

SB 100 - AS AMENDED BY THE HOUSE

03/28/2019 1167s
 23May2019... 1760h

2019 SESSION

19-0981
 08/04

SENATE BILL 100

AN ACT relative to discrimination in employment based on criminal background checks.

SPONSORS: Sen. Feltes, Dist 15; Sen. Cavanaugh, Dist 16; Sen. Hennessey, Dist 5; Rep. Welch, Rock. 13; Rep. Janvrin, Rock. 37; Rep. Rodd, Merr. 6; Rep. Butler, Carr. 7

COMMITTEE: Commerce

AMENDED ANALYSIS

This bill prohibits discrimination in employment based on criminal background checks.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to discrimination in employment based on criminal background checks.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Opportunity to Compete. Amend RSA 275 by inserting after section 37-b the following new section:

275:37-c Opportunity to Compete.

I. In this section:

(a) "Applicant for employment" means any person 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 consideration for employment by an employer, or who requests information from an employer related to seeking employment, and includes any person who is currently an employee of the employer.

(b) "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.

(c) "Employee" means 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 includes interns and apprentices.

(d) "Employer" means any person, company, corporation, firm, labor organization, or association which has 1 or more employees over 20 calendar weeks and does business, employs persons, or takes applications for employment within this state, including the state or any subdivision of the state. The term shall include state and local governmental entities, job placement and referral agencies, other employment agencies, but excludes the United States or any of its departments, agencies, boards, or commissions, or any employee or agent thereof.

(e) "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.

(f) "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 whether the application exists in a hard copy, electronic, or Internet medium. "Employment application" does not include criminal background checks necessary to authorize access to a federally regulated facility pursuant to federal law or regulation.

II. No public or private employer or employer's agent shall inquire about a prospective employee's prior arrests, criminal charges, or convictions on an employment application, unless the employer needs to screen applications for specific criminal convictions because it is prohibited from hiring those with such convictions under state or federal law, or a position that is exclusive to a contract or subcontract that is subject to state or federal law prohibiting the hiring of an individual with a criminal record, then the employer may inquire only about those prior arrests, criminal charges, or convictions directly implicated by applicable state or federal law.

III. As part of an employment application process, no employer or employer's agent shall conduct a criminal record check of an applicant prior to the initial interview or make any inquiry covered by paragraph II except in person or by telephone, if it is standard practice for that employer to conduct telephone interviews. In cases where there is only one applicant for an open position at the close of the application period, the employer may inquire about the applicant's criminal background in writing without the need to do an in person or telephone interview, provided that the applicant has the opportunity to provide a written response.

IV. No employer or employer's agent shall discriminate against an employment applicant based on the racial or ethnic origin of the applicant as determined by the applicant's first or last name consistent with state and federal law prohibiting discrimination.

2 Effective Date. This act shall take effect 180 days after its passage.