SENATE BILL 543
ENROLLED BILL
— Education, Health, and Environmental Affairs/Appropriations —
Introduced by Senator Conway

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this ______ day of ______________ at ______________ o’clock, ______M.

______________________________________________
President.

CHAPTER _____

1 AN ACT concerning

Higher Education – Admissions Process – Criminal History
(Maryland Fair Access to Education Act of 2017)

FOR the purpose of prohibiting certain institutions of higher education from inquiring into or considering using information about the criminal history of applicants on certain admissions applications; providing for a certain exception exceptions to the ban on inquiring into or considering using certain criminal history information; requiring certain institutions of higher education to provide certain notice to certain students as part of a certain application under certain circumstances; allowing certain institutions of higher education to inquire into or consider the criminal history of students for purposes of admission and access to campus residency, or offering certain counseling or services, and deciding whether students may participate in certain activities or aspects of campus life; prohibiting certain institutions of higher education from using information on a student’s criminal history to rescind admission or unreasonably restrict a student’s access to certain activities or aspects

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates amendments to bill.
Strike-out indicates matter stricken from the bill by amendment or deleted from the law by amendment.
Italics indicate opposite chamber/conference committee amendments.
of campus life automatically or unreasonably restricting a student’s admission; requiring authorizing certain institutions of higher education to adopt an individualized process when denying or limiting certain students’ access to campus residency or a particular activity or aspect of campus life or a certain academic program; requiring authorizing an individualized process to be set forth in writing and include certain considerations; requiring that certain negatively affected students have the right to appeal a denial or limitation of access to campus residency or a particular activity or aspect of campus life; requiring certain institutions of higher education to inform accepted students of their individualized processes and the students’ right to present certain evidence in writing; requiring certain institutions of higher education to consider the State’s policy of promoting the admission of students with criminal records; providing for the application of this Act; defining certain terms; providing for a delayed effective date; and generally relating to the prohibition against institutions of higher education considering criminal history during the admissions process consideration of criminal history in the higher education admissions process.

BY adding to
Article – Education
Section 26–501 through 26–506 to be under the new subtitle “Subtitle 5. Prohibition on Considering Consideration of Criminal History During in the Admissions Process”
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

Preamble

WHEREAS, Higher education plays a critical role in developing good citizenship, creating economic and social opportunities, and enhancing public safety; and

WHEREAS, Barriers to education increase recidivism rates for individuals with criminal histories and national crime statistics demonstrate that higher education institutions that have eliminated pre-admission inquiry into criminal history have not experienced an increase in campus crime rates; and

WHEREAS, It is the policy of the State to encourage the continuing education of individuals with a criminal record and remove barriers to their ability to meaningfully reenter society and transition into the workforce; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education
SUBTITLE 5. PROHIBITION ON CONSIDERING CRIMINAL HISTORY DURING THE
ADMISSIONS PROCESS

CONSIDERATION OF CRIMINAL HISTORY IN THE
ADMISSIONS PROCESS.

26–501.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) (1) “ADMISSIONS PROCESS” MEANS THE PROCESS BY WHICH
INSTITUTIONS OF HIGHER EDUCATION SELECT STUDENTS FOR ENROLLMENT.

(2) “ADMISSIONS PROCESS” INCLUDES THE SUBMISSION OF AN
APPLICATION TO ATTEND AN INSTITUTION OF HIGHER EDUCATION, ALL DECISIONS
MADE DURING THE REVIEW OF APPLICATIONS, AND THE SELECTION OF APPLICANTS
TO MATRICULATE. “ADMISSIONS APPLICATION” MEANS AN INDIVIDUAL
APPLICATION TO ENROLL AS AN UNDERGRADUATE STUDENT AT AN INSTITUTION OF
HIGHER EDUCATION.

(C) “CRIMINAL HISTORY” MEANS AN ARREST, A CRIMINAL ACCUSATION, OR
A CRIMINAL CONVICTION.

