

2001 ASSEMBLY BILL 521

September 28, 2001 – Introduced by Representatives PETROWSKI, STARZYK, BIES, HUEBSCH, JENSEN, GRONEMUS, SUDER, ZIEGELBAUER, STONE, PETTIS, MUSSER, VRAKAS, DUFF, GROTHMAN, ALBERS, J. FITZGERALD, LADWIG, SKINDRUD, OWENS, KESTELL, FRISKE, KRAWCZYK, FREESE, NASS, JESKEWITZ, URBAN, GUNDERSON, WALKER, AINSWORTH, LOEFFELHOLZ, TOWNSEND, LEIBHAM, HAHN, MCCORMICK, OTT, HOVEN, KEDZIE and KREIBICH, cosponsored by Senators DARLING, WELCH, HARS DORF, SCHULTZ, ROESSLER and HUELSMAN. Referred to Committee on Criminal Justice.

1 **AN ACT** *to create* 111.335 (1) (cd) and 111.335 (1) (d) of the statutes; **relating to:**
2 permitting employers to refuse to employ, or to bar or terminate from
3 employment, individuals who have been convicted of certain serious felonies,
4 as defined in the bill, and who have not been pardoned; and permitting
5 educational agencies to refuse to employ, or to bar or terminate from
6 employment, individuals who have been convicted of those certain serious
7 felonies or of certain other serious violations and who have not been pardoned.
8

Analysis by the Legislative Reference Bureau

Current law, subject to certain exceptions, prohibits discrimination in employment based on conviction record. Current law specifies, however, that it is not employment discrimination because of conviction record to refuse to employ, or to bar or terminate from employment, any individual who has been convicted of any felony, misdemeanor, or other offense, the circumstances of which substantially relate to the circumstances of the particular job. This bill specifies that it is not employment discrimination because of conviction record to refuse to employ, or to bar or terminate from employment, an individual who has been convicted of a serious felony, as defined in the bill, and who has not been pardoned for that felony, whether or not the

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circumstances of the serious felony substantially relate to the circumstances of the particular job.

Under the bill, a “serious felony” is defined as first-degree intentional or reckless homicide, felony murder, second-degree intentional homicide, homicide by intoxicated use of a vehicle, performing a partial-birth abortion, causing great bodily harm to an unborn child with intent to cause either substantial or great bodily harm, mayhem, first-degree or second-degree sexual assault, taking hostages, kidnapping, causing death by tampering with household products, arson of a building, assault by a prisoner, first-degree or second-degree sexual assault of a child, repeated sexual assault of a child, intentionally causing great bodily harm to a child, sexual exploitation of a child, incest with a child, child enticement, soliciting a child for prostitution, and abduction of another person’s child by force or threat of force; manufacturing, distributing, or delivering, possessing, with intent to manufacture, distribute, or deliver, or conspiring to so possess, manufacture, distribute, or deliver, a controlled substance or a controlled substance analog, if the crime is punishable by a maximum prison term of 30 years or more; or any crime under federal law or the law of any other state that is comparable to any of those crimes.

The bill also specifies that it is not employment discrimination because of conviction record for an educational agency, as defined in the bill, to refuse to employ, or to bar or terminate from employment, an individual who has been convicted of a serious felony, as defined in the bill, or of certain other violations and who has not been pardoned for that serious felony or other violation, whether or not the circumstances of the serious felony or other violation substantially relate to the circumstances of the particular job. Those other violations are causing a child under the age of 13 to view or listen to sexual activity, sexual assault of a student by a school instructional staff person, solicitation of a child to commit a Class A or B felony, using a child to commit a Class A felony, or solicitation, conspiracy, or attempt to commit a Class A felony.

Under the bill, an “educational agency” is defined as a school district, a cooperative educational service agency, a county children with disabilities education board, a state correctional institution, a juvenile secured correctional facility, a secured child caring institution, the Wisconsin Center for the Blind and Visually Impaired, the Wisconsin School for the Deaf, the Mendota Mental Health Institute, the Winnebago Mental Health Institute, a state center for the developmentally disabled, a private school, a charter school, an agency under contract with a school board to provide a program for children at risk, or a nonsectarian private school or agency under contract with the Milwaukee Public Schools board to provide educational programs for children enrolled in the school district.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 **SECTION 1.** 111.335 (1) (cd) of the statutes is created to read:

2 111.335 (1) (cd) 1. In this paragraph, “serious felony” means any felony under
3 s. 961.41 (1), (1m), or (1x) that is punishable by a maximum prison term of 30 years
4 or more, any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09 (1), 940.16,
5 940.195 (5), 940.21, 940.225 (1) or (2), 940.305, 940.31, 941.327 (2) (b) 4., 943.02,
6 946.43 (1m), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.06, 948.07,
7 948.08, or 948.30 (2), or any crime under federal law or the law of any other state that
8 is comparable to a crime specified in this subdivision.

9 2. Notwithstanding s. 111.322, it is not employment discrimination because of
10 conviction record to refuse to employ, or to bar or terminate from employment, any
11 individual who has been convicted of a serious felony and who has not pardoned for
12 that serious felony.

13 **SECTION 2.** 111.335 (1) (d) of the statutes is created to read:

14 111.335 (1) (d) 1. In this paragraph, “educational agency” means a school
15 district, a cooperative educational service agency, a county children with disabilities
16 education board, a state correctional institution under s. 302.01, a secured
17 correctional facility, as defined in s. 938.02 (15m), a secured child caring institution,
18 as defined in s. 938.02 (15g), the Wisconsin Center for the Blind and Visually
19 Impaired, the Wisconsin School for the Deaf, the Mendota Mental Health Institute,
20 the Winnebago Mental Health Institute, a state center for the developmentally
21 disabled, a private school, a charter school, a private, nonprofit, nonsectarian agency
22 under contract with a school board under s. 118.153 (3) (c), or a nonsectarian private
23 school or agency under contract with the board of school directors in a 1st class city
24 under s. 119.235 (1).

