



Prince George's County Council

Agenda Item Summary

Meeting Date: 3/17/2015

Effective Date:

Reference No.: CR-006-2015

Chapter Number:

Draft No.: 1

Public Hearing Date:

Proposer(s): County Executive

Sponsor(s): Toles and Taveras

Item Title: A RESOLUTION CONCERNING FAIR CRIMINAL RECORD SCREENING STANDARDS for the purpose of approving rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards established in Subtitle 2, Division 12, Sections 2-231.02 through 2-231.08 of the Prince George's County Code, and generally regulating the use of criminal records.

Drafter: D. Michael Lyles, Esquire, Executive Director, Human Relations Commission

Resource Personnel: The Human Relations Commission

LEGISLATIVE HISTORY:

Date:	Acting Body:	Action:	Sent To:
03/17/2015	County Council	introduced and referred	PSFM
	Action Text: This Resolution was introduced by Council Members Toles and Taveras and referred to the Public Safety and Fiscal Management Committee		
04/02/2015	PSFM	Favorably recommended	County Council
	Action Text: A motion was made that this Resolution be Favorably recommended to the County Council. The motion carried by the following vote: Aye: 3 Patterson, Taveras and Turner Absent: 2 Harrison and Lehman		
04/14/2015	County Council	adopted	
	Action Text: A motion was made by Council Member Patterson, seconded by Vice Chairman Davis, that this Resolution be adopted. The motion carried by the following vote: Aye: 8 Franklin, Davis, Glaros, Lehman, Patterson, Taveras, Toles and Turner Absent: 1 Harrison		

AFFECTED CODE SECTIONS:

BACKGROUND INFORMATION/FISCAL IMPACT:

This Resolution approves rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards established in Subtitle 2, Division 12, Sections 2-231.02 through 2-231.08 of the Prince George's County Code, and generally regulating the use of criminal records. The Fair Criminal Record Screening Standards Subdivision prohibits employers from inquiring into an applicant's criminal background until after the initial interview.

Document(s): R2015006.doc, CR-06-2015 Report

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2015 Legislative Session

Resolution No. CR-6-2015
Proposed by The Chairman (by request – County Executive)
Introduced by Council Members Toles and Taveras
Co-Sponsors _____
Date of Introduction March 17, 2015

RESOLUTION

1 A RESOLUTION concerning

2 Fair Criminal Record Screening Standards

3 For the purpose of approving rules and regulations governing the implementation and
4 administration of the Fair Criminal Record Screening Standards established in Subtitle 2,
5 Division 12, Sections 2-231.02 through 2-231.08 of the Prince George's County Code, and
6 generally regulating the use of criminal records.

7 WHEREAS, on November 19, 2014, the County Council enacted CB-78-2014, which
8 added Sections 2-231.02 through 2-231.08 to Subtitle 2, Division 12 of the County Code and
9 declared it illegal for employers to inquire into an applicant's criminal history until after the
10 initial interview; and

11 WHEREAS, Section 2-231.07(c) of the County Code provides that the Executive Director
12 of the Human Relations Commission shall promulgate rules and regulations, subject to County
13 Council approval by resolution, which shall govern the implementation and administration of
14 the Fair Criminal Record Screening Standards codified in Subtitle 2, Division 12, Subdivision
15 10; and

16 WHEREAS, the Executive Director of the Human Relations Commission has promulgated
17 such rules and regulations, a copy of which is attached hereto as Attachment "A" and made part
18 hereof.

19 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
20 County, Maryland, that the rules and regulations set forth in Attachment "A" be and the same are
21 hereby approved.

Adopted this 14th day of April, 2015.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Mel Franklin
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

**PRINCE GEORGE'S COUNTY HUMAN RELATIONS
COMMISSION**

**RULES AND REGULATIONS FOR THE FAIR
CRIMINAL RECORD SCREENING STANDARDS**



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Definition

- (a) The term “discrimination” shall mean acting, or failing to act, or unduly delaying any action regarding any person because of arrest or conviction in regard to employment only (except as provided herein), in such a way that such person is adversely affected.

