

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1999**

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**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

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ADOPTED JUNE 23, 2014

**Sponsored by:**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Hunterdon and Mercer)**

**Senator SANDRA B. CUNNINGHAM**

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**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywomen Jasey, Tucker, Assemblymen Garcia, Giblin, Gusciora,  
Wilson, Senators Lesniak, Ruiz, Pou and Norcross**

**SYNOPSIS**

“The Opportunity to Compete Act;” establishes certain employment rights for persons with criminal record.

**CURRENT VERSION OF TEXT**

As amended by the Senate on June 26, 2014.

(Sponsorship Updated As Of: 6/27/2014)

1 AN ACT concerning certain employment rights of persons with  
2 criminal records and supplementing Title 34 of the Revised  
3 Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as “The  
9 Opportunity to Compete Act.”

10  
11 2. The Legislature finds and declares that:

12 a. Removing obstacles to employment for people with criminal  
13 records provides economic and social opportunities to a large group  
14 of people living in New Jersey, increasing the productivity, health,  
15 and safety of New Jersey communities.

16 b. Criminal background checks by employers have increased  
17 dramatically in recent years, with estimates of 90 percent of large  
18 employers in the United States now conducting background checks  
19 as part of the hiring process.

20 c. Barriers to employment based on criminal records stand to  
21 affect an estimated 65 million adults in the United States with  
22 criminal records.

23 d. Employment advertisements in New Jersey frequently  
24 include language regarding criminal records that either explicitly  
25 precludes or strongly dissuades people from applying.

26 e. Individuals with criminal records represent a group of job  
27 seekers ready and able to contribute and add to the workforce.

28 f. Securing employment significantly reduces the risk of  
29 recidivism for persons with criminal records.

30 g. Currently, at least 64 states, counties, and cities have  
31 enacted or passed statutes, ordinances, or policies to remove  
32 barriers to the employment of persons with criminal histories by  
33 public and private employers.

34 h. The nation’s largest public employer, the United States  
35 government, and the nation’s largest private employer have each  
36 implemented their own policies removing barriers to the  
37 employment of persons with criminal histories.

38 i. Numerous other major businesses and organizations have  
39 voluntarily implemented their own policies removing barriers to the  
40 employment of those with criminal histories.

41 j. It is the intent and purpose of “The Opportunity to Compete  
42 Act” to improve the economic viability, health, and security of New  
43 Jersey communities and to assist people with criminal records to

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate floor amendments adopted June 26, 2014.

1 reintegrate into the community, become productive members of the  
2 workforce, and to provide for their families and themselves.

3

4 3. As used in this act:

5 “Advertisement” means any circulation, mailing, posting, or any  
6 other form of publication, utilizing any media, promoting an  
7 employer or intending to alert its audience, regardless of size, to the  
8 availability of any position of employment.

9 “Applicant for employment” means any person whom an  
10 employer considers when identifying potential employees, through  
11 any means, including, but not limited to, recruitment, solicitation,  
12 or seeking personal information, or any person who requests to be  
13 considered for employment by an employer, or who requests  
14 information from an employer related to seeking employment, and  
15 shall include any person who currently is an employee of the  
16 employer.

17 “Criminal record” means information collected by criminal  
18 justice agencies on individuals consisting of identifiable  
19 descriptions and notations of arrests, detentions, indictments, or  
20 other formal criminal charges, and any disposition arising  
21 therefrom, including acquittal, sentencing, correctional supervision,  
22 release or conviction, including, but not limited to, any sentence  
23 arising from a verdict or plea of guilty or nolo contendere, including  
24 a sentence of incarceration, a suspended sentence, a sentence of  
25 probation, or a sentence of conditional discharge.

26 “Employee” <sup>1</sup>~~means~~ shall mean<sup>1</sup> a person who is hired for a  
27 wage, salary, fee, or payment to perform work for an employer, but  
28 excludes any person employed in the domestic service of any family  
29 or person at the person’s home, any independent contractors, or any  
30 directors or trustees. The term also shall include interns and  
31 apprentices.

32 “Employer” means any person, company, corporation, firm,  
33 labor organization, or association which has 15 or more employees  
34 over 20 calendar weeks and does business, employs persons, or  
35 takes applications for employment within this State, <sup>1</sup>~~and means~~  
36 including<sup>1</sup> the State, any county or municipality, or any  
37 instrumentality thereof. The term shall include job placement and  
38 referral agencies and other employment agencies, but excludes the  
39 United States or any of its departments, agencies, boards, or  
40 commissions, or any employee or agent thereof.

