

CHAPTER 227  
FORMERLY  
HOUSE BILL NO. 167  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1 AS AMENDED BY HOUSE AMENDMENT NO. 1 TO  
HOUSE AMENDMENT NO. 1  
AND  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLES 19 AND 29 OF THE DELAWARE CODE WITH REGARD TO EMPLOYMENT PRACTICES.

WHEREAS, the incarceration rate of the United States has tripled since 1980 and is nearly eight times its historic average; and

WHEREAS, it is in the interest of the entire community that persons reentering society after incarceration become productive members of society, and the ability of these persons to obtain employment is key to their productivity; and

WHEREAS, research has shown that many individuals with prior criminal histories pose no greater risk of future criminality than do people with no criminal history and are equally qualified, reliable, and trustworthy candidates for employment; and

WHEREAS, lack of employment is a significant cause of recidivism, and people who are employed are significantly less likely to be re-arrested; and

WHEREAS, persons who have paid their debts to society deserve a fair chance at employment and this act is intended to give the individual with a criminal record an opportunity to be judged on his or her own merit during the submission of the application and at least until the completion of one interview; and

WHEREAS, at least 40 cities, 7 counties, and 7 states have passed ordinances and statutes or enacted policies to remove barriers to the employment of those with criminal histories; and

WHEREAS, it is the intent and purpose of this law to improve the economic viability, health, and security of Delaware communities and to assist people with conviction histories to reintegrate into the community and to provide for their families and themselves; and

WHEREAS, obstacles to employment for people with criminal records and other barriers to re-entry are creating permanent members of an underclass that threatens the health of the community and undermines public safety;

NOW, THEREFORE:

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

Section 1. Amend Section 710, Title 19 of the Delaware Code as:

(14) "Public employer" means the State of Delaware, its agencies, or political subdivisions.

Section 2. Amend Section 711, Title 19 of the Delaware Code as follows:

(g) (1) It shall be an unlawful employment practice for any public employer to inquire into or consider the criminal record, criminal history, credit history, or credit score of an applicant for employment during the initial application process, up to and including the first interview.

(2) If an applicant is otherwise qualified, a public employer may inquire into or consider an applicant's criminal record, criminal history, credit history or credit score after the completion of the first interview.

(3) A public employer may disqualify an applicant from employment based on criminal history where the exclusion is job related for the position in question and consistent with business necessity. The public employer shall consider the following factors in its hiring decision:

(a) The nature and gravity of the offense or conduct;

(b) The time that has passed since the offense or conduct and/or the completion of the sentence; and

(c) The nature of the job held or sought.

(4) This subsection does not apply to any state, county or municipal police force, the Department of Correction, the Department of Justice, the Public Defender's Office, the Courts, or any position where federal or state statute requires or expressly permits the consideration of an applicant's criminal history.

Section 3. Amend Chapter 69, Title 29 of the Delaware Code as follows:

6909B. Fair Background Check Practices.

The State shall include in all formal solicitations a section stating the State does not consider the criminal record, criminal history, credit history, or credit score of an applicant for State employment during the initial application process unless otherwise required by state and/or federal law, and vendors doing business with the State are encouraged to adopt similar policies.

Section 4. This Act becomes effective 180 days following its enactment into law.

Approved May 08, 2014