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Councilmember Marion Barry

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Councilmember Harry Thomas, Jr.

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the Human Rights Act of 1977 to prohibit employment, housing, and educational discrimination based upon arrest record, or conviction record, with certain exceptions based on the relationship of the arrest or conviction to the position sought, lack of knowledge of the conviction, reliance upon an authorized certification, a record of violent crimes, or positions specifically exempt.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,  
That this act may be cited as the “Human Rights for Ex-Offenders Amendment Act of 2007”.

Sec. 2. The Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 2-1401.01) is amended by striking the phrase “source of income, and” and inserting the phrase “source of income, arrest record, or conviction record, and” in its place.

(b) Section 102 (D.C. Official Code § 2-1401.02) is amended as follows:

(1) A new paragraph (2A) is added to read as follows:

1                   “(2A) “Arrest record” includes information indicating that an individual  
2 has been previously questioned, apprehended, taken into custody or detention, held for  
3 investigation, arrested, charged with, indicted or tried for any felony, misdemeanor, or  
4 other offense pursuant to any law enforcement or military authority other than for  
5 offenses that are sexually related.”.

6                   (2) A new paragraph (4A) is added to read as follows:

7                   “(4A) “Conviction record” includes information indicating that an  
8 individual has been adjudicated by a court of competent jurisdiction of any felony,  
9 misdemeanor, or other offense, has been adjudicated delinquent, has been less than  
10 honorably discharged, or has been placed on probation, fined, imprisoned, placed on  
11 extended supervision, or paroled pursuant to any law enforcement or military authority  
12 for any offenses other than criminal convictions that are sexually related.”.

13                   (3) A new paragraph (25A) is added to read as follows:

14                   “(25A) “Rational relationship” means considering the following factors  
15 when determining whether there is a rational relationship between the arrest record or  
16 conviction record and the duties and responsibilities of the position sought:

17                   “(A) The public policy of the District to encourage the  
18 employment of persons previously convicted of criminal offenses;

19                   “(B) The specific duties and responsibilities necessarily related to  
20 the employment sought;

21                   “(C) The bearing, if any, that the criminal offenses for which the  
22 person was previously convicted will have on his or her fitness or ability to perform one  
23 or more of the duties or responsibilities of the position;

1                               “(D) The time which has elapsed since the occurrence of the  
2 criminal offense;

3                               “(E) The age of the person at the time of the occurrence of the  
4 criminal offense;

5                               “(F) The seriousness of the offense;

6                               “(G) Any information produced by the person, or produced on his  
7 or her behalf, in regard to his or her rehabilitation and good conduct since the time of the  
8 occurrence of the criminal offense; and

9                               “(H) The legitimate interest of the public agency or private  
10 employer in protecting the safety and welfare of specific individuals or of the general  
11 public and property.”.

12               (c) A new section 106 is added to read as follows:

13               “Sec. 106. Rulemaking.

14               “The Mayor shall issue rules to implement the provisions of the Human Rights for  
15 Ex-Offenders Amendment Act of 2007. The proposed rules shall be submitted to the  
16 Council for a 90-day period of review, excluding Saturdays, Sundays, legal holidays, and  
17 days of Council recess. If the Council does not approve or disapprove the proposed rules,  
18 in whole or in part, by resolution within this 90-day review period, the proposed rules  
19 shall be deemed approved.”.

20               (d) Section 211 (D.C. Official Code § 2-1402.11) is amended as follows:

21                       (1) Section (a) is amended as follows:

1 (A) The lead-in text is amended by striking the phrase  
2 “matriculation,” and inserting the phrase “matriculation, arrest record, or conviction  
3 record,” in its place.

4 (B) Paragraph (3) is amended by striking the word “or” at the end.

5 (C) Paragraph (4) is amended by adding a new subparagraph (D) to  
6 read as follows:

7 “(D) To inquire about or include in the overall evaluation  
8 an individual’s arrest record, or conviction record in  
9 connection with hiring, termination, or the terms,  
10 conditions, or privileges of employment or membership,  
11 except as provided in Section 212; or”.

