

112TH CONGRESS  
1ST SESSION

# H. R. 3285

To amend the District of Columbia Home Rule Act to establish factors for making determinations on the suitability of individuals for employment with the District of Columbia Government, to require individuals to undergo criminal background checks as a condition of appointment in the excepted service of the District Government, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2011

Mr. ISSA introduced the following bill; which was referred to the Committee on Oversight and Government Reform

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## A BILL

To amend the District of Columbia Home Rule Act to establish factors for making determinations on the suitability of individuals for employment with the District of Columbia Government, to require individuals to undergo criminal background checks as a condition of appointment in the excepted service of the District Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “District of Columbia  
3 Employee Suitability Act of 2011”.

4 **SEC. 2. CRITERIA FOR MAKING SUITABILITY DETERMINA-**  
5 **TIONS FOR DISTRICT OF COLUMBIA EMPLOY-**  
6 **MENT; REQUIRING CRIMINAL BACKGROUND**  
7 **CHECKS FOR APPOINTMENT TO EXCEPTED**  
8 **SERVICE.**

9 (a) IN GENERAL.—Part B of title IV of the District  
10 of Columbia Home Rule Act (sec. 1–204.21 et seq., D.C.  
11 Official Code) is amended by adding at the end the fol-  
12 lowing new section:

13 “REQUIREMENTS FOR APPLICANTS FOR EMPLOYMENT  
14 WITH DISTRICT OF COLUMBIA GOVERNMENT

15 “SEC. 425. (a) CRITERIA FOR SUITABILITY DETER-  
16 MINATIONS.—

17 “(1) IN GENERAL.—Except as provided in para-  
18 graph (2), in determining whether an individual is  
19 suitable for employment with the District of Colum-  
20 bia Government, the hiring authority involved may  
21 find an individual unsuitable and take a suitability  
22 action only on the basis of the following factors:

23 “(A) Misconduct or negligence in employ-  
24 ment.

25 “(B) Criminal or dishonest conduct.

1           “(C) Material, intentional false statement,  
2           or deception or fraud in examination or ap-  
3           pointment.

4           “(D) Alcohol abuse, without evidence of  
5           substantial rehabilitation, of a nature and dura-  
6           tion that suggests that the applicant or ap-  
7           pointee would be prevented from performing the  
8           duties of the position in question, or would con-  
9           stitute a direct threat to the property or safety  
10          of the applicant or appointee or others.

11          “(E) Illegal use of narcotics, drugs, or  
12          other controlled substances without evidence of  
13          substantial rehabilitation.

14          “(F) Knowing and willful engagement in  
15          acts or activities designed to overthrow the  
16          United States Government by force.

17          “(G) Any statutory or regulatory bar  
18          which prevents the lawful employment of the in-  
19          dividual involved in the position in question.

20          “(2) ADDITIONAL CONSIDERATIONS.—In addi-  
21          tion to the factors described in paragraph (1), the  
22          hiring authority may consider any of the following  
23          factors with respect to an individual’s suitability for  
24          employment to the extent that it considers such fac-  
25          tors pertinent with respect to the individual involved:

1           “(A) The nature of the position for which  
2           the individual is applying or in which the indi-  
3           vidual is employed.

4           “(B) The nature and seriousness of the  
5           conduct.

6           “(C) The circumstances surrounding the  
7           conduct.

8           “(D) How recently the conduct occurred.

9           “(E) The age of the individual involved at  
10          the time of the conduct.

11          “(F) Contributing societal conditions.

12          “(G) The absence or presence of rehabilita-  
13          tion or efforts toward rehabilitation.

14          “(3) RECIPROCITY.—A hiring authority cannot  
15          make a new determination under this subsection for  
16          an individual who has already been determined suit-  
17          able or fit based on character or conduct unless a  
18          new investigation is required under the District of  
19          Columbia Government Comprehensive Merit Per-  
20          sonnel Act of 1978 (or any successor law governing  
21          a merit personnel system for the District of Colum-  
22          bia), or no new investigation is required but the in-  
23          vestigative record on file for the individual shows  
24          conduct that is incompatible with the core duties of  
25          the relevant covered position.

1           “(4) SCOPE OF COVERAGE.—This subsection  
2 shall apply to any office in the executive branch of  
3 the District of Columbia Government and to any  
4 independent agency of the District of Columbia es-  
5 tablished under part F of this title, but does not  
6 apply to the Council or the courts of the District of  
7 Columbia.

8           “(5) EFFECTIVE DATE.—This subsection ap-  
9 plies with respect to individuals who seek employ-  
10 ment with the District of Columbia Government  
11 after the date of the enactment of this section.

12           “(b) CRIMINAL BACKGROUND CHECKS FOR AP-  
13 POINTMENT TO EXCEPTED SERVICE.—

14           “(1) REQUIREMENT.—An individual may not be  
15 appointed to any position in the excepted service  
16 under the District of Columbia Government Com-  
17 prehensive Merit Personnel Act of 1978 (or any suc-  
18 cessor law governing a merit personnel system for  
19 the District of Columbia) unless the individual ap-  
20 plies for and submits to a criminal background  
21 check in accordance with the Criminal Background  
22 Checks for the Protection of Children Act of 2004  
23 and the regulations issued to carry out such Act.

24           “(2) ADMINISTRATION.—For purposes of this  
25 section, the Criminal Background Checks for the

1 Protection of Children Act of 2004 shall apply to an  
2 individual seeking appointment to a position in the  
3 excepted service in the same manner as such Act ap-  
4 plies to an individual applying for paid employment  
5 by a covered child or youth services provider under  
6 such Act.

7 “(3) EFFECTIVE DATE.—This subsection ap-  
8 plies with respect to individuals who are appointed  
9 to positions in the excepted service after the date of  
10 the enactment of this section.”.

11 (b) CLERICAL AMENDMENT.—The table of contents  
12 of the District of Columbia Home Rule Act is amended  
13 by adding at the end of the item relating to part B of  
14 title IV the following new item:

“Sec. 425. Requirements for applicants for employment with District of Colum-  
bia Government.”.

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