41 “Employment” means any occupation, vocation, job, or work  
42 with pay, including temporary or seasonal work, contingent work,  
43 and work through the services of a temporary or other employment  
44 agency; any form of vocational apprenticeship; or any internship.  
45 The physical location of the prospective employment shall be in  
46 whole, or substantial part, within this State.

1 “Employment application” means a form, questionnaire or  
2 similar document or collection of documents that an applicant for  
3 employment is required by an employer to complete.

4 “Initial employment application process” means the period  
5 beginning when an applicant for employment first makes an inquiry  
6 to an employer about a prospective employment position or job  
7 vacancy or when an employer first makes any inquiry to an  
8 applicant for employment about a prospective employment position  
9 or job vacancy, and ending when an employer has conducted <sup>1</sup>[an]  
10 a first<sup>1</sup> interview <sup>1</sup>[and determined the applicant is qualified]<sup>1</sup>,  
11 whether in person or by any other means<sup>1</sup> [, and selected the] of an<sup>1</sup>  
12 applicant <sup>1</sup>[as the employer’s first choice to fill the position] for  
13 employment<sup>1</sup>.  
14

15 4. a. Except as otherwise provided in section <sup>1</sup>[8] 6<sup>1</sup> of this  
16 act:

17 (1) <sup>1</sup>[an] An<sup>1</sup> employer shall not require an applicant for  
18 employment to complete any employment application that makes  
19 any inquiries regarding an applicant’s criminal record during the  
20 initial employment application process.

21 (2) <sup>1</sup>[an] An<sup>1</sup> employer shall not make any oral or written  
22 inquiry regarding an applicant’s criminal record during the initial  
23 employment application process.

24 b. Notwithstanding the provisions of subsection a. of this  
25 section, if an applicant discloses any information regarding the  
26 applicant’s criminal record, by voluntary oral or written disclosure,  
27 during the initial employment application process, the employer  
28 may make <sup>1</sup>[a reasonable, limited inquiry regarding only the  
29 criminal history disclosed.

30 c. An employer may inquire into and consider the criminal  
31 history of an applicant after the employer has conducted an  
32 interview, determined the applicant to be qualified, and selected the  
33 applicant as the employer’s first choice to fill the position.

34 d.] inquiries regarding the applicant’s criminal record during the  
35 initial employment application process.

36 c.<sup>1</sup> Nothing set forth in this section shall be construed to prohibit  
37 an employer from requiring an applicant for employment to  
38 complete an employment application that makes any inquiries  
39 regarding an applicant’s criminal record after the initial  
40 employment application process has concluded or from making any  
41 oral or written inquiries regarding an applicant’s criminal record  
42 after the initial employment application process has concluded. The  
43 provisions of this section shall not preclude an employer from  
44 refusing to hire an applicant for employment based upon the  
45 applicant’s criminal record, <sup>1</sup>unless the criminal record or relevant  
46 portion thereof has been expunged or erased through executive

1 pardon,<sup>1</sup> provided that such refusal is consistent with <sup>1</sup>[sections 5  
2 and 6 of this act as well as any]<sup>1</sup> other applicable laws, rules and  
3 regulations.

4  
5 <sup>1</sup>[5.a. An employer shall not be permitted to consider when  
6 making an employment decision, or require any applicant to disclose  
7 or reveal, or to take any adverse employment action against any  
8 applicant on the basis of:

9 (1) any arrest or criminal accusation made against the applicant  
10 that did not result in a conviction, unless it is then pending;

11 (2) any record which has been erased or expunged or any record  
12 that has been the subject of an executive pardon unless such records  
13 are explicitly made relevant for the position by a federal or State  
14 law, rule, or regulation;

15 (3) a conviction for a disorderly persons offense or a conviction  
16 for conduct from another state which, if committed in this State,  
17 would constitute a disorderly persons offense, where the date of  
18 sentence or the release from any period of incarceration resulting  
19 therefrom, whichever date is later, occurred five or more years prior  
20 to the date of the application for employment, unless the applicant  
21 was subsequently convicted of a crime or disorderly persons; or

22 (4) a conviction for a crime of the first through fourth degree or  
23 a conviction for conduct from another state which, if committed in  
24 this State, would constitute a crime of the first through fourth  
25 degree, where the date of sentence or the release from any period of  
26 incarceration resulting therefrom, whichever date is later, occurred  
27 ten or more years prior to the date of the application for  
28 employment, unless the applicant was subsequently convicted of  
29 a crime or disorderly persons.

30 b. Notwithstanding paragraphs (3) and (4) of subsection a. of  
31 this section, an employer may inquire about and consider when  
32 making an employment decision convictions for the following  
33 crimes regardless of the date of sentence or the release from  
34 incarceration:

35 (1) criminal homicide, including murder, manslaughter, and  
36 death by auto, as defined by N.J.S.2C:11-2;

37 (2) attempted murder as defined by N.J.S.2C:5-1 and  
38 N.J.S.2C:11-3;

39 (3) arson and arson-related offenses as defined by N.J.S.2C:17-  
40 1;

41 (4) sex offenses as defined by subsection b. of section 2 of  
42 P.L.1994, c.133 (C.2C:7-2);

43 (5) robbery as defined by N.J.S.2C:15-1;

44 (6) kidnapping as defined by N.J.S.2C:13-1;

45 (7) human trafficking as defined by section 1 of P.L.2005, c.77  
46 (C.2C:13-8);

47 (8) possession of weapons during commission of certain

1 crimes as defined by section 1 of P.L.1998, c.26 (C.2C:39-4.1);  
2 (9) burglary as defined by N.J.S.2C:18-2;  
3 (10) aggravated assault as defined by N.J.S.2C:12-1;  
4 (11) any crime listed in 18 U.S.C. Chapter 113B – Terrorism,  
5 and any crime listed in the "September 11th, 2001 Anti-Terrorism  
6 Act," P.L.2002, c.26 (C.2C:38-1 et seq); and  
7 (12) any offenses of a nature substantially similar to an offense  
8 set forth in paragraphs (1) through (11) of this subsection b.  
9 committed in another jurisdiction, regardless of when they  
10 occurred.】<sup>1</sup>

11

12 <sup>1</sup>【6.a. In reasonably evaluating an applicant for a position for  
13 which a criminal history inquiry is conducted pursuant to this act,  
14 the employer also shall collectively consider additional factors,  
15 including but not limited to:

16 (1) any information, if provided to the employer by or on  
17 behalf of the applicant, pertaining to the accuracy of the criminal  
18 record in question;

19 (2) any information, if provided to the employer by or on  
20 behalf of the applicant, pertaining to the degree of rehabilitation and  
21 good conduct;

22 (3) the nature of the offense and how long ago it occurred;

23 (4) the duties and settings of the job sought or held.

24 b. An employer who has any questions or concerns relating to  
25 the applicant's criminal history and suitability for the position  
26 sought or held based on a criminal history inquiry shall make a good  
27 faith effort to discuss with the applicant these questions or concerns  
28 and, while the position remains open, consider any information  
29 provided by the applicant.】<sup>1</sup>

30

31 <sup>1</sup>【7.】5.<sup>1</sup> Unless otherwise permitted or required by law, an  
32 employer shall not knowingly or purposefully publish, or cause to  
33 be published, any advertisement that solicits applicants for  
34 employment where that advertisement explicitly provides that the  
35 employer will not consider any applicant who has been arrested or  
36 convicted of one or more crimes or offenses. The provisions of this  
37 section shall not apply to any advertisement that solicits applicants  
38 for a position in law enforcement, corrections, the judiciary,  
39 homeland security, or emergency management, or any other  
40 employment position where a criminal history record background  
41 check is required by law, rule or regulation, or where an arrest or  
42 conviction by the person for one or more crimes or offenses would  
43 or may preclude the person from holding such employment as  
44 required by any law, rule or regulation, or where any law, rule, or  
45 regulation restricts an employer's ability to engage in specified  
46 business activities based on the criminal records of its employees.  
47 Nothing set forth in this section shall be construed as prohibiting an

1 employer from publishing, or causing to be published, an  
2 advertisement that contains any provision setting forth any other  
3 qualifications for employment, as permitted by law, including, but  
4 not limited to, the holding of a current and valid professional or  
5 occupational license, certificate, registration, permit or other  
6 credential, or a minimum level of education, training or  
7 professional, occupational, or field experience.

