

SENATE BILL 2440

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 8,  
Chapter 50, Part 1, relative to applicants for state  
employment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 50, Part 1, is amended by  
adding the following language as a new section:

(a) If an employer announces a position for employment that is a covered  
position, the announcement shall include the following statement:

**NOTICE**

**This position requires a criminal background check.  
Therefore, you may be required to provide information  
about your criminal history in order to be considered  
for this position.**

(b) If an employer announces a position for employment that is not a covered  
position, the employer shall not inquire about an applicant's criminal history on the initial  
application form. An employer may inquire about an applicant's criminal history after the  
initial screening of applications. If an employer inquires about an applicant's criminal  
history, the employer shall provide the applicant with an opportunity to provide an  
explanation of the applicant's criminal history to the employer.

(c) In considering an applicant with a criminal history for a position for  
employment other than a covered position, an employer shall consider:

(1) The specific duties and responsibilities of the position;

(2) The bearing, if any, that an applicant's criminal history may have on the applicant's fitness or ability to perform the duties required by the position;

(3) The amount of time that has elapsed since the applicant's conviction or release;

(4) The age of the applicant at the time of the commission of each offense;

(5) The frequency and seriousness of each offense;

(6) Any information produced by the applicant regarding the applicant's rehabilitation and good conduct since the occurrence of an offense; and

(7) Any public policy considerations with respect to the benefits of employment for applicants with criminal histories.

(d) Except as otherwise required or expressly permitted by state or federal law, a criminal history obtained by an employer shall be confidential and not subject to the open records law, compiled in title 10, chapter 7.

(e) As used in this section, unless the context otherwise requires:

(1) "Covered position" means a position for employment for which a criminal background check is required under federal law or for which the commission of an offense is a disqualifying event for employment under federal or state law; and

(2) "Employer" means the state and any agency, authority, branch, bureau, commission, corporation, department, or instrumentality of the state, but does not include a political subdivision of the state.

SECTION 2. Employers are not required to replace existing application forms in circulation after the effective date of this act for the purpose of ensuring that the application forms comply with Section 1 of this act until all existing application forms are exhausted.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.