the opposition of my bill limiting access to CCAP last session, I have drafted legislation that disavows the restrictions and directly addresses the problem of discrimination, particularly in employment and housing. My bill would make it a Class I felony for anyone to discriminate in employment or housing because of an arrest or conviction record on CCAP.

I have received numerous emails and letters from people across the state who have been harmed by the unlimited and unfettered access to CCAP. One woman who wrote me explained how she lost her job due to a wrongful accusation and was then forced to find new gainful employment. She then struggled to find employment because even though all the charges against her had been dropped, the case still remained on CCAP. The woman is now working for less than half the salary she had previously been earning, prompting her to foreclose her business resulting in future financial insecurity for her family. Another example was of a young college student who had not yet been diagnosed with bipolar disorder. This young man suffered from his first manic episodes in his last semester in college. These episodes caused erratic behavior and consequently, lead to four disorderly conduct misdemeanors and a restraining order. Once the student was diagnosed and recovering under the care of a psychiatrist, he too could not find gainful employment due to discrimination by employers using CCAP.

If there is going to continue to be open access to all CCAP records, I believe the public deserves three things: one, people should, at the very least, have the right to know when someone is using the database against them so they can defend themselves; two, people should have the right to verify if the information found on a database is actually them; and three, if the information found on the database is accurate, then people deserve to have the opportunity to give a background on the events that lead to the record.

Ultimately I hope LRB-0747/1 will dissuade landlords and employers from using CCAP as a discrimination tool, because if they do, and they are caught, they will then be the ones with a CCAP record.

This bill's LRB analysis is printed below. If you would like to co-sponsor this measure, please call the office of Rep. Schneider at 6-0215 no later than 4:00 p.m. Friday, January 9, 2009.

Analysis by the Legislative Reference Bureau

Introduction

This bill prohibits discrimination in housing because of an arrest or conviction record that is more than three years old and makes such discrimination a Class I felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both. The bill also makes it a Class I felony to discriminate in employment based on arrest or conviction record.

Housing discrimination

Current law prohibits discrimination in housing on the basis of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, lawful source of income, age, or ancestry (protected class), but not on the basis of arrest or conviction record. A person who engages in an act of housing discrimination may be required to provide such relief as may be appropriate, including economic and noneconomic damages and injunctive or other equitable relief, and to pay a forfeiture of not more than \$10,000, except that a person who is not a natural person may be required to pay a forfeiture of not more than \$25,000 if the person has committed a previous act of housing discrimination within the preceding five years or a forfeiture of not more than \$50,000 if the person has committed two or more previous acts of housing discrimination within the preceding seven years.

Current law also prohibits a mortgage banker, loan originator, or mortgage broker from treating a person unequally based on the person's membership in a protected class. In addition, current law prohibits a real estate broker, real estate salesperson, or time-share salesperson from treating a person unequally based on the person's sex, race, color, handicap, national origin, ancestry, marital status, or lawful source of income.

This bill prohibits discrimination in housing on the basis of an arrest or conviction record that is more than three years old and prohibits a mortgage banker, loan originator, mortgage broker, real estate broker, real estate salesperson, or time-share salesperson from treating a person unequally based on such an arrest or conviction record. The bill also makes it a Class I felony to commit an act of housing discrimination against an individual on the basis of such an arrest or conviction record. In addition, the bill requires a person who commits an act of housing discrimination against an individual on the basis of an arrest or conviction within the previous three years to inform the individual of the reason for the act, allow the individual to provide information relevant to the arrest or conviction, and, if the individual provides that information, reconsider the act.

Employment discrimination

Current law, subject to certain exceptions, prohibits discrimination in employment, licensing, and labor organization membership based on arrest or conviction record. Current law specifies, however, that it is not employment discrimination because of arrest record to refuse to employ or to license, or to suspend from employment or licensing, an individual who is subject to a pending criminal charge, the circumstances of which substantially relate to the circumstances of the particular job or licensed activity. Also, under current law, it is not employment discrimination because of conviction record to refuse to employ or to license, or to bar or terminate from employment or licensing, an individual who has been convicted of a felony, misdemeanor, or other offense, the circumstances of which substantially relate to the circumstances of the particular job or licensed activity.

Notwithstanding those exemptions, current law prohibits an individual who has been convicted of certain crimes from engaging in certain occupations, including caregiver at certain entities that provide care or treatment services for children or adults, school bus or human services vehicle operator, alternative pupil transportation provider, hazardous materials transporter, Division of Gaming in the Department of Administration or Lottery Division in the Department of Revenue employee, lottery ticket retailer, Indian gaming vendor, viatical settlement broker or provider, private detective or investigator, private security person, burglar alarm installer, or alcohol beverage seller (regulated occupations).

This bill makes it a Class I felony to commit an act of employment discrimination against an individual because of arrest or conviction record. The bill, however, does not apply to an act of employment discrimination that is required or permitted with respect to a regulated occupation or to an arrest or conviction, the circumstances of which substantially relate to the circumstances of the particular job or licensed activity.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.