

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

Bill No. CB-78-2014

Chapter No. 69

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 when rescinding an offer of
6 employment; providing for enforcement by the Executive Director of the Human Relations
7 Commission; and generally regulating the use of criminal records in the hiring process by certain
8 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) **Applicant** shall mean a person who is considered or who requests to be
 22 considered for employment in the County by an employer.

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

27 (3) **Conviction record** shall mean information regarding a sentence arising from a
 28 verdict or plea of guilty or nolo contendere, including a sentence of incarceration, a fine, a
 29 suspended sentence, and a sentence of probation.

30 (4) **Criminal record report** shall mean a record of a person's arrest and conviction
 31 history obtained from any source.

1 (5) **Director** shall mean the Executive Director of the Human Relations Commission.

2 (6) **Employment** shall mean:

3 (A) Any work for compensation; and

4 (B) Any form of vocational or educational training, with or without
5 compensation.

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

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

13 (9) **Inquiry or Inquire** shall mean any direct or indirect conduct intended to gather
14 information, using any mode of communication.

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

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

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

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

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

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

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

28 (c) Retaliation. An employer shall not:

29 (1) retaliate against any person for:

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

31 (B) filing a complaint, testifying, assisting, or participating in any manner in an

1 investigation, proceeding, or hearing under this Subdivision; or

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

3 **Sec. 2-231.05. Employment decisions; rescission of an offer of employment based on**
 4 **criminal record.**

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

10 (b) If an employer intends to rescind an offer of employment based on an item or items in
 11 the applicant's arrest record or conviction record, before rescinding the offer of employment
 12 the employer shall:

13 (1) provide the applicant with a copy of any criminal record report;

14 (2) notify the applicant of the intention to rescind the offer of employment and the
 15 items that are the basis for the intention to rescind the offer of employment; and

16 (3) delay rescinding the offer of employment for seven (7) days to permit the
 17 applicant to give the employer notice of inaccuracy of an item or items on which the intention to
 18 rescind the offer of employment is based.

19 (c) If an employer decides to rescind an offer of employment based on the arrest record or
 20 conviction record of an applicant, the employer shall notify the applicant of the rescission of the
 21 offer of employment in writing.

22 **Sec. 2-231.06. Exemptions.**

23 (a) The prohibitions and requirements of this Subdivision shall not apply if the inquiries
 24 prohibited by this Subdivision are required or expressly authorized by an applicable federal,
 25 State, or County law or regulation.

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

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

1 **Sec. 2-231.07. Enforcement.**

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

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

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

8 **Sec. 2-231.08. Reporting.**

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

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

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

Adopted this 19th day of November, 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.