Powers of the Commission

- (a) In the administration and enforcement of these regulations, the Commission has power to administer oaths, and, upon majority vote of the full Commission, to issue subpoenas, to compel for a formal hearing the attendance for testimony of witnesses and the production of records and documents relevant or necessary for proceedings under the particular subdivision, and to compel the taking of interrogatories and depositions.
- (b) Service of subpoena. Any such subpoena shall be served by:
- (1) certified mail, return receipt requested (with service by certified mail being complete upon delivery and proof being shown by the green return receipt card). Proof of service shall be filed with the Clerk of the Commission; or
 - (2) personal service of process by:
 - (A) a competent private person, 18 years of age or older, who is not a party to the action; or
 - (B) the sheriff or deputy sheriff of the political subdivision in which is located the residence of the person or the main office of the firm, association, partnership or corporation against whom or which the subpoena is issued.
- (c) Enforcement of Subpoena.
- (1) In case of failure to comply with a subpoena, the County, on behalf of the Commission, may apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and/or the production of records and documents, and/or the taking of interrogatories and depositions.
 - (2) After notice to the person subpoenaed as a witness or directed to produce records and documents, and upon a finding that the attendance and testimony of the witness or the production of the records and documents is relevant or necessary for the proceedings of the Commission, the court may issue an order requiring the attendance and testimony of the witness and the production of the records and documents. Any failure to obey such an order of the court may be punished as contempt of court.

Cease and Desist Orders; Contents

- (a) If, upon all the evidence, the Commission by a majority vote of the full Commission finds that the respondent has engaged in any discriminatory action or wrongful practice within the scope of Subtitle 2, Division 12 of the Prince George's County Code, it shall so state its findings. The Commission shall issue and cause to be served upon the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory action or prohibited practice and to take such affirmative action as equity and justice may require and prospective relief as is necessary to effectuate the purposes of the Division.
- (b) Such order must be reasonably related to the violation, and may include a requirement of reimbursement of actual expenses to the complainant arising out of the wrongful conduct of the respondent, and in employment cases may include the awarding of back pay and reimbursement of actual expenses caused by wrongful conduct of the respondent to an applicant.

Other Awards and Remedies

- (a) In addition to the other awards and relief which are hereinafter provided, the Commission may, in accordance with the standards of proof set forth herein, also make the following monetary orders determined by the Commission from the evidence of record as the actual damages, costs, or losses involved, or in such amounts as may be specified below:
 - (1) Should the complainant's personal property be damaged, the complainant may be awarded damages not exceeding any expenses actually incurred in repairing the damage.
 - (2) If the complainant was required to incur travel expenses that would not have been incurred but for unlawful discriminatory acts or practices of the respondent, the complainant may be awarded damages not exceeding such expenses. The use of the complainant's automobile shall be compensated at the rate current at the time of the violation for County employees' use of a private automobile for official business. Expenses shall not be awarded to the extent that they have been reimbursed from another source.
 - (3) Damages may also be awarded to compensate complainant for humiliation and embarrassment suffered in an amount determined by the Commission to be appropriately and reasonably warranted considering all of the circumstances, but in no event shall the amount be in excess of Two Hundred Thousand Dollars (\$200,000.00).

- (4) In the event an award of damages is made, the respondent may be ordered to pay to the complainant interest at the legal rate on the loss of the use of any monies arising from the act of discrimination, from the date of the Commission order.
- (b) In addition to other awards and relief set forth above, the Commission may impose a civil fine up to Ten Thousand Dollars (\$10,000), in accordance with the standards of proof set forth herein, on a respondent found to have violated these regulations.

Order Dismissing Complaint

If, upon all evidence, the Commission by majority vote of the full Commission finds that the respondent has not engaged in any such alleged discriminatory act within the scope of this Division, it shall state its findings of fact and shall similarly issue and file an order dismissing the complaint.

False Complaints Prohibited and Exception

- (a) Any person, including one who is acting for or on behalf of any firm, association, or corporation, who knowingly files a false complaint under Subtitle 2, Division 12 of the Prince George's County Code is guilty of a misdemeanor.
- (b) This Section shall not be construed or applied to deny the right of a respondent to bring any civil action against one who has filed a complaint under this Subtitle 2, Division 12 of the Prince George's County Code.

Falsification of Documents and Intimidation

- (a) No person shall willfully falsify any documents, records, and/or reports which are subpoenaed pursuant to Subtitle 2, Division 12 of the Prince George's County Code.
- (b) No person shall willfully falsify his testimony or intimidate any witness and/or complainant and/or respondent.

Initiation of Investigation

In the case of discrimination related to refusal to hire based on arrest, conviction or criminal record report information, a complaint shall be initiated with the Commission no later than one hundred eighty days (180) from the date of the first interview, the date of receipt of notice denying employment or rescinding a conditional offer of employment.

Record Keeping

Employers that deny employment to applicants based on criminal history or information shall, for a period of no more than three (3) years, maintain up to date and complete records of the names, addresses, employment applications, descriptions of position applied for, selection processes, denial or notification letters, race, national origin, gender and age of each applicant so denied.