

SENATE BILL 543

F2

7lr3048
CF HB 694

By: **Senator Conway**

Introduced and read first time: February 1, 2017

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2017

CHAPTER _____

1 AN ACT concerning

2 **Higher Education – Admissions Process – Criminal History** 3 **(Maryland Fair Access to Education Act of 2017)**

4 FOR the purpose of prohibiting certain institutions of higher education from ~~inquiring into~~
5 ~~or considering~~ using information about the criminal history of applicants on certain
6 admissions applications; providing for ~~a certain exception~~ exceptions to the ban on
7 ~~inquiring into or considering~~ using certain criminal history information; requiring
8 certain institutions of higher education to provide certain notice to certain students
9 as part of a certain application under certain circumstances; allowing certain
10 institutions of higher education to inquire into or consider the criminal history of
11 students for purposes of admission and access to campus residency, or offering
12 certain counseling or services, ~~and deciding whether students may participate in~~
13 ~~certain activities or aspects of campus life~~; prohibiting certain institutions of higher
14 education from ~~using information on a student's criminal history to rescind~~
15 ~~admission or unreasonably restrict a student's access to certain activities or aspects~~
16 ~~of campus life~~ automatically or unreasonably restricting a student's admission;
17 ~~requiring~~ authorizing certain institutions of higher education to adopt ~~an~~
18 ~~individualized~~ a process when denying or limiting certain students' access to campus
19 residency ~~or a particular activity or aspect of campus life~~ or a certain academic
20 program; ~~requiring~~ authorizing ~~an individualized~~ the process to be set forth in
21 writing and include certain considerations; ~~requiring that certain negatively affected~~
22 ~~students have the right to appeal a denial or limitation of access to campus residency~~
23 ~~or a particular activity or aspect of campus life~~; ~~requiring certain institutions of~~
24 ~~higher education to inform accepted students of their individualized processes and~~
25 ~~the students' right to present certain evidence in writing~~; requiring certain

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.



1 institutions of higher education to consider the State's policy of promoting the
 2 admission of students with criminal records; providing for the application of this Act;
 3 defining certain terms; providing for a delayed effective date; and generally relating
 4 to the ~~prohibition against institutions of higher education considering criminal~~
 5 ~~history during the admissions process~~ consideration of criminal history in the higher
 6 education admissions process.

7 BY adding to

8 Article – Education

9 Section 26–501 through 26–506 to be under the new subtitle “Subtitle 5. ~~Prohibition~~
 10 ~~on Considering~~ Consideration of Criminal History During in the Admissions
 11 Process”

12 Annotated Code of Maryland

13 (2014 Replacement Volume and 2016 Supplement)

14 **Preamble**

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

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

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

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

26 **Article – Education**

27 ~~SUBTITLE 5. PROHIBITION ON CONSIDERING CRIMINAL HISTORY DURING THE~~
 28 ~~ADMISSIONS PROCESS~~ CONSIDERATION OF CRIMINAL HISTORY IN THE
 29 ADMISSIONS PROCESS.

30 **26–501.**

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

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

1 ~~(2) "ADMISSIONS PROCESS" INCLUDES THE SUBMISSION OF AN~~
2 ~~APPLICATION TO ATTEND AN INSTITUTION OF HIGHER EDUCATION, ALL DECISIONS~~
3 ~~MADE DURING THE REVIEW OF APPLICATIONS, AND THE SELECTION OF APPLICANTS~~
4 ~~TO MATRICULATE~~ "ADMISSIONS APPLICATION" MEANS AN INDIVIDUAL
5 APPLICATION TO ENROLL AS AN UNDERGRADUATE STUDENT AT AN INSTITUTION OF
6 HIGHER EDUCATION.

7 (C) ~~"CRIMINAL HISTORY" MEANS AN ARREST, A CRIMINAL ACCUSATION, OR~~
8 ~~A CRIMINAL CONVICTION.~~

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

15 (D) "THIRD-PARTY ADMISSIONS APPLICATION" MEANS AN ADMISSIONS
16 APPLICATION NOT CONTROLLED BY THE INSTITUTION.

17 **26-502.**

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

20 **26-503.**

21 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
22 INSTITUTION OF HIGHER EDUCATION MAY NOT ~~INQUIRE INTO OR CONSIDER~~
23 ~~INFORMATION ABOUT THE CRIMINAL HISTORY OF AN INDIVIDUAL DURING THE~~
24 ~~ADMISSIONS PROCESS~~ USE AN ADMISSIONS APPLICATION THAT CONTAINS
25 QUESTIONS ABOUT THE CRIMINAL HISTORY OF THE APPLICANT.

26 (B) AN INSTITUTION OF HIGHER EDUCATION MAY ~~CONSIDER INFORMATION~~
27 ~~ABOUT A CRIME COMMITTED BY AN APPLICANT IF THE INSTITUTION KNOWS OR~~
28 ~~SHOULD KNOW THAT THE CRIME IS ONGOING~~ USE A THIRD-PARTY ADMISSIONS
29 APPLICATION THAT CONTAINS QUESTIONS ABOUT THE CRIMINAL HISTORY OF THE
30 APPLICANT IF THE INSTITUTION POSTS A NOTICE ON ITS WEB SITE STATING THAT A
31 CRIMINAL HISTORY DOES NOT DISQUALIFY AN APPLICANT FROM ADMISSION.

32 (C) AN INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE NOTICE TO A
33 PROSPECTIVE STUDENT AS PART OF THE ADMISSIONS APPLICATION, IF THE
34 ADMISSIONS APPLICATION IS NOT A THIRD-PARTY ADMISSIONS APPLICATION,

1 WHETHER THE PROFESSION FOR WHICH THE STUDENT IS SEEKING A DEGREE
 2 PROHIBITS LICENSURE OR CERTIFICATION ON THE BASIS OF A CRIMINAL HISTORY.

