
By: **Delegates Marriott, Carter, Kirk, Oaks, Paige, and Rosenberg**

Introduced and read first time: February 13, 2004

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment - Employer Requests for Information Relating to an**
3 **Individual's Arrest Record - Prohibited**

4 FOR the purpose of prohibiting an employer from requiring certain individuals to
5 provide information relating to arrest records; defining a certain term;
6 authorizing an employer to request certain information relating to criminal
7 convictions; providing that this Act does not apply to certain government units;
8 requiring employers to provide certain notice on an application for employment;
9 requiring certain individuals to sign an acknowledgment of the notice;
10 authorizing the Commissioner to enforce the provisions of this Act; authorizing
11 the Attorney General to bring an action under this Act under certain
12 circumstances; providing for a certain penalty; and generally relating to
13 prohibiting an employer from requesting information relating to an individual's
14 arrest record.

15 BY repealing and reenacting, without amendments,
16 Article - Labor and Employment
17 Section 3-101
18 Annotated Code of Maryland
19 (1999 Replacement Volume and 2003 Supplement)

20 BY adding to
21 Article - Labor and Employment
22 Section 3-708
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2003 Supplement)

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

1 **Article - Labor and Employment**

2 3-101.

3 (a) In this title the following words have the meanings indicated.

4 (b) "Commissioner" means the Commissioner of Labor and Industry.

5 3-708.

6 (A) IN THIS SECTION, "EMPLOYER" MEANS:

7 (1) A PERSON ENGAGED IN A BUSINESS, INDUSTRY PROFESSION, TRADE,
8 OR OTHER ENTERPRISE IN THE STATE;

9 (2) THE STATE;

10 (3) A COUNTY; OR

11 (4) A MUNICIPAL CORPORATION IN THE STATE.

12 (B) THIS SECTION DOES NOT APPLY TO THE FEDERAL GOVERNMENT OR ANY
13 OF ITS UNITS.14 (C) EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION, AN
15 EMPLOYER MAY NOT REQUIRE OR DEMAND, AS A CONDITION OF EMPLOYMENT,
16 PROSPECTIVE EMPLOYMENT, OR CONTINUED EMPLOYMENT, AN INDIVIDUAL TO
17 PROVIDE INFORMATION RELATING TO THE INDIVIDUAL'S ARREST RECORD.18 (D) AN EMPLOYER MAY REQUIRE OR DEMAND, AS A CONDITION OF
19 EMPLOYMENT, PROSPECTIVE EMPLOYMENT, OR CONTINUED EMPLOYMENT, AN
20 INDIVIDUAL TO PROVIDE INFORMATION RELATING TO THE INDIVIDUAL'S CRIMINAL
21 CONVICTIONS.22 (E) (1) EACH APPLICATION FOR EMPLOYMENT SHALL SET OUT, IN
23 BOLD-FACED UPPERCASE TYPE, THE FOLLOWING NOTICE: "UNDER MARYLAND LAW,
24 AN EMPLOYER MAY NOT REQUIRE OR DEMAND, AS A CONDITION OF EMPLOYMENT,
25 PROSPECTIVE EMPLOYMENT, OR CONTINUED EMPLOYMENT, AN INDIVIDUAL TO
26 PROVIDE INFORMATION RELATING TO THE INDIVIDUAL'S ARREST RECORD. AN
27 EMPLOYER MAY REQUEST INFORMATION FROM AN INDIVIDUAL RELATING TO THE
28 INDIVIDUAL'S CRIMINAL CONVICTIONS. AN EMPLOYER WHO VIOLATES THIS LAW IS
29 GUILTY OF A MISDEMEANOR AND IS SUBJECT TO A FINE NOT EXCEEDING \$100."30 (2) EACH APPLICATION FOR EMPLOYMENT SHALL PROVIDE A SPACE
31 FOR AN APPLICANT TO SIGN AN ACKNOWLEDGMENT OF THE NOTICE REQUIRED
32 UNDER THIS SUBSECTION.33 (F) AN APPLICANT SHALL SIGN THE ACKNOWLEDGMENT OF THE NOTICE
34 REQUIRED UNDER SUBSECTION (E) OF THIS SECTION.

1 (G) IF AN EMPLOYER VIOLATES SUBSECTION (C) OR (E) OF THIS SECTION, AN
2 APPLICANT FOR EMPLOYMENT OR PROSPECTIVE EMPLOYMENT OR AN EMPLOYEE
3 MAY SUBMIT TO THE COMMISSIONER A WRITTEN COMPLAINT.

4 (H) (1) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SECTION
5 HAS BEEN VIOLATED, THE COMMISSIONER MAY:

6 (I) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION
7 INFORMALLY BY MEDIATION; OR

8 (II) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON
9 BEHALF OF THE APPLICANT OR EMPLOYEE.

10 (2) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS
11 SECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED, FOR
12 INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

13 (I) AN EMPLOYER WHO VIOLATES ANY PROVISION OF THIS SECTION IS
14 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
15 EXCEEDING \$100.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2004.