

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0238.02 Jane Ritter

**HOUSE BILL 10-1023**

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**HOUSE SPONSORSHIP**

**Waller,** Gagliardi, Kagan, Kefalas, Summers

**SENATE SPONSORSHIP**

**Hudak,** Boyd, Sandoval, Scheffel, White

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING CLARIFYING CIVIL LIABILITY REGARDING NEGLIGENT**  
102                    **HIRING PRACTICES FOR AN EMPLOYER THAT HIRES A PERSON**  
103                    **WITH A CRIMINAL RECORD.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Economic Opportunity Poverty Reduction Task Force.** The bill prohibits information regarding an employee's criminal history from being introduced as evidence in a civil action against an employer if:

!            The nature of the criminal history does not bear a direct

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

- ! relationship to the facts underlying the cause of action;
- ! A court order sealed any record of a criminal case or a pardon was issued before the occurrence of the civil action;
- or
- ! The record of an arrest or charge did not result in a criminal conviction.

The bill does not eliminate the requirement for criminal history background checks in hiring for certain employment.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1. Legislative declaration.** (1) The General  
3 Assembly hereby finds that:

4           (a) Employers may be reluctant, in part, to hire employees with a  
5 criminal record due to a lack of clarity regarding the employer's risk of  
6 liability for such hire;

7           (b) Since there is a direct correlation between employment and  
8 reduced recidivism, it is in the public interest to clarify employer liability  
9 for employers who hire persons with a criminal conviction.

10           (2) Therefore, it is necessary and appropriate for the General  
11 Assembly to reduce unnecessary barriers to employment for persons with  
12 a criminal conviction and thereby promote economic opportunity, poverty  
13 reduction, and public safety in the state of Colorado.

14           **SECTION 2.** 8-2-201, Colorado Revised Statutes, is amended to  
15 read:

16           **8-2-201. Damages - fellow servant rule and abolition thereof**  
17 **- limitation on admission of criminal history.** (1) Every corporation  
18 or individual who employs agents, servants, or employees, such agents,  
19 servants, or employees being in the exercise of due care, shall be liable to  
20 respond in damages for injuries or death sustained by any such agent,  
21 servant, or employee resulting from the carelessness, omission of duty, or

1 negligence of such employer, or which may have resulted from the  
2 carelessness, omission of duty, or negligence of any other agent, servant,  
3 or employee of the employer, in the same manner and to the same extent  
4 as if the carelessness, omission of duty, or negligence causing the injury  
5 or death was that of the employer.

6 (2) (a) INFORMATION REGARDING THE CRIMINAL HISTORY OF AN  
7 EMPLOYEE OR FORMER EMPLOYEE MAY NOT BE INTRODUCED AS EVIDENCE  
8 IN A CIVIL ACTION AGAINST AN EMPLOYER OR ITS EMPLOYEES OR AGENTS  
9 THAT IS BASED ON THE CONDUCT OF THE EMPLOYEE OR FORMER EMPLOYEE  
10 IF:

11 (I) THE NATURE OF THE CRIMINAL HISTORY DOES NOT BEAR A  
12 DIRECT RELATIONSHIP TO THE FACTS UNDERLYING THE CAUSE OF ACTION;  
13 OR

14 (II) BEFORE THE OCCURRENCE OF THE ACT GIVING RISE TO THE  
15 CIVIL ACTION, A COURT ORDER SEALED ANY RECORD OF THE CRIMINAL  
16 CASE OR THE EMPLOYEE OR FORMER EMPLOYEE RECEIVED A PARDON; OR

17 (III) THE RECORD IS OF AN ARREST OR CHARGE THAT DID NOT  
18 RESULT IN A CRIMINAL CONVICTION; OR

19 (IV) THE EMPLOYEE OR FORMER EMPLOYEE RECEIVED A DEFERRED  
20 JUDGMENT AT SENTENCE AND THE DEFERRED JUDGMENT WAS NOT  
21 REVOKED.

22 (b) THIS SUBSECTION (2) DOES NOT SUPERSEDE ANY STATUTORY  
23 REQUIREMENT TO CONDUCT A CRIMINAL HISTORY BACKGROUND  
24 INVESTIGATION OR CONSIDER CRIMINAL HISTORY RECORDS IN HIRING FOR  
25 PARTICULAR TYPES OF EMPLOYMENT.

26 **SECTION 3. Act subject to petition - effective date.** This act  
27 shall take effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August  
2 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a  
3 referendum petition is filed pursuant to section 1 (3) of article V of the  
4 state constitution against this act or an item, section, or part of this act  
5 within such period, then the act, item, section, or part shall not take effect  
6 unless approved by the people at the general election to be held in  
7 November 2010 and shall take effect on the date of the official  
8 declaration of the vote thereon by the governor.