

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2024 Legislative Session

Bill No. CB-019-2024

Chapter No. 32

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13 be and the same are hereby repealed and reenacted with the following amendments: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 [FAIR CRIMINAL RECORD SCREENING STANDARDS]

18 Sec. 2-231.03. - Definitions.

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

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

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

8 [(2)] (3) **Arrest Record** means information indicating that a person has been apprehended,
 9 detained, taken into custody, held for investigation, or otherwise restrained by a law enforcement
 10 agency or military authority due to an accusation or suspicion that the person committed a crime.

11 [(3)] (4) **Cannabis/Marijuana** means the plant *Cannabis sativa* L. and any part of the plant,
 12 including all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers,
 13 whether growing or not, with a delta-9-tetrahydrocannabinol concentration greater than 0.3% on
 14 a dry weight basis as defined in Md. Code Ann., Criminal Law § 5-101.

15 [(4)] (5) **Conviction** means a verdict or plea of guilty or nolo contendere to a criminal act.

16 [(5)] (6) **Conviction Record** means information regarding a sentence arising from a verdict,
 17 a plea of guilty, a plea of nolo contendere, an Alford plea including a sentence of incarceration a
 18 fine, a penalty, a suspended sentence, or a sentence of probation.

19 [(6)] (7) **Criminal Record** report means a record of a person's arrest and conviction history
 20 obtained from any source.

21 [(7)] (8) **Director** means the Executive Director of the Office of Human Rights.

22 [(8)] (9) **Employment** means:

23 (A) Any work for compensation; and

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

25 [(9)] (10) **Employer** means any person, individual, proprietorship, partnership, joint venture,
 26 corporation, limited liability company, trust, association, or other entity operating and doing
 27 business in the County that employs ten (10) or more persons full-time in the County. Employer
 28 includes the County government, but does not include the United States, any State, or any other
 29 local government.

30 [(10)] (11) **Inquiry or Inquire** means any direct or indirect conduct intended to gather
 31 information, using any mode of communication.

1 [(11)](12) **Potential Applicant** means a person that intends to submit an application.

2 [(12)](13) **Sentence** means the term of imprisonment or probation imposed on a convicted
3 defendant for criminal wrongdoing.

4 [(13)](14) **Vulnerable Adult** means an adult who lacks the physical or mental capacity to
5 provide for his or her own daily needs.

6 [(14)](15) **Nonviolent Felony** means a felony conviction for a crime that is not a crime of
7 violence as defined in Sec. 14-101 of the Criminal Law Article, Annotated Code of Maryland.

8 (b) Prohibited Inquiries and Considerations. An employer is prohibited from inquiry into
9 or considering convictions or conviction records of any applicant for employment where the
10 sentence of the applicant was completed.

11 (1) For a nonviolent felony, at least (5) five years or sixty (60) months
12 ago; or

13 (2) For a misdemeanor, at least thirty (30) months ago.

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

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

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

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

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

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

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

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

10 [(f)] (g) An employer is prohibited from conducting background checks or investigations that
11 do not conform to the restrictions of this Section.

12 [(g)] (h) Retaliation. An Employer shall not:

13 (1) retaliate against any person for:

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

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

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

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

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

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

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

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

31 and

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

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

8 **Sec. 2-231.06. - Exemptions.**

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

12 (b) The prohibitions and requirements of this Subdivision, with the exception of section 2-
 13 231.04 (b) of this Subdivision, shall not apply to any County public safety agencies or to
 14 positions in the public or private sector that, in the judgment of the County, have access to
 15 confidential or proprietary business or personal information, money or items of value, personal
 16 homes or residences, facilities that provide personal storage, or involve emergency
 17 management.

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

20 **Sec. 2-231.07. - Enforcement.**

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

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

24 (c) An Employer found in violation of this Act shall be subject to a fine up to the maximum
 25 allowed by the County or State law for each violation.

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

1 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby
2 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
3 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
4 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
5 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
6 Act, since the same would have been enacted without the incorporation in this Act of any such
7 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,
8 or section.

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

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

Adopted this 16th day of July, 2024.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: Jolene Ivey
Jolene Ivey
Chair

ATTEST:

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

APPROVED:
Angela Alsobrooks
BY: _____
Angela D. Alsobrooks
County Executive

DATE: 8/1/24