



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 56 of the 131st G.A.

**Date:** December 10, 2015

**Status:** As Passed by the Senate

**Sponsor:** Reps. Schuring and Slesnick

**Local Impact Statement Procedure Required:** No

**Contents:** Prohibits public employers from including criminal history on employment applications

### State and Local Fiscal Highlights

- The bill prohibits public employers from including questions inquiring about a job applicant's criminal background on job applications. State and local public employers could incur minimal costs to redesign and produce employment applications so that the forms do not include questions concerning an applicant's criminal history.
- Sentencing courts and courts of common pleas could incur additional administrative costs to process applications to seal conviction records for persons convicted of certain offenses in circumstances when the victim is 16 or 17 years of age. Law enforcement agencies could also incur minimal administrative costs to seal related investigatory records in the event that additional conviction records are sealed.

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## Detailed Fiscal Analysis

### Overview

The bill makes changes to the law governing the use of criminal background information in public employment situations. First, the bill prohibits a public employer from including on any form for application for employment with the public employer any question concerning the criminal background of the applicant. The bill also limits the use of felony convictions as a reason for reducing the pay or position or employment conditions of a public employee. Additionally, the bill expands current law governing sealing of certain conviction records. Potential fiscal effects of these changes are discussed in more detail under the headings below.

### **Criminal background questions on applications for public employment**

The bill prohibits a public employer from including on any form for application for employment any question concerning the criminal background of the applicant. State and local public employers that currently include criminal background questions on employment applications would likely incur some new administrative burden to redesign and produce employment applications that do not include criminal history questions. Any new costs stemming from changes to applications would likely be minimal at most.

### **Use of felony convictions as a basis for modifying employment conditions**

The bill limits the use of felony convictions as a reason for modifying employment conditions for public employees. Under current law, an employee who holds a position in the classified service and who is appointed to a position in the unclassified service retains the right to resume the position and status held in the classified service immediately prior to the employee's appointment. The employee, however, forfeits this right if the employee is removed from the position in the unclassified service due to specific misconduct, such as dishonesty or drunkenness, or for a conviction of a felony. Under the bill, a forfeiture of that right for a felony conviction is limited to only felony convictions that occurred while the employee is employed in the civil service. Additionally, under the bill, only felony convictions that occur while an employee is employed in the classified civil service could be used as a basis for reducing an employee's pay, position, or longevity, or the basis to impose a fine, suspension, or removal from employment. Because felony convictions that would result in these types of employment condition modifications would generally disqualify an individual from employment already, limiting these consequences to felony convictions that occur during employment appears to have no fiscal effect for public employers.

## **Sealing of conviction records**

The bill expands current law governing sealing of conviction records by allowing a person convicted of offenses in which the victim was 16 or 17 years old to have records sealed when the offense is a first degree misdemeanor or a felony, the offense is not a conviction of nonsupport or contributing to nonsupport of dependents, and the offender meets the other criteria for the sealing of a record. Current law bars sealing a conviction record for such offenses when the victim of the offense is less than 18 years old. As a result, sentencing courts and courts of common pleas could incur minimal costs to process additional applications to seal conviction records. Law enforcement agencies could also incur minimal administrative costs to seal related investigatory records in the event that additional conviction records are sealed.

## **Independent providers under the Medicaid Program**

The bill specifies that independent providers under the Medicaid Program are not employees of the state or political subdivisions. Under the bill, an independent provider is defined as an individual who personally provides aide services or nursing services under the Medicaid Program and is not employed by, under contract with, or affiliated with another entity that provides these services. This change codifies the existing status of independent providers and thus has no fiscal effect.