

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2024 Legislative Session**

Bill No. CB-019-2024

Chapter No. \_\_\_\_\_

Proposed and Presented by Council Members Franklin, Hawkins, Blegay, Burroughs,  
Harrison, Oriadha, and Watson

Introduced by Council Members Hawkins, Blegay, Burroughs, Harrison, Oriadha, Watson,  
Dernoga, Fisher, Olson and Ivey

Co-Sponsors \_\_\_\_\_

Date of Introduction June 18, 2024

**BILL**

1 AN ACT concerning

2 Employment Fairness Act for Returning Citizens

3 For the purpose of prohibiting employers in Prince George’s County from inquiring into or  
4 considering certain past criminal records of prospective job applicants, subject to certain  
5 exemptions.

6 BY repealing and reenacting, with amendments:

7 SUBTITLE 2. ADMINISTRATION.

8 Sections 2-231.03, 2-231.04 and 2-231.07

9 The Prince George's County Code

10 (2019 Edition; 2022 Supplement).

11 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
12 Maryland, that Sections 2-231.03, 2-231.04, and 2-231.07 of the Prince George's County Code  
13 be and the same are hereby repealed and reenacted with the following amendments:

14 SUBTITLE 2. ADMINISTRATION.

15 DIVISION 12. OFFICE OF HUMAN RIGHTS.

16 SUBDIVISION 10. – **ACCESS TO EMPLOYMENT FOR RETURNING CITIZENS**

17 **Sec. 2-231.03. - Definitions.**

18 (a) For purposes of this Subdivision, the following words and phrases shall have the  
19 following meanings indicated:

1 (1) **Applicant** means a person who is considered or who requests to be considered for  
 2 employment in the County by an employer.

3 (2) **Arrest** means being apprehended, detained, taken into custody, held for investigation,  
 4 or otherwise restrained by a law enforcement agency or military authority due to an accusation or  
 5 suspicion that the person committed a crime.

6 (3) **Arrest Record** means information indicating that a person has been apprehended,  
 7 detained, taken into custody, held for investigation, or otherwise restrained by a law enforcement  
 8 agency or military authority due to an accusation or suspicion that the person committed a crime.

9 (4) **Cannabis/Marijuana** means the plant *Cannabis sativa L.* and any part of the plant,  
 10 including all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,  
 11 whether growing or not, with a delta-9-tetrahydrocannabinol concentration greater than 0.3% on  
 12 a dry weight basis as defined in Md. Code Ann., Criminal Law § 5-101.

13 (5) **Conviction** means a verdict or plea of guilty or nolo contendere to a criminal act.

14 (6) **Conviction Record** means information regarding a sentence arising from a verdict, a  
 15 plea of guilty, a plea of nolo contendere, an Alford plea including a sentence of incarceration a  
 16 fine, a penalty, a suspended sentence, or a sentence of probation.

17 (7) **Criminal Record** report means a record of a person's arrest and conviction history  
 18 obtained from any source.

19 (8) **Director** means the Executive Director of the Office of Human Rights.

20 (9) **Employment** means:

21 (A) Any work for compensation; and

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

23 (10) **Employer** means any person, individual, proprietorship, partnership, joint venture,  
 24 corporation, limited liability company, trust, association, or other entity operating and doing  
 25 business in the County that employs ten (10) or more persons full-time in the County. Employer  
 26 includes the County government, but does not include the United States, any State, or any other  
 27 local government.

28 (11) **Inquiry or Inquire** means any direct or indirect conduct intended to gather  
 29 information, using any mode of communication.

30 (12) **Potential Applicant** means a person that intends to submit an application.

1 (13) **Sentence** means the term of imprisonment or probation imposed on a convicted  
 2 defendant for criminal wrongdoing.

3 (14) **Vulnerable Adult** means an adult who lacks the physical or mental capacity to  
 4 provide for his or her own daily needs.

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

6 (a) Inquiry on application. An Employer shall not require an Applicant or Potential  
 7 Applicant to disclose on an employment application the existence or details of the Applicant's or  
 8 Potential Applicant's Arrest Record or Conviction record.

9 (b) If the Employer is the County, then it is prohibited from making any inquiry into whether  
 10 the Applicant or Potential Applicant has ever partaken in the consumption or use of Cannabis or  
 11 Marijuana.

12 (c) Preliminary inquiry into Criminal Record. In connection with the proposed Employment  
 13 of an Applicant, an Employer shall not, at any time until the conclusion of a first interview:

14 (1) require the Applicant to disclose whether the Applicant has an Arrest Record or  
 15 Conviction Record, or otherwise has been accused of a crime;

16 (2) conduct a Criminal Record check on the Applicant; or

17 (3) inquire of the Applicant or others about whether the Applicant has an Arrest or  
 18 Conviction record or otherwise has been accused of a crime.

