

SUBDIVISION 10. FAIR CRIMINAL RECORD SCREENING STANDARDS.

Sec. 2-231.02. Legislative findings and declaration of purpose.

The County Council for Prince George's County, Maryland, hereby finds that over 92 million Americans, roughly one in three adults, have a criminal history record involving an arrest or conviction and nearly 700,000 people a year return to their communities from incarceration, and many are job seekers who are ready and able to become part of the work force; that studies indicate that job applicants are often precluded from even getting an interview when applications require disclosure of whether the applicant has a criminal record; that lack of employment is a significant cause of recidivism, which threatens public safety and disrupts the financial and general stability of affected families and communities; that increased government expenditures on law enforcement and social programs, necessitated by the inability of people with criminal records to find gainful employment, are an impediment to the County reaching its potential for economic growth; that increasing employment of people with criminal records improves public safety and reduces the financial burden on government; and that in order to effectively respond, the County Council for Prince George's County, Maryland hereby declares that it is the public policy of Prince George's County to assist in the successful reintegration of individuals with criminal records into the workforce by removing barriers to employment and enhance the health and safety of the community by assisting individuals with criminal records to lawfully provide for themselves and their families.

(CB-78-2014)

Editor's note(s)—CR-6-2015 approved rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards.

Sec. 2-231.03. Definitions.

- (a) For purposes of this Subdivision, the following words and phrases shall have the following meanings indicated:
- (1) **Applicant** shall mean a person who is considered or who requests to be considered for employment in the County by an employer.
 - (2) **Arrest record** shall mean information indicating that a person has been apprehended, detained, taken into custody, held for investigation, or otherwise restrained by a law enforcement agency or military authority due to an accusation or suspicion that the person committed a crime.
 - (3) **Conviction record** shall mean information regarding a sentence arising from a verdict or plea of guilty or nolo contendere, including a sentence of incarceration, a fine, a suspended sentence, and a sentence of probation.
 - (4) **Criminal record** report shall mean a record of a person's arrest and conviction history obtained from any source.
 - (5) **Employment** shall mean:
 - (A) Any work for compensation; and
 - (B) Any form of vocational or educational training, with or without compensation.
 - (6) **Employee** shall mean a person permitted or instructed to work or be present by an employer in the County.

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- (7) **Employer** shall mean any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity operating and doing business in the County that employs twenty-five (25) or more persons full-time in the County. Employer includes the County government, but does not include the United States, any State, or any other local government.
 - (8) **Inquiry or Inquire** shall mean any direct or indirect conduct intended to gather information, using any mode of communication.
 - (9) **Vulnerable adult** shall mean an adult who lacks the physical or mental capacity to provide for his or her own daily needs.

(CB-78-2014; CB-12-2021)

Editor's note(s)—CR-6-2015 approved rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards.

Sec. 2-231.04. Prohibited inquiries; retaliation.

- (a) Inquiry on application. An employer shall not require an applicant or potential applicant to disclose on an employment application the existence or details of the applicant's or potential applicant's arrest record or conviction record.
- (b) Preliminary inquiry into criminal record. In connection with the proposed employment of an applicant, an employer shall not, at any time until the conclusion of a first interview:
 - (1) require the applicant to disclose whether the applicant has an arrest record or conviction record, or otherwise has been accused of a crime;
 - (2) conduct a criminal record check on the applicant; or
 - (3) inquire of the applicant or others about whether the applicant has an arrest or conviction record or otherwise has been accused of a crime.
- (c) Retaliation. An employer shall not:
 - (1) retaliate against any person for:
 - (A) lawfully opposing any violation of this Subdivision;
 - (B) filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this Subdivision; or
 - (2) obstruct or prevent enforcement or compliance with this Subdivision.

(CB-78-2014)

Editor's note(s)—CR-6-2015 approved rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards.

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

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

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- (b) If an employer intends to rescind an offer of employment based on an item or items in the applicant's arrest record or conviction record, before rescinding the offer of employment the employer shall:
- (1) provide the applicant with a copy of any criminal record report;
 - (2) notify the applicant, in writing, of the intention to rescind the offer of employment and the items that are the basis for the intention to rescind the offer of employment; and
 - (3) delay rescinding the offer of employment for seven (7) days to permit the applicant to give the employer notice of inaccuracy of an item or items on which the intention to rescind the offer of employment is based. The applicant must receive in writing from the employer his or her right under this provision.
- (c) If an employer decides to rescind an offer of employment based on the arrest record or conviction record of an applicant, the employer shall notify the applicant of the rescission of the offer of employment in writing.

(CB-78-2014; CB-12-2021)

Editor's note(s)—CR-6-2015 approved rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards.

Sec. 2-231.06. Exemptions.

- (a) The prohibitions and requirements of this Subdivision shall not apply if the inquiries prohibited by this Subdivision are required or expressly authorized by an applicable Federal, State, or County law or regulation.
- (b) The prohibitions and requirements of this Subdivision shall not apply to any County public safety agencies or to positions that, in the judgment of the County, have access to confidential or proprietary business or personal information, money or items of value, or involve emergency management.
- (c) The prohibitions of this Subdivision shall not apply to an employer that provides programs, services, or direct care to minors or vulnerable adults.

(CB-78-2014; CB-12-2021)

Editor's note(s)—CR-6-2015 approved rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards.

Sec. 2-231.07. Enforcement.

- (a) The Executive Director shall administer and enforce this Subdivision.
- (b) A person aggrieved by an alleged violation of this Subdivision may file a written complaint with the Executive Director pursuant to Subtitle 2, Division 12 of the County Code.
- (c) The Executive Director shall promulgate rules and regulations, subject to County Council approval by resolution, which shall govern the implementation and administration of this Subdivision within sixty (60) days of the effective date of this Act.

(CB-78-2014; CB-12-2021)

Editor's note(s)—CR-6-2015 approved rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards.

Sec. 2-231.08. Reporting.

- (a) The Agency shall maintain data on the number of complaints filed pursuant to this Subdivision, demographic information on the complainants, the number of investigations it conducts, and the disposition of every complaint and investigation.
- (b) The Executive Director shall provide the County Council and County Executive an annual report on the number of complaints and the disposition of every complaint and investigation on or before December 31 beginning fiscal year 2016 and each year thereafter.

(CB-78-2014; CB-12-2021)

Editor's note(s)—CR-6-2015 approved rules and regulations governing the implementation and administration of the Fair Criminal Record Screening Standards.