



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 829

**Assembly
Amendment 1**

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Contact: Andrea Brauer, Staff Attorney

CURRENT LAW

Under current law, it is an unlawful act of employment discrimination for a state or local agency that has the authority to grant or deny professional or occupational licenses to refuse to license an individual on the basis of the individual's arrest or conviction record. This general prohibition is subject to certain exceptions. For example, it is not unlawful for an agency to deny a license to an individual who is subject to a pending criminal charge if the circumstances of the charge substantially relate to the circumstances of the particular licensed activity. It is also not unlawful employment discrimination to deny a license to an individual who has been convicted of any felony, misdemeanor, or other offense the circumstances of which substantially relate to the circumstances of the particular licensed activity.

2017 ASSEMBLY BILL 829

2017 Assembly Bill 829 makes various changes to Wisconsin's fair employment law with respect to discrimination based on an arrest or conviction record. Among other changes, the bill modifies the exception that allows an agency to deny a license on the basis of a pending criminal charge to provide that an agency may only deny a license under this exception if the charge is for one of certain specified crimes against life and bodily security, certain specified crimes against children, or a violent crime against a child. As under current law, the circumstances of the charge must also substantially relate to the circumstances of the particular licensed activity. The bill also prohibits a licensing agency from denying a license because the individual was adjudicated delinquent of an offense under the Juvenile Justice Code, unless the individual was adjudicated delinquent for one of certain crimes against life and bodily security or certain specified crimes against a child.

The bill also requires a licensing agency that denies or terminates a license based on a prior conviction to state in writing its reasons for doing so and provides a process for a person who is denied a license to show evidence of rehabilitation and fitness to engage in the licensed activity. In addition, the bill also allows an individual to obtain a predetermination of whether he or she would be disqualified from obtaining a license due to a prior conviction prior to submitting a full license application. The bill directs agencies that issue professional or occupational licenses to promulgate rules implementing these requirements.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 to 2017 Assembly Bill 829 grants a state licensing agency authority to promulgate emergency rules necessary to implement the bill's provisions, if enacted, and exempts the agency from the requirement to provide evidence that promulgation of the rule as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare. The amendment also generally delays the effective date of the bill until the first day of the fourth month beginning after publication, but provides that the provision granting emergency rule promulgation authority takes effect the day after publication.

BILL HISTORY

Representative Petryk offered Assembly Amendment 1 to 2017 Assembly Bill 829 on January 23, 2018. On February 1, 2018, the Assembly Committee on Regulatory Licensing Reform voted to recommend adoption of the amendment on a vote of Ayes, 8; Noes, 1. The committee then voted unanimously to recommend passage of Assembly Bill 829, as amended.

AB:jal