



## 2011 SENATE BILL 207

September 28, 2011 – Introduced by Senators DARLING, LAZICH, ZIPPERER, MOULTON and GALLOWAY, cosponsored by Representatives KLEEFISCH, LEMAHIEU, JACQUE, CRAIG, KNODL, PRIDEMORE, ZIEGELBAUER, THIESFELDT, NASS, ENDSLEY, PETERSEN, KUGLITSCH, LITJENS, T. LARSON and STROEBEL. Referred to Committee on Labor, Public Safety, and Urban Affairs.

1     **AN ACT to repeal** 111.335 (1) (cg) 3. and 111.335 (1) (cv); **to renumber and**  
2     **amend** 111.335 (1) (cm); **to amend** 111.335 (1) (c); and **to create** 111.31 (6),  
3     111.335 (1) (cm) 2. to 4. and 111.335 (2) of the statutes; **relating to:** permitting  
4     an employer to refuse to employ or to bar or terminate from employment an  
5     individual who has been convicted of a felony and who has not been pardoned  
6     for that felony and preempting cities, villages, towns, and counties from  
7     adopting provisions concerning employment discrimination based on arrest or  
8     conviction record that prohibit activity that is allowed under the state fair  
9     employment law.

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### ***Analysis by the Legislative Reference Bureau***

The current state fair employment law, subject to certain exceptions, prohibits discrimination in employment based on arrest or conviction record. That law specifies, however, that it is not employment discrimination because of conviction record to refuse to employ or to terminate from employment 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. This bill specifies that it is not employment discrimination because of conviction record for an employer to

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refuse to employ or to bar or terminate from employment an individual who has been convicted of a felony and who has not been pardoned for that felony, whether or not the circumstances of the felony substantially relate to the circumstances of the particular job.

Under current constitutional and statutory home rule provisions, a city or village may determine its own local affairs subject only to the Wisconsin Constitution and to any enactment of the legislature that is of statewide concern and that affects every city or village with uniformity. This bill states that the prohibition against discrimination in employment based on arrest or conviction record under the state fair employment law is a matter of statewide concern, requiring uniform enforcement at the state, county, and municipal levels. As such, the bill prohibits any county, city, village, or town from adopting any provision concerning employment discrimination based on arrest or conviction record that prohibits any activity that is allowed under the state fair employment law.

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

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

1           **SECTION 1.** 111.31 (6) of the statutes is created to read:

2           111.31 **(6)** The legislature finds that the prohibition against discrimination on  
3 the basis of arrest or conviction record under s. 111.335 is a matter of statewide  
4 concern, requiring uniform enforcement at the state, county, and municipal levels.

5           **SECTION 2.** 111.335 (1) (c) of the statutes is amended to read:

6           111.335 **(1)** (c) Notwithstanding s. 111.322, it is not employment discrimination  
7 because of conviction record to refuse to employ or license, or to bar or terminate from  
8 employment or licensing, any individual who of the following:

9           1. Has An individual who has been convicted of any felony, misdemeanor, or  
10 other offense the circumstances of which substantially relate to the circumstances  
11 of the particular job or licensed activity; or.

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1           2. ~~Is An individual who is not bondable under a standard fidelity bond or an~~  
2           equivalent bond ~~where when such bondability is required by state or federal law, or~~  
3           administrative regulation ~~or established business practice of the employer.~~

4           **SECTION 3.** 111.335 (1) (cg) 3. of the statutes is repealed.

5           **SECTION 4.** 111.335 (1) (cm) of the statutes is renumbered 111.335 (1) (cm)  
6           (intro.) and amended to read:

7           111.335 **(1)** (cm) (intro.) Notwithstanding s. 111.322, it is not employment  
8           discrimination because of conviction record to refuse to employ ~~as an installer of~~  
9           ~~burglar alarms a person, or to bar or terminate from employment, any of the~~  
10          following:

11          1. An individual who has been convicted of a felony and who has not been  
12          pardoned for that felony.

13          **SECTION 5.** 111.335 (1) (cm) 2. to 4. of the statutes are created to read:

14          111.335 **(1)** (cm) 2. An individual who has been convicted of a felony, the  
15          circumstances of which substantially relate to the circumstances of the particular  
16          job, and who has been pardoned for that felony.

17          3. An individual who has been convicted of a misdemeanor or other offense, the  
18          circumstances of which substantially relate to the circumstances of the particular  
19          job.

20          4. An individual who is not bondable under a standard fidelity bond or an  
21          equivalent bond when such bondability is required by state or federal law,  
22          administrative regulation, or established business practice of the employer.

23          **SECTION 6.** 111.335 (1) (cv) of the statutes, as affected by 2011 Wisconsin Act  
24          32, is repealed.

25          **SECTION 7.** 111.335 (2) of the statutes is created to read:

