



Legislation Details (With Text)

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Title: AN ACT CONCERNING ADMINISTRATION for the purpose of prohibiting certain employers from conducting a criminal background check or otherwise inquiring into an applicant's criminal record until the conclusion of a first interview; requiring certain employers to provide prior notice to an applicant or employee when taking an adverse action concerning the applicant's or employee's employment; providing for enforcement by the Executive Director of the Human Relations Commission; and generally regulating the use of criminal records in the hiring process by certain employer.

Sponsors: Obie Patterson, Derrick Leon Davis, Mel Franklin, Andrea C. Harrison, Karen R. Toles

Indexes:

Code sections: 02-231.02 - Legislative findings and declaration of purpose., 02-231.03 - Definitions., 02-231.04 - Prohibited inquiries; retaliation., 02-231.05 - Employment decisions; adverse actions based on criminal record., 02-231.06 - Exemptions., 02-231.07 - Enforcement., 02-231.08 - Reporting.

Attachments: 1. B2014078.pdf, 2. CB-78-2014 Report.pdf

Date	Ver.	Action By	Action	Result
12/4/2014	3	County Executive	Signed	
11/19/2014	2	County Council		
11/19/2014	2	County Council		
11/19/2014	2	County Council		
10/21/2014	2	County Council	introduced	
10/16/2014	1	Public Safety and Fiscal Management Committee	Favorably recommended with amendments	Pass
10/2/2014	1	Public Safety and Fiscal Management Committee	Held in Committee	
9/16/2014	1	County Council	presented and referred	

AN ACT CONCERNING ADMINISTRATION for the purpose of prohibiting certain employers from conducting a criminal background check or otherwise inquiring into an applicant's criminal record until the conclusion of a first interview; requiring certain employers to provide prior notice to an applicant or employee when taking an adverse action concerning the applicant's or employee's employment; providing for enforcement by the Executive Director of the Human Relations Commission; and generally regulating the use of criminal records in the hiring process by certain employer.

The proposed legislation would prohibit certain employers from conducting a criminal background check or otherwise inquiring into an applicant's criminal record before making a conditional offer of employment. "Ban the Box" legislation has been adopted or enacted in several state and local jurisdictions, most recently in the City of Baltimore in May of this year. These laws prohibit the use of a check-box on job applications indicating whether or not the applicant has a criminal record. "Ban the Box" laws began in Hawaii in 1998 and there are now 11 states, including Maryland, and over 50 local jurisdictions that have adopted some form of the

laws. The laws take various forms ranging from applying to only public or government employers or going further to apply to private contractors doing business with the jurisdiction or all private employers. “Ban the box” laws benefit public safety by reducing recidivism as well as the economic benefit of increasing employment of people with criminal records and decreasing expenditures on law enforcement and social services.

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2014 Legislative Session

Bill No. CB-78-2014

Chapter No. _____

Proposed and Presented by Council Member Patterson

Introduced by Council Members Patterson, Toles, Harrison, Franklin and Davis

Co-Sponsors _____

Date of Introduction October 21, 2014

BILL

1 AN ACT concerning

2 Administration

3 For the purpose of prohibiting certain employers from conducting a criminal background check
 4 or otherwise inquiring into an applicant's criminal record until the conclusion of a first interview;
 5 requiring certain employers to provide prior notice to an applicant or employee when taking an
 6 adverse action concerning the applicant's or employee's employment; providing for enforcement
 7 by the Executive Director of the Human Relations Commission; and generally regulating the use
 8 of criminal records in the hiring process by certain employers.

9 BY adding:

10 SUBTITLE 2. ADMINISTRATION

11 Sections 2-231.02, 2-231.03, 2-231.04, 2-231.05, 2-

12 231.06, 2-231.07 and 2-231.08,

13 The Prince George's County Code

14 (2011 Edition; 2013 Supplement).

15 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 16 Maryland, that Sections 2-231.02, 2-231.03, 2-231.04, 2-231.05, 2-231.06, 2-231.07 and 2-
 17 231.08 of the Prince George's County Code be and the same are hereby added:

18 **SUBTITLE 2. ADMINISTRATION.**

19 **DIVISION 12. HUMAN RELATIONS COMMISSION**

20 **Subdivision 10. Fair Criminal Record Screening Standards.**

21 **Sec. 2-231.02. Legislative findings and declaration of purpose.**

1 The County Council for Prince George’s County, Maryland, hereby finds that over 92
 2 million Americans, roughly one in three adults, have a criminal history record involving an arrest
 3 or conviction and nearly 700,000 people a year return to their communities from incarceration,
 4 and many are job seekers who are ready and able to become part of the work force; that studies
 5 indicate that job applicants are often precluded from even getting an interview when applications
 6 require disclosure of whether the applicant has a criminal record; that lack of employment is a
 7 significant cause of recidivism, which threatens public safety and disrupts the financial and
 8 general stability of affected families and communities; that increased government expenditures
 9 on law enforcement and social programs, necessitated by the inability of people with criminal
 10 records to find gainful employment, are an impediment to the County reaching its potential for
 11 economic growth; that increasing employment of people with criminal records improves public
 12 safety and reduces the financial burden on government; and that in order to effectively respond,
 13 the County Council for Prince George’s County, Maryland hereby declares that it is the public
 14 policy of Prince George’s County to assist in the successful reintegration of individuals with
 15 criminal records into the workforce by removing barriers to employment and enhance the health
 16 and safety of the community by assisting individuals with criminal records to lawfully provide
 17 for themselves and their families.

18 **Sec. 2-231.03. Definitions.**

19 (a) For purposes of this Subdivision, the following words and phrases shall have the
 20 following meanings indicated:

21 (1) **Adverse action** shall mean to fail or refuse to hire, to discharge or not to promote
 22 a person, or to limit, segregate, or classify employees in any way which would deprive a person
 23 of employment opportunities or otherwise adversely affect the person’s employment status.

24 (2) **Applicant** shall mean a person who is considered or who requests to be
 25 considered for employment in the County by an employer.

26 (3) **Arrest record** shall mean information indicating that a person has been
 27 apprehended, detained, taken into custody, held for investigation, or otherwise restrained by a
 28 law enforcement agency or military authority due to an accusation or suspicion that the person
 29 committed a crime.

30 (4) **Conviction record** shall mean information regarding a sentence arising from a
 31 verdict or plea of guilty or nolo contendere, including a sentence of incarceration, a fine, a

1 suspended sentence, and a sentence of probation.

2 (5) **Criminal record report** shall mean a record of a person's arrest and conviction
 3 history obtained from any source.

4 (6) **Director** shall mean the Executive Director of the Human Relations Commission.

5 (7) **Employment** shall mean:

6 (A) Any work for compensation; and

7 (B) Any form of vocational or educational training, with or without
 8 compensation.

9 (8) **Employee** shall mean a person permitted or instructed to work or be present by an
 10 employer in the County.

11 (9) **Employer** shall mean any person, individual, proprietorship, partnership, joint
 12 venture, corporation, limited liability company, trust, association, or other entity operating and
 13 doing business in the County that employs twenty-five (25) or more persons full-time in the
 14 County. Employer includes the County government, but does not include the United States, any
 15 State, or any other local government.

16 (10) **Inquiry or Inquire** shall mean any direct or indirect conduct intended to gather
 17 information, using any mode of communication.

18 (11) **Vulnerable adult** shall mean an adult who lacks the physical or mental capacity
 19 to provide for his or her own daily needs.

20 **Sec. 2-231.04. Prohibited inquiries; retaliation.**

21 (a) Inquiry on application. An employer shall not require an applicant or potential
 22 applicant to disclose on an employment application the existence or details of the applicant's or
 23 potential applicant's arrest record or conviction record.

