

KENTUCKY'S NEW 'REENTRY' LAW GIVES EMPLOYERS CLEARANCE TO HIRE WORKERS WITH CRIMINAL BACKGROUNDS

Insights
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Under a new Kentucky law that will take effect in July 2021, employers can hire qualified applicants with criminal records without fearing legal barriers and liabilities. Specifically, House Bill 497 creates a certificate program that will give employers relief from civil liability for hiring an ex-offender who was trained for a particular job. The goal is to enhance the ability of formerly incarcerated people to get jobs once they are in the community to further aid in their rehabilitation and reintegration. The bill was signed by Governor Andy Beshear on April 5 after being unanimously passed by the Kentucky Legislature in late March. Here's what Kentucky employers need to know about this new law.

What Are "Certificates" and How Are They Granted?

HB 497 requires the Department of Corrections (DOC) to equip persons leaving incarceration with the necessary documents and paperwork to ease the process of reentry, including documentation of their criminal history, institutional history, and other relevant information. The law also encourages the DOC to provide support for incarcerated individuals in preparing and writing job resumes.

Importantly, HB 497 establishes a certificate of employability program for eligible individuals to encourage second-chance employment opportunities upon reentry into society. To receive a "certificate of employability," HB 497 requires incarcerated individuals to complete certain vocational and/or educational requirements, including passing a skills assessment test administered by the DOC.

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Certificates are only granted if the individual has successfully maintained a crime-free record for a legally prescribed waiting period preceding their release. The certificate of employability will not be issued to sex offenders, and there are other exclusions in the bill as well. Employers can request the certificate of employability from a job seeker and can check the validity of the certificate by contacting the DOC.

What Does This Mean (or Not Mean) for Kentucky Employers?

The new reentry bill does not mean that employers are required to accept an applicant with a criminal record. Understandably, some Kentucky employers are likely reluctant to hire candidates with certain criminal histories.

The bill does, however, provide legal protection from negligent-hiring lawsuits if you do decide to hire certificate of employability holders. This immunity means that you can feel confident that hiring a person with a criminal record will not create a legal liability. Rather, it gives you the discretion to assess an individual with a certificate of employability based on their qualifications and to treat them like any other applicant.

For those employers who do decide to utilize this new certification, be sure to educate your Human Resources department, supervisors, and higher-level managers regarding the new law. You may also need to adjust your policies for hiring persons formerly incarcerated or setting up a program to actively recruit candidates with criminal histories.

For further information, contact the author, your Fisher Phillips attorney, or any attorney in our [Louisville](#) office.