(D) “DIRECT RELATIONSHIP” MEANS A CONNECTION BETWEEN THE
NATURE OF THE CRIMINAL HISTORY OF AN ACCEPTED STUDENT AND AN ACTIVITY
OR ASPECT OF CAMPUS LIFE THAT WOULD CREATE AN UNREASONABLE RISK TO THE
SAFETY OR WELFARE OF THE ACCEPTED STUDENT, OTHER INDIVIDUALS ON
CAMPUS, OR CAMPUS PROPERTY IF THE ACCEPTED STUDENT WERE AUTHORIZED TO
PARTICIPATE WITHOUT CONDITION.

(D) “THIRD–PARTY ADMISSIONS APPLICATION” MEANS AN ADMISSIONS
APPLICATION NOT CONTROLLED BY THE INSTITUTION.

26–502.

THIS SUBTITLE APPLIES TO INSTITUTIONS OF HIGHER EDUCATION THAT
RECEIVE STATE FUNDS.

26–503.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
INSTITUTION OF HIGHER EDUCATION MAY NOT INQUIRE INTO OR CONSIDER
INFORMATION ABOUT THE CRIMINAL HISTORY OF AN INDIVIDUAL DURING THE
ADMISSIONS PROCESS USE AN ADMISSIONS APPLICATION THAT CONTAINS
QUESTIONS ABOUT THE CRIMINAL HISTORY OF THE APPLICANT.
(B) An institution of higher education may consider information about a crime committed by an applicant if the institution knows or should know that the crime is ongoing use a third–party admissions application that contains questions about the criminal history of the applicant if the institution posts a notice on its Web site stating that a criminal history does not disqualify an applicant from admission.

(c) An institution of higher education shall provide notice to a prospective student as part of the admissions application, if the admissions application is not a third–party admissions application, whether the profession for which the student is seeking a degree prohibits licensure or certification on the basis of a criminal history.

26–504.

(A) Subject to §26–505 of this subtitle, an institution of higher education may make inquiries into and consider information about a student’s criminal history for the purpose of:

(1) Making decisions regarding admission and access to campus residency; or

(2) Offering supportive counseling or services to help rehabilitate and educate the student on barriers a criminal record may present; or

(3) Deciding whether the student may participate in activities and aspects of campus life usually open to students.

(B) In making inquiries or considering information under this section, an institution of higher education may not:

(1) Use any information about a student’s criminal history to rescind an offer of admission; or

(2) Automatically or unreasonably restrict a student’s activities or aspects of campus life admission based on that student’s criminal history.

26–505.

(A) In deciding to deny or limit a student’s admission or access to campus residency or participation in a particular activity or aspect of
Campus Life under § 26–504 of this subtitle, an institution of higher education shall may shall develop an individualized process for determining whether there is a direct relationship between a student’s criminal history and campus residency or a particular activity or aspect of campus life or a specific academic program.

(B) An individualized process developed under this section shall may shall be set forth in writing and shall may shall include consideration of:

(1) The age of the student at the time any aspect of the student’s criminal history occurred;

(2) The time that has elapsed since any aspect of the student’s criminal history occurred;

(3) The nature of the criminal history and whether it bears a direct relationship to campus residency, the activity, or the aspect of campus life at issue; and

(4) Any evidence of rehabilitation or good conduct produced by the student.

(C) An individualized process developed under this section shall provide an affected student with reasonable notice and an opportunity to appeal a denial or limitation of campus residency, an activity, or an aspect of campus life.

(D) Institutions of higher education shall inform accepted students in writing of the individualized process developed under this section and the right students have to provide evidence of rehabilitation and good conduct.

26–506.

An institution of higher education that inquires into or considers information about a student’s criminal history, in a manner consistent with this subtitle, shall consider the State’s policy to promote the admission of students with criminal records, including formerly incarcerated individuals, to provide these students with the opportunity to obtain the knowledge and skills needed to contribute to the State’s economy.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July December 1, 2017.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.