19 (d) An Employer is prohibited at any time from inquiring into or considering convictions or  
 20 Conviction Records of any Applicant for Employment where the Sentence of the Applicant was  
 21 completed:

22 (1) for a felony, at least five (5) years or sixty (60) months ago; or

23 (2) for a misdemeanor, at least thirty (30) months ago.

24 (e) An employer shall not at any time inquire into or consider arrests of an applicant that did  
 25 not result in a conviction, except where the result was probation before judgement. In cases that  
 26 resulted in probation before judgement, such outcomes shall be treated as misdemeanors for the  
 27 purposes of this Section.

28 (f) An employer shall not at any time inquire into or consider any arrest or conviction of an  
 29 applicant for possession of marijuana, cannabis, or cannabis-related materials or paraphernalia,  
 30 provided any sentence for such crime has been completed, unless it was a conviction that  
 31 included an intent to distribute.

1 (g) An employer is prohibited from conducting background checks or investigations that do  
2 not conform to the restrictions of this Section.

3 (h) Retaliation. An Employer shall not:

4 (1) retaliate against any person for:

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

6 (B) filing a complaint, testifying, assisting, or participating in any manner in an  
7 investigation, proceeding, or hearing under this Subdivision; or

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

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

11 (a) In making an employment decision based on an Applicant's Arrest Record or Conviction  
12 Record, an Employer shall conduct an individualized assessment, considering only specific  
13 offenses that may demonstrate unfitness to perform the duties of the position sought by the  
14 Applicant, the time elapsed since the specific offenses, and any evidence of inaccuracy in the  
15 record.

16 (b) If an Employer intends to rescind an offer of Employment based on an item or items in  
17 the Applicant's Arrest or Conviction Record, before rescinding the offer of employment the  
18 Employer shall:

19 (1) provide the Applicant with a copy of any Criminal Record report;

20 (2) notify the Applicant, in writing, of the intention to rescind the offer of  
21 employment and the items that are the basis for the intention to rescind the offer of employment;  
22 and

23 (3) delay rescinding the offer of employment for seven (7) days to permit the  
24 Applicant to give the Employer notice of inaccuracy of an item or items on which the intention  
25 to rescind the offer of employment is based. The Applicant must receive in writing from the  
26 Employer his or her right under this provision.

27 (c) If an Employer decides to rescind an offer of employment based on the Arrest Record or  
28 Conviction Record of an Applicant, the Employer shall notify the Applicant of the rescission of  
29 the offer of employment in writing.

30 **Sec. 2-231.06. - Exemptions.**

1 (a) The prohibitions and requirements of this Subdivision shall not apply if the inquiries  
 2 prohibited by this Subdivision are required or expressly authorized by an applicable Federal,  
 3 State, or County law or regulation.

4 (b) The prohibitions and requirements of this Subdivision, with the exception of section 2-  
 5 231.04(b) of this Subdivision, shall not apply to any County public safety agencies or to  
 6 positions in the public or private sector that, in the judgment of the County, have access to  
 7 confidential or proprietary business or personal information, money or items of value, personal  
 8 homes or residences, facilities that provide personal storage, or involve emergency  
 9 management.

10 (c) The prohibitions of this Subdivision shall not apply to an employer that provides  
 11 programs, services, or direct care to minors or Vulnerable Adults.

12 **Sec. 2-231.07. - Enforcement.**

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

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

16 (c) [The Director shall promulgate rules and regulations, subject to County Council approval  
 17 by resolution, which shall govern the implementation and administration of this Subdivision  
 18 within sixty (60) days of the effective date of this Act.] An Employer found in violation of this  
 19 Section shall be subject to a fine up to the maximum allowed by the County or State law for each  
 20 violation.

21 SECTION 2. BE IT FURTHER ENACTED that the Executive Director shall promulgate  
 22 rules and regulations, subject to County Council approval by resolution, which shall govern the  
 23 implementation and administration of this Section within ninety (90) days of the effective date  
 24 of this Act, including further specifying the categories of public and private sector positions  
 25 subject to the exemptions in 2-231.06(a) – (c). Such rules and regulations may be updated by  
 26 the Executive Director from time to time, subject to approval by Council resolution.

27 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
 28 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
 29 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
 30 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
 31 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this

1 Act, since the same would have been enacted without the incorporation in this Act of any such  
2 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,  
3 or section.

4 SECTION 4. BE IT FURTHER ENACTED that (30) thirty days after the enactment of this  
5 legislation, sufficient written and electronic notices shall go out to the Chamber of Commerce of  
6 Prince George’s County, the Black Chamber of Commerce of Prince George’s County, The  
7 Hispanic Chamber of Commerce of Prince George’s County, The Restaurant Associations of  
8 Maryland, and any other recipients as determined by the Executive Director.

9 SECTION 5. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)  
10 calendar days after it becomes law.

Adopted this 16<sup>th</sup> day of July , 2024.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Jolene Ivey  
Chair

ATTEST:

\_\_\_\_\_  
Donna J. Brown  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Angela D. Alsobrooks  
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.

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