12 (D) A new subparagraph (5) is added to read as follows:

13 “(5) *For any person.* To aid, abet, incite, compel, or coerce  
14 the accomplishment of any of the unlawful discriminatory  
15 practices forbidden by this part, or to attempt to do so.”.

16 (2) Section (b) is amended by striking the phrase “disability,” and  
17 inserting the phrase “disability, arrest record, or conviction record,” in its place.

18 (e) Section 212 (D.C. Official Code § 2-1402.12) is amended as follows:

19 (1) A new paragraph (c) is added to read as follows:

20 “(c) It shall not be an unlawful discriminatory practice for an employer to  
21 inquire about or include in the overall evaluation an individual’s arrest record, or  
22 conviction record in connection with hiring, termination, or the terms, conditions, or  
23 privileges of employment or membership if:



1 a degree of rehabilitation that would indicate that the applicant would not be  
2 incompatible with the welfare of society; or

3 “(6) The employer is one of the following:

4 “(I) A court;

5 “(II) A federal, state, or local prosecutor;

6 “(III) A law enforcement agency;

7 “(IV) A licensing agency with respect to an  
8 offense that may disqualify a person from obtaining the license;

9 “(V) A licensed school, day care center,  
10 before or after school facility, recreation center, or other educational or child protection  
11 agency or facility, nursing home, assisted-living facility, or any other facility specializing  
12 in providing care or services for children or the elderly; or

13 “(VI) A government employer or  
14 nominating or tenure commission with respect to employment of a judicial or quasi-  
15 judicial officer, or employment at a senior-level, executive-grade government position.”.

16 (2) A new paragraph (d) is added to read as follows:

17 “(d) Nothing in this act shall supersede any federal rule, regulation, or  
18 act.”.

19 (f) Section 221 (D.C. Official Code § 2-1402.21) is amended as follows:

20 (1) Section (a) is amended as follows:

21 (A) The lead-in text is amended by striking the phrase “source of  
22 income,” and inserting the phrase “source of income, arrest record, or conviction  
23 record,” in its place.

1 (B) Paragraph (5) is amended by striking the phrase “source of  
2 income,” and inserting the phrase “source of income, arrest record, or conviction record,”  
3 in its place.

4 (2) Section (b) is amended by striking the phrase “source of income,” and  
5 inserting the phrase “source of income, arrest record, or conviction record,” in its place.

6 (g) Section 224 (D.C. Official Code § 2-1402.24) is amended by adding new  
7 subsections (d) and (e) to read as follows:

8 “(d) Nothing in this chapter involving housing for ex-offenders shall apply to  
9 persons subleasing property.”

10 “(e) Nothing in this chapter shall apply to felony arrests or convictions involving  
11 the destruction of real property falling within a period that shall not exceed the most  
12 recent 2 years, excluding periods of incarceration; or any crime against children or the  
13 elderly.”

14 (h) Section 241 (D.C. Official Code § 2-1402.41) is amended as follows:

15 (1) Paragraph (1) is amended by striking the phrase “source of income,”  
16 and inserting the phrase “source of income, arrest record, or conviction record,” in its  
17 place.

18 (2) Paragraph (2) is amended by striking the phrase “religion,” and  
19 inserting the phrase “religion, arrest record, or conviction record,” in its place.

20 Sec. 3. Inclusion in the budget and financial plan.

21 This act shall take effect subject to the inclusion of its fiscal effect in an approved  
22 budget and financial plan.

23 Sec. 4. Fiscal impact statement.

1           The Council adopts the fiscal impact statement of the Chief Financial Officer as  
2 the fiscal impact statement required by section 602(c)(3) of the District of Columbia  
3 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
4 206.02(c)(3)).

5           Sec. 5. Effective date.

6           This act shall take effect following approval by the Mayor (or in the event of veto  
7 by the Mayor, action by the Council to override the veto), a 30-day period of  
8 Congressional review as provided in section 602 (c)(1) of the District of Columbia Home  
9 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
10 206.02(c)(1)), and publication in the District of Columbia Register.