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TRANSIT AUTHORITY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to background checks for an employee or applicant for employment with a public transit district.

Highlighted Provisions:

This bill:

- ▶ removes provisions specifying certain types of employment at a public transit district for which an individual is required to have a background check;
- ▶ removes certain types of crimes from evaluation in a background check;
- ▶ changes the time limit from 10 years to 5 years in determining employment eligibility based on DUI convictions; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-825, as last amended by Laws of Utah 2014, Chapter 377

34-52-201, as last amended by Laws of Utah 2019, Chapters 371 and 479



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **17B-2a-825** is amended to read:

30 **17B-2a-825. Criminal background checks authorized -- Employment eligibility.**

31 (1) A public transit district may require ~~[an individual described in Subsection (2)]~~ an
32 employee or an applicant for employment to:

33 (a) submit a fingerprint card in a form acceptable to the public transit district; and

34 (b) consent to a fingerprint background check by:

35 (i) the Utah Bureau of Criminal Identification; and

36 (ii) the Federal Bureau of Investigation.

37 ~~[(2) A person shall comply with the requirements of Subsection (1) if the person:]~~

38 ~~[(a) is applying for or continuing employment with the public transit district:]~~

39 ~~[(i) working in a safety-sensitive position or other position that may affect:]~~

40 ~~[(A) the safety or well-being of patrons of the public transit district; or]~~

41 ~~[(B) the safety or security of the transit buildings, stations, platforms, railways, bus~~
42 ~~systems, and transit vehicles;]~~

43 ~~[(ii) handling personally identifiable information, financial information, or other~~
44 ~~sensitive information including personal health information;]~~

45 ~~[(iii) working in security-sensitive areas; or]~~

46 ~~[(iv) handling security-sensitive information, including information system~~
47 ~~technologies; or]~~

48 ~~[(b) is seeking access to designated security-sensitive areas.]~~

49 ~~[(3)]~~ (2) A public transit district may use the information obtained in accordance with
50 this section only for one or more of the following purposes:

51 (a) to determine whether or not an individual is convicted of ~~[(i) a felony under federal~~
52 ~~or state law within the last 10 years; (ii) a violation within the last 10 years of a federal law,~~
53 ~~state law, or local ordinance concerning the sale, manufacture, distribution, warehousing,~~
54 ~~adulteration, or transportation of an alcoholic beverage; (iii) a crime involving moral turpitude;~~
55 ~~or (iv)]~~ two or more convictions within the last ~~[10]~~ 5 years for a violation of driving under the
56 influence of alcohol, any drug, or the combined influence of alcohol and any drug;

57 (b) to determine whether or not an individual has accurately disclosed the person's
58 criminal history on an application or document filed with the public transit district;

59 (c) to approve or deny an application for employment with the public transit district; or
60 (d) to take disciplinary action against an employee of the public transit district,
61 including possible termination of employment.

62 ~~[(4) A person is not eligible for employment with a public transit district in a capacity~~
63 ~~described in Subsection (2) if the person has been convicted of any of the offenses described in~~
64 ~~Subsection (3).]~~

65 (3) A person with convictions described in Subsection (2)(a) is not eligible for
66 employment in a position that is responsible for transporting passengers.

67 Section 2. Section **34-52-201** is amended to read:

68 **34-52-201. Public employer requirements.**

69 (1) A public employer may not exclude an applicant from an initial interview because
70 of a past criminal conviction.

71 (2) A public employer excludes an applicant from an initial interview if the public
72 employer:

73 (a) requires an applicant to disclose, on an employment application, a criminal
74 conviction;

75 (b) requires an applicant to disclose, before an initial interview, a criminal conviction;
76 or

77 (c) if no interview is conducted, requires an applicant to disclose, before making a
78 conditional offer of employment, a criminal conviction.

79 (3) (a) A public employer may not make any inquiry related to an applicant's expunged
80 criminal history.

81 (b) An applicant seeking employment from a public employer may answer a question
82 related to an expunged criminal record as though the action underlying the expunged criminal
83 record never occurred.

84 (4) Subject to Subsections (1) through (3), nothing in this section prevents a public
85 employer from:

86 (a) asking an applicant for information about an applicant's criminal conviction history
87 during an initial interview or after an initial interview; or

88 (b) considering an applicant's conviction history when making a hiring decision.

89 (5) Subsections (1) through (3) do not apply:

- 90 (a) if federal, state, or local law, including corresponding administrative rules, requires
91 the consideration of an applicant's criminal conviction history;
- 92 (b) to a public employer that is a law enforcement agency;
- 93 (c) to a public employer that is part of the criminal or juvenile justice system;
- 94 (d) to a public employer seeking a nonemployee volunteer;
- 95 (e) to a public employer that works with children or vulnerable adults;
- 96 (f) to the Department of Alcoholic Beverage Control created in Section [32B-2-203](#);
- 97 (g) to the State Tax Commission;
- 98 (h) to a public employer whose primary purpose is performing financial or fiduciary
99 functions; and
- 100 (i) to a public transit district hiring or promoting an individual for a [~~safety sensitive~~]
101 position described in [~~Section [17B-2a-825](#)] Subsection [71B-2a-825\(3\)](#)].~~