24 (b) Preliminary inquiry into criminal record. In connection with the proposed employment
 25 of an applicant, an employer shall not, at any time until the conclusion of a first interview:

26 (1) require the applicant to disclose whether the applicant has an arrest record or
 27 conviction record, or otherwise has been accused of a crime;

28 (2) conduct a criminal record check on the applicant; or

29 (3) inquire of the applicant or others about whether the applicant has an arrest or
 30 conviction record or otherwise has been accused of a crime.

31 (c) Retaliation. An employer shall not:

1 (1) retaliate against any person for:

2 (A) lawfully opposing any violation of this Subdivision;

3 (B) filing a complaint, testifying, assisting, or participating in any manner in an
 4 investigation, proceeding, or hearing under this Subdivision; or

5 (2) obstruct or prevent enforcement or compliance with this Subdivision.

6 **Sec. 2-231.05. Employment decisions; adverse actions based on criminal record.**

7 (a) In making an employment decision based on an applicant's or employee's arrest record
 8 or conviction record, an employer shall conduct an individualized assessment, considering only
 9 specific offenses that may demonstrate unfitness to perform the duties of the position sought by
 10 the applicant or held by the employee, the time elapsed since the specific offenses, and any
 11 evidence of inaccuracy in the record.

12 (b) If an employer intends to base an adverse action on an item or items in the applicant's
 13 or employee's arrest record or conviction record, before taking the adverse action the employer
 14 shall:

15 (1) provide the applicant or employee with a copy of any criminal record report; and

16 (2) notify the applicant or employee of the prospective adverse action and the items
 17 that are the basis for the prospective adverse action.

18 (c) If, within three (3) days after the employer provides the notice required in
 19 subsection (b) to the applicant or employee, the applicant or employee gives the employer notice
 20 of evidence of the inaccuracy of any item or items on which the prospective adverse action is
 21 based, the employer shall:

22 (1) delay the adverse action for a reasonable period after receiving the information;

23 and

24 (2) reconsider the prospective adverse action in light of the information.

25 (d) Within seven (7) days after taking final adverse action based on the arrest or conviction
 26 record of an applicant or employee, an employer shall notify the applicant or employee of the
 27 final adverse action in writing.

28 **Sec. 2-231.06. Exemptions.**

29 (a) The prohibitions and requirements of this Subdivision shall not apply if the inquiries or
 30 adverse actions prohibited by this Subdivision are expressly authorized by an applicable federal,
 31 State, or County law or regulation.

1 (b) The prohibitions and requirements of this Subdivision shall not apply to any County
2 public safety agencies or to positions that, in the judgment of the County, have access to
3 confidential or proprietary business or personal information, money or items of value, or involve
4 emergency management.

5 (c) The prohibitions of this Subdivision shall not apply to an employer that provides
6 programs, services, or direct care to minors or vulnerable adults.

7 **Sec. 2-231.07. Enforcement.**

8 (a) The Director shall administer and enforce this Subdivision.

9 (b) A person aggrieved by an alleged violation of this Subdivision may file a
10 written complaint with the Director pursuant to Title 2, Division 12 of the County Code.

11 (c) The Director shall promulgate rules and regulations, subject to County Council
12 approval by resolution, which shall govern the implementation and administration of this
13 Subdivision within sixty (60) days of the effective date of this Act.

14 **Sec. 2-231.08. Reporting.**

15 (a) The Human Relations Commission shall maintain data on the number of complaints
16 filed pursuant to this Subdivision, demographic information on the complainants, the number of
17 investigations it conducts, and the disposition of every complaint and investigation.

18 (b) The Director shall provide the County Council and County Executive an annual report
19 on the number of complaints and the disposition of every complaint and investigation on or
20 before December 31 beginning fiscal year 2016 and each year thereafter.

21 SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
22 calendar days after it becomes law.

Adopted this ____ day of _____, 2014.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Rushern L. Baker, III
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.