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Senators Overwhelmingly Support Bill to Give Ex-Offenders a Second Chance at Employment

The Fair Chance for Employment Act aims to dismantle hiring barriers for the formerly incarcerated

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Legislation seeking to remove barriers to employment for formerly incarcerated individuals has been described as “the epitome of a second chance” by Senator Angel Bolques Jr.

Sponsored by Senator Donna Frett-Gregory, Bill 35-0115 seeks to enact “The Fair Chance for Employment Act,” which among other measures requires the Division of Personnel to develop fair chance hiring policies.

In her introduction of the bill, Senator Frett-Gregory declared to the Committee on Homeland Security, Justice, and Public Safety that “it is time to end the stigma here in the Virgin Islands.”

Apart from reducing recidivism, the Finance chair believes that the proposed legislation will support families through access to gainful employment and contribute to economic stability. “The Virgin Islands can no longer afford to pay lip service to rehabilitation and reentry while leaving policies in place that keep neighbors, families, friends from getting a foot in the door,” the senator contended.

For those concerned about maintaining the integrity of the hiring process, the Fair Chance For Employment Act would still maintain an employer's ability to conduct a background check; however it would delay that step until later in the onboarding process, after an employer extends a conditional offer to an applicant.

Overall, Bill 35-0115 was well received by testifiers and legislators alike. Dr. Kendra Roach, chapter president for the Society of Human Resource Management in the Virgin Islands believed that if passed, the bill would “level the playing field and provide fair opportunities for employment, even for those with past criminal records.” She told lawmakers the act “aligns with the principles of equity.”

Similar sentiments were shared by Senators Bolques Franklin Johnson, Ray Fonseca, and Alma Francis-Heyliger – who summed up the need for the law with the view that “people mess up sometimes.” She agreed with Frett-Gregory that the type of employment accessible to a formerly incarcerated person would take into consideration the crime they were convicted of.

Winnie Testamark, director of the Bureau of Corrections testified that the bill “aligns seamlessly with the Bureau's reentry program and our overarching five-year strategic plan.” That plan includes expanding educational opportunities, implementing vocational training programs and fostering partnerships with local organizations.

Meanwhile, the Department of Labor saw Bill 35-0115 as a means of employing more people “thereby increasing the overall taxable wage base.” However the Labor Department, while in support of the “spirit of the bill” believed that the bill necessitated some amendments. Chief among them was a requirement that an employer meet with an applicant who was denied based on their former conviction to discuss the withdrawal of the conditional offer captured under section 467B. Assistant Commissioner Nisha Christian-Hendrickson feared that it could “provide a very toxic ...even violent result.” Frett-Gregory would later agree to remove that provision from the draft legislation.

Meanwhile, the Division of Personnel was the only agency on Tuesday which expressed objections to the bill. Assistant Director Florine Audain-Hassell told lawmakers that the Division does not support section four of the measure which requires the Division to implement fair chance hiring policies. “It should remain where it's at, at the Department of Labor,” she suggested. Ms. Audain-Hassell also highlighted challenges with other provisions, fearing that it could place a burden on human resources staff. She informed committee members that sending out rejections based solely on people's criminal history could be viewed as discriminatory.

She insisted that fair hiring policies and practices are already in place within the government of the Virgin Islands, with provision for equal employment regardless of “ race, color, sex, national origin, citizenship, age, handicap, political affiliation, other such categories.”

Senator Frett-Gregory, clarifying what she deemed to be misinformation, argued that since the Division of Personnel already has written policies in place, they can simply produce that very policy relating to public sector hiring practices as part of the overall legislation. Committee chair Senator Kenneth Gittens also made it clear that “it is not for the Division of Personnel to create a

policy that would affect the private sector,” as was another concern of Ms. Audain-Hassell. He chastised the Division for not reaching out to the bill’s sponsor with its concerns ahead of the meeting.

Ultimately, the bill received support from all seven members of the Committee and will now be considered by the Committee on Rules and Judiciary.

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