



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Assembly Bill 383

**Assembly Substitute
Amendment 1**

Memo published: October 3, 2005

Contact: Robert J. Conlin, Senior Staff Attorney (266-2298)

Current Law

Generally, under the Wisconsin Fair Employment Act (WFEA), an employer may not discriminate against an employee or prospective employee on the basis of the employee's or prospective employee's conviction record unless the circumstances of the offense for which the person was convicted substantially relate to the circumstances of a particular job. Similarly, an employer may not generally refuse to hire and may not suspend from employment an employee or prospective employee who is subject to a pending criminal charge unless the circumstances of the charge substantially relate to the circumstances of the particular job. For purposes of WFEA, the state and its agencies are considered an employer.

2005 Assembly Bill 383

The bill provides that a state executive branch agency must conduct a *criminal history background investigation* of any individual seeking a position with that agency before offering the individual the job if the duties of the job include "*access to funds administered by an agency.*"

Assembly Substitute Amendment 1

Assembly Substitute Amendment 1 provides that when any position to be filled in the executive branch of state government involves *fiduciary responsibility*, the appointing authority must conduct a *criminal history background check* before offering employment to an applicant for the position.

Legislative History

Assembly Substitute Amendment 1 was introduced on September 26, 2005 by Representatives Kestell and Nass. It was recommended for adoption, by the Assembly Committee on Labor on a

unanimous vote on September 28, 2005. The bill, was unanimously recommended for passage, as amended, by the committee on the same date.

RJC:ksm