130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

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An Act Relating to Fair Chance in Employment

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §600-A is enacted to read:

§600-A. Criminal history record information; employment application

1. Definitions. As used in this section, unless the context otherwise indicates, the
following terms have the following meanings.

A. "Criminal history record information" has the same meaning as in Title 16, section
703, subsection 3.

B. "Employer" means a person in this State who employs individuals. "Employer"
includes municipalities and political subdivisions of the State, but does not include an
employer of an individual who holds a position in the legislative, executive or judicial
branch of State Government or a position with a quasi-independent state entity or
public instrumentality of the State. "Employer" includes a person acting in the interest
of an employer directly or indirectly.

2. Initial employee application form. Except as provided in subsection 3, an
employer may not:

A. Request criminal history record information on the employer's initial employee
application form; or

B. State on an initial employee application form or advertisement or specify prior to
determining a person is otherwise qualified for the position that a person with a
criminal history may not apply or will not be considered for a position.

An employer may inquire about a prospective employee's criminal history record
information during an interview or once the prospective employee has been determined
otherwise qualified for the position.

3. Exceptions for initial employee application form. An employer may inquire
about criminal convictions on an initial employee application form or state on an initial
employee application form or advertisement or otherwise assert that a person with a
criminal history may not apply or will not be considered for a position if:

A. The position is one for which a federal or state law or regulation or rule creates a
mandatory or presumptive disqualification based on a conviction for one or more types
of criminal offenses, and the questions on the initial employee application form are
limited to the types of criminal offenses creating the disqualification;

B. The employer is subject to an obligation imposed by a federal or state law or
regulation or rule not to employ in a position a person who has been convicted of one
or more types of criminal offenses, and the questions on the initial employee
application form are limited to the types of criminal offenses creating the obligation;
or

C. The employer is required by federal or state law or regulation or rule to conduct a
criminal history record check for the position for which the prospective employee is
applying.

4. Penalty. This section must be enforced pursuant to section 626-A.

Sec. 2. 26 MRSA §626-A, first ¶, as amended by PL 2019, c. 35, §2, is further
amended to read:
Whoever violates any of the provisions of section 600-A, sections 621-A to 623 or section 626, 628, 628-A, 629 or 629-B is subject to a forfeiture of not less than $100 nor more than $500 for each violation.

SUMMARY

This bill prohibits an employer from requesting criminal history record information on an initial employee application form or stating on an initial employee application form or advertisement or specifying prior to determining a person is otherwise qualified for the position that a person with a criminal history may not apply or will not be considered for a position.

The bill provides exceptions to those prohibitions, including instances in which federal or state law or regulation or rule mandates for a position that a criminal conviction disqualifies an applicant, or imposes an obligation on an employer not to hire an applicant who has been convicted of a certain type of offense, or requires that an employer conduct a criminal history record check.

An employer who violates this prohibition is subject to a penalty of not less than $100 nor more than $500 for each violation, to be enforced by the Department of Labor.