8  
9 <sup>1</sup>**[8.] 6.**<sup>1</sup> The provisions of <sup>1</sup>subsection a. of section 4 of<sup>1</sup> this act  
10 shall not <sup>1</sup>**[apply]** prohibit an employer from requiring an applicant  
11 for employment to complete an employment application that makes  
12 any inquiries regarding an applicant's criminal record during the  
13 initial employment application process or from making any oral or  
14 written inquiries regarding an applicant's criminal record during the  
15 initial employment application process<sup>1</sup> if:

16 a. The employment sought or being considered is for a position  
17 in law enforcement, corrections, the judiciary, homeland security or  
18 emergency management;

19 b. The employment sought or being considered is for a position  
20 where a criminal history record background check is required by  
21 law, rule or regulation, or where an arrest or conviction by the  
22 person for one or more crimes or offenses would or may preclude  
23 the person from holding <sup>1</sup>**[that]** such<sup>1</sup> employment as required by  
24 any law, rule or regulation, or where any law, rule, or regulation  
25 restricts an employer's ability to engage in specified business  
26 activities based on the criminal records of its employees<sup>1</sup>**[**, except  
27 that any adverse employment decision regarding a position  
28 subject to this exemption that is based on a criminal history  
29 outside of the enumerated offenses or time periods of the applicable  
30 federal or State law, regulation, or rule shall remain subject to  
31 section 6 of this act<sup>1</sup>**]**; or

32 c. The employment sought or being considered is for a position  
33 designated by the employer to be part of a program or systematic  
34 effort designed predominantly or exclusively to encourage the  
35 employment of persons who have been arrested or convicted of one  
36 or more crimes or offenses.

37  
38 <sup>1</sup>**[9.] 7.**<sup>1</sup> a. The governing body of a county or municipality  
39 shall not adopt any ordinance, resolution, law, rule or regulation  
40 regarding criminal histories in the employment context, except for  
41 ordinances adopted to regulate <sup>1</sup>**[county or]**<sup>1</sup> municipal operations.

42 b. The provisions of this act shall preempt any ordinance,  
43 resolution, law, rule or regulation adopted by the governing body of  
44 a county or municipality prior to the effective date of this act  
45 regarding criminal histories in the employment context, except for  
46 ordinances adopted to regulate <sup>1</sup>**[county or]**<sup>1</sup> municipal operations.

1       <sup>1</sup>**[10.]** a. No employer shall be found liable based on the  
2 exclusion from consideration of the portions of an applicant's or  
3 employee's criminal record deemed outside the scope of  
4 consideration by section 5 of this act.

5       b. In negligent hiring or negligent retention claims based in  
6 whole or part on an employee's criminal record, no employer shall  
7 be found liable unless the employer's hiring decision is found to  
8 have been grossly negligent.

9       c. **[8.]**<sup>1</sup> The penalties set forth in section <sup>1</sup>**[11.]** **9**<sup>1</sup> of this act shall  
10 be the sole remedy provided for violations of this act. Nothing set  
11 forth in this act shall be construed as creating or establishing a  
12 standard of care or duty for employers with respect to any law other  
13 than this act. Evidence that an employer has violated, or is alleged  
14 to have violated, the provisions of this act, shall not be admissible  
15 in any legal proceeding with respect to any law or claim other than  
16 a proceeding to enforce the provisions of this act. Nothing set forth  
17 in this act shall be construed as creating, establishing or authorizing  
18 a private cause of action by an aggrieved person against an  
19 employer who has violated, or is alleged to have violated, the  
20 provisions of this act.

21

22       <sup>1</sup>**[11.]** **9.**<sup>1</sup> Any employer who violates this act shall be liable for  
23 a civil penalty in an amount not to exceed \$1,000 for the first  
24 violation, \$5,000 for the second violation, and \$10,000 for each  
25 subsequent violation collectible by the Commissioner of Labor and  
26 Workforce Development in a summary proceeding pursuant to the  
27 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
28 et seq.).

29

30       <sup>1</sup>**[12.]** **10.**<sup>1</sup> This act shall take effect the first day of the seventh  
31 month next following the date of enactment, but the Commissioner  
32 of Labor and Workforce Development may take any anticipatory  
33 administrative action in advance as shall be necessary for the  
34 implementation of this act.