3 **26-504.**

4 (A) SUBJECT TO § 26-505 OF THIS SUBTITLE, AN INSTITUTION OF HIGHER
 5 EDUCATION MAY MAKE INQUIRIES INTO AND CONSIDER INFORMATION ABOUT A
 6 STUDENT'S CRIMINAL HISTORY FOR THE PURPOSE OF:

7 (1) MAKING DECISIONS REGARDING ADMISSION AND ACCESS TO
 8 CAMPUS RESIDENCY; OR

9 (2) OFFERING SUPPORTIVE COUNSELING OR SERVICES TO HELP
 10 REHABILITATE AND EDUCATE THE STUDENT ON BARRIERS A CRIMINAL RECORD MAY
 11 PRESENT; ~~OR~~

12 ~~(3) DECIDING WHETHER THE STUDENT MAY PARTICIPATE IN~~
 13 ~~ACTIVITIES AND ASPECTS OF CAMPUS LIFE USUALLY OPEN TO STUDENTS.~~

14 (B) IN MAKING INQUIRIES OR CONSIDERING INFORMATION UNDER THIS
 15 SECTION, AN INSTITUTION OF HIGHER EDUCATION MAY NOT:

16 ~~(1) USE ANY INFORMATION ABOUT A STUDENT'S CRIMINAL HISTORY~~
 17 ~~TO RESCIND AN OFFER OF ADMISSION; OR~~

18 ~~(2) AUTOMATICALLY~~ AUTOMATICALLY OR UNREASONABLY RESTRICT
 19 A STUDENT'S ~~ACTIVITIES OR ASPECTS OF CAMPUS LIFE~~ ADMISSION BASED ON THAT
 20 STUDENT'S CRIMINAL HISTORY.

21 **26-505.**

22 (A) IN DECIDING TO DENY OR LIMIT A STUDENT'S ADMISSION OR ACCESS TO
 23 CAMPUS RESIDENCY ~~OR PARTICIPATION IN A PARTICULAR ACTIVITY OR ASPECT OF~~
 24 ~~CAMPUS LIFE~~ UNDER § 26-504 OF THIS SUBTITLE, AN INSTITUTION OF HIGHER
 25 EDUCATION ~~SHALL~~ MAY DEVELOP ~~AN INDIVIDUALIZED~~ A PROCESS FOR
 26 DETERMINING WHETHER THERE IS A ~~DIRECT~~ RELATIONSHIP BETWEEN A STUDENT'S
 27 CRIMINAL HISTORY AND CAMPUS RESIDENCY ~~OR A PARTICULAR ACTIVITY OR~~
 28 ~~ASPECT OF CAMPUS LIFE~~ OR A SPECIFIC ACADEMIC PROGRAM.

29 (B) ~~AN INDIVIDUALIZED~~ THE PROCESS DEVELOPED UNDER THIS SECTION
 30 ~~SHALL~~ MAY BE SET FORTH IN WRITING AND ~~SHALL~~ MAY INCLUDE CONSIDERATION
 31 OF:

1 (1) THE AGE OF THE STUDENT AT THE TIME ANY ASPECT OF THE
2 STUDENT'S CRIMINAL HISTORY OCCURRED;

3 (2) THE TIME THAT HAS ELAPSED SINCE ANY ASPECT OF THE
4 STUDENT'S CRIMINAL HISTORY OCCURRED;

5 (3) THE NATURE OF THE CRIMINAL HISTORY ~~AND WHETHER IT BEARS~~
6 ~~A DIRECT RELATIONSHIP TO CAMPUS RESIDENCY, THE ACTIVITY, OR THE ASPECT OF~~
7 ~~CAMPUS LIFE AT ISSUE; AND~~

8 (4) ANY EVIDENCE OF REHABILITATION OR GOOD CONDUCT
9 PRODUCED BY THE STUDENT.

10 ~~(C) AN INDIVIDUALIZED PROCESS DEVELOPED UNDER THIS SECTION SHALL~~
11 ~~PROVIDE AN AFFECTED STUDENT WITH REASONABLE NOTICE AND AN OPPORTUNITY~~
12 ~~TO APPEAL A DENIAL OR LIMITATION OF CAMPUS RESIDENCY, AN ACTIVITY, OR AN~~
13 ~~ASPECT OF CAMPUS LIFE.~~

14 ~~(D) INSTITUTIONS OF HIGHER EDUCATION SHALL INFORM ACCEPTED~~
15 ~~STUDENTS IN WRITING OF THE INDIVIDUALIZED PROCESS DEVELOPED UNDER THIS~~
16 ~~SECTION AND THE RIGHT STUDENTS HAVE TO PROVIDE EVIDENCE OF~~
17 ~~REHABILITATION AND GOOD CONDUCT.~~

18 **26-506.**

19 AN INSTITUTION OF HIGHER EDUCATION THAT INQUIRES INTO OR CONSIDERS
20 INFORMATION ABOUT A STUDENT'S CRIMINAL HISTORY, IN A MANNER CONSISTENT
21 WITH THIS SUBTITLE, SHALL CONSIDER THE STATE'S POLICY TO PROMOTE THE
22 ADMISSION OF STUDENTS WITH CRIMINAL RECORDS, INCLUDING FORMERLY
23 INCARCERATED INDIVIDUALS, TO PROVIDE THESE STUDENTS WITH THE
24 OPPORTUNITY TO OBTAIN THE KNOWLEDGE AND SKILLS NEEDED TO CONTRIBUTE
25 TO THE STATE'S ECONOMY.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~
27 December 1, 2017.