# **Text of “The Opportunity to Compete Act”**

## CHAPTER 32

**AN ACT** concerning certain employment rights of persons with criminal records and supplementing Title 34 of the Revised Statutes.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

C.34:6B-11 Short title.

1. This act shall be known and may be cited as “The Opportunity to Compete Act.”

C.34:6B-12 Findings, declarations relative to certain employment rights of persons with criminal records.

2. The Legislature finds and declares that:

- a. Removing obstacles to employment for people with criminal records provides economic and social opportunities to a large group of people living in New Jersey, increasing the productivity, health, and safety of New Jersey communities.

- b. Criminal background checks by employers have increased dramatically in recent years, with estimates of 90 percent of large employers in the United States now conducting background checks as part of the hiring process.

- c. Barriers to employment based on criminal records stand to affect an estimated 65 million adults in the United States with criminal records.

- d. Employment advertisements in New Jersey frequently include language regarding criminal records that either explicitly precludes or strongly dissuades people from applying.

- e. Individuals with criminal records represent a group of job seekers ready and able to contribute and add to the workforce.

- f. Securing employment significantly reduces the risk of recidivism for persons with criminal records.

- g. Currently, at least 64 states, counties, and cities have enacted or passed statutes, ordinances, or policies to remove barriers to the employment of persons with criminal histories by public and private employers.

- h. The nation’s largest public employer, the United States government, and the nation’s largest private employer have each implemented their own policies removing barriers to the employment of persons with criminal histories.

- i. Numerous other major businesses and organizations have voluntarily implemented their own policies removing barriers to the employment of those with criminal histories.

- j. It is the intent and purpose of “The Opportunity to Compete Act” to improve the economic viability, health, and security of New Jersey communities and to assist people with criminal records to reintegrate into the community, become productive members of the workforce, and to provide for their families and themselves.

C.34:6B-13 Definitions relative to certain employment rights of persons with criminal records.

3. As used in this act:

“Advertisement” means any circulation, mailing, posting, or any other form of publication, utilizing any media, promoting an employer or intending to alert its audience, regardless of size, to the availability of any position of employment.

“Applicant for employment” means any person whom an employer considers when identifying potential employees, through any means, including, but not limited to, recruitment, solicitation, or seeking personal information, or any person who requests to be considered for employment by an employer, or who requests information from an employer

related to seeking employment, and shall include any person who currently is an employee of the employer.

“Criminal record” means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, release or conviction, including, but not limited to, any sentence arising from a verdict or plea of guilty or nolo contendere, including a sentence of incarceration, a suspended sentence, a sentence of probation, or a sentence of conditional discharge.

“Employee” shall mean a person who is hired for a wage, salary, fee, or payment to perform work for an employer, but excludes any person employed in the domestic service of any family or person at the person’s home, any independent contractors, or any directors or trustees. The term also shall include interns and apprentices.

“Employer” means any person, company, corporation, firm, labor organization, or association which has 15 or more employees over 20 calendar weeks and does business, employs persons, or takes applications for employment within this State, including the State, any county or municipality, or any instrumentality thereof. The term shall include job placement and referral agencies and other employment agencies, but excludes the United States or any of its departments, agencies, boards, or commissions, or any employee or agent thereof.

“Employment” means any occupation, vocation, job, or work with pay, including temporary or seasonal work, contingent work, and work through the services of a temporary or other employment agency; any form of vocational apprenticeship; or any internship. The physical location of the prospective employment shall be in whole, or substantial part, within this State.

“Employment application” means a form, questionnaire or similar document or collection of documents that an applicant for employment is required by an employer to complete.

“Initial employment application process” means the period beginning when an applicant for employment first makes an inquiry to an employer about a prospective employment position or job vacancy or when an employer first makes any inquiry to an applicant for employment about a prospective employment position or job vacancy, and ending when an employer has conducted a first interview, whether in person or by any other means of an applicant for employment.

C.34:6B-14 Prohibited actions by employer during initial employment application process.

4. a. Except as otherwise provided in section 6 of this act:

(1) An employer shall not require an applicant for employment to complete any employment application that makes any inquiries regarding an applicant’s criminal record during the initial employment application process.

(2) An employer shall not make any oral or written inquiry regarding an applicant’s criminal record during the initial employment application process.

b. Notwithstanding the provisions of subsection a. of this section, if an applicant discloses any information regarding the applicant’s criminal record, by voluntary oral or written disclosure, during the initial employment application process, the employer may make inquiries regarding the applicant’s criminal record during the initial employment application process.

c. Nothing set forth in this section shall be construed to prohibit an employer from requiring an applicant for employment to complete an employment application that makes any inquiries regarding an applicant's criminal record after the initial employment application process has concluded or from making any oral or written inquiries regarding an applicant's criminal record after the initial employment application process has concluded. The provisions of this section shall not preclude an employer from refusing to hire an applicant for employment based upon the applicant's criminal record, unless the criminal record or relevant portion thereof has been expunged or erased through executive pardon, provided that such refusal is consistent with other applicable laws, rules and regulations.

C.34:6B-15 Prohibitions relative to employer advertisements.

5. Unless otherwise permitted or required by law, an employer shall not knowingly or purposefully publish, or cause to be published, any advertisement that solicits applicants for employment where that advertisement explicitly provides that the employer will not consider any applicant who has been arrested or convicted of one or more crimes or offenses. The provisions of this section shall not apply to any advertisement that solicits applicants for a position in law enforcement, corrections, the judiciary, homeland security, or emergency management, or any other employment position where a criminal history record background check is required by law, rule or regulation, or where an arrest or conviction by the person for one or more crimes or offenses would or may preclude the person from holding such employment as required by any law, rule or regulation, or where any law, rule, or regulation restricts an employer's ability to engage in specified business activities based on the criminal records of its employees. Nothing set forth in this section shall be construed as prohibiting an employer from publishing, or causing to be published, an advertisement that contains any provision setting forth any other qualifications for employment, as permitted by law, including, but not limited to, the holding of a current and valid professional or occupational license, certificate, registration, permit or other credential, or a minimum level of education, training or professional, occupational, or field experience.

C.34:6B-16 Exceptions to prohibited actions by employers.

6. The provisions of subsection a. of section 4 of this act shall not prohibit an employer from requiring an applicant for employment to complete an employment application that makes any inquiries regarding an applicant's criminal record during the initial employment application process or from making any oral or written inquiries regarding an applicant's criminal record during the initial employment application process if:

a. The employment sought or being considered is for a position in law enforcement, corrections, the judiciary, homeland security or emergency management;

b. The employment sought or being considered is for a position where a criminal history record background check is required by law, rule or regulation, or where an arrest or conviction by the person for one or more crimes or offenses would or may preclude the person from holding such employment as required by any law, rule or regulation, or where any law, rule, or regulation restricts an employer's ability to engage in specified business activities based on the criminal records of its employees; or

c. The employment sought or being considered is for a position designated by the employer to be part of a program or systematic effort designed predominantly or exclusively to encourage the employment of persons who have been arrested or convicted of one or more crimes or offenses.

C.34:6B-17 Criminal histories relative to employment with local government.

7. a. The governing body of a county or municipality shall not adopt any ordinance, resolution, law, rule or regulation regarding criminal histories in the employment context, except for ordinances adopted to regulate municipal operations.

b. The provisions of this act shall preempt any ordinance, resolution, law, rule or regulation adopted by the governing body of a county or municipality prior to the effective date of this act regarding criminal histories in the employment context, except for ordinances adopted to regulate municipal operations.

C.34:6B-18 Penalties sole remedy; construction of act.

8. The penalties set forth in section 9 of this act shall be the sole remedy provided for violations of this act. Nothing set forth in this act shall be construed as creating or establishing a standard of care or duty for employers with respect to any law other than this act. Evidence that an employer has violated, or is alleged to have violated, the provisions of this act, shall not be admissible in any legal proceeding with respect to any law or claim other than a proceeding to enforce the provisions of this act. Nothing set forth in this act shall be construed as creating, establishing or authorizing a private cause of action by an aggrieved person against an employer who has violated, or is alleged to have violated, the provisions of this act.

C.34:6B-19 Violations, penalties.

9. Any employer who violates this act shall be liable for a civil penalty in an amount not to exceed \$1,000 for the first violation, \$5,000 for the second violation, and \$10,000 for each subsequent violation collectible by the Commissioner of Labor and Workforce Development in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

10. This act shall take effect the first day of the seventh month next following the date of enactment, but the Commissioner of Labor and Workforce Development may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved August 11, 2014.