

HOUSE BILL 994

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9lr2219
CF SB 839

By: **Delegates Mosby, Acevero, Barron, Boyce, Bridges, Brooks, Charles, W. Fisher, Holmes, Ivey, Lierman, Moon, Pena–Melnyk, Proctor, Sample–Hughes, Smith, Turner, Wells, and Wilkins**

Introduced and read first time: February 8, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Criminal Record Screening Practices**
3 **(Ban the Box)**

4 FOR the purpose of authorizing the Commissioner of Labor and Industry to conduct an
5 investigation to determine whether certain provisions of this Act have been violated
6 on receipt of a certain written complaint; prohibiting certain employers from
7 requiring an applicant for employment to disclose certain information regarding the
8 criminal record of the applicant except under certain circumstances, conducting a
9 certain criminal history records check, or taking certain other action before a
10 conditional offer for employment has been extended; providing that certain
11 provisions of this Act do not prohibit an employer from making a certain inquiry or
12 taking certain other action; providing that certain provisions of this Act do not apply
13 to certain employers; authorizing the Commissioner on a certain determination to
14 resolve certain issues informally by mediation; authorizing the Commissioner to ask
15 the Attorney General to bring a certain action on behalf of certain applicants under
16 certain circumstances; authorizing the Attorney General to bring a certain action in
17 a certain county under certain circumstances for injunctive relief, damages, or other
18 relief; prohibiting employers from taking or refusing to take certain actions against
19 certain applicants and employees under certain circumstances; establishing certain
20 penalties; defining certain terms; providing for a delayed effective date; and
21 generally relating to criminal record screening practices of employers.

22 BY repealing and reenacting, with amendments,
23 Article – Labor and Employment
24 Section 3–103
25 Annotated Code of Maryland
26 (2016 Replacement Volume and 2018 Supplement)

27 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Labor and Employment

2 Section 3–1401 through 3–1406 to be under the new subtitle “Subtitle 14. Criminal
3 History Screening”

4 Annotated Code of Maryland

5 (2016 Replacement Volume and 2018 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

7 That the Laws of Maryland read as follows:

8 **Article – Labor and Employment**

9 3–103.

10 (a) Except as otherwise provided in this section, the Commissioner may conduct
11 an investigation to determine whether a provision of this title has been violated on the
12 Commissioner’s own initiative or may require a written complaint.

13 (b) The Commissioner may conduct an investigation under Subtitle 3 of this title,
14 on the Commissioner’s own initiative or on receipt of a written complaint of an employee.

15 (c) The Commissioner may conduct an investigation to determine whether
16 Subtitle 5 of this title has been violated on receipt of a written complaint of an employee.

17 (d) The Commissioner may conduct an investigation to determine whether
18 Subtitle 6 of this title has been violated on receipt of a written complaint of a sales
19 representative.

20 (e) (1) The Commissioner may investigate whether § 3–701 of this title has
21 been violated on receipt of a written complaint of an applicant for employment.

22 (2) The Commissioner may investigate whether § 3–702 of this title has
23 been violated on receipt of a written complaint of an applicant for employment or an
24 employee.

25 (3) The Commissioner may investigate whether § 3–704 of this title has
26 been violated on receipt of a written complaint of an employee.

27 (4) The Commissioner may investigate whether § 3–710 of this title has
28 been violated on receipt of a written complaint of an employee as provided in § 3–710(d)(1)
29 of this title.

30 (5) The Commissioner may investigate whether § 3–711 of this title has
31 been violated on receipt of a written complaint of an employee as provided in § 3–711(d)(1)
32 of this title.

33 (6) The Commissioner may investigate whether § 3–712 of this title has
34 been violated on receipt of a written complaint of an employee or applicant.

1 (f) (1) The Commissioner may investigate whether § 3–801 of this title has
2 been violated on receipt of a written complaint of an employee.

3 (2) The Commissioner may investigate whether § 3–802 of this title has
4 been violated on receipt of a written complaint of an employee.

5 (g) The Commissioner may investigate whether Subtitle 9 of this title has been
6 violated:

7 (1) on the Commissioner’s own initiative;

8 (2) on receipt of a written complaint signed by the person submitting the
9 complaint; or

10 (3) on referral from another unit of State government.

11 (h) The Commissioner may conduct an investigation to determine whether
12 Subtitle 10 of this title has been violated on receipt of a written complaint of an employee.

13 (i) The Commissioner may conduct an investigation to determine whether
14 Subtitle 12 of this title has been violated on receipt of a written complaint of an employee.

15 **(J) THE COMMISSIONER MAY CONDUCT AN INVESTIGATION TO DETERMINE**
16 **WHETHER SUBTITLE 14 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A**
17 **WRITTEN COMPLAINT OF AN APPLICANT OR EMPLOYEE.**

18 **[(j)] (K)** The Commissioner, on the Commissioner’s own initiative or on receipt
19 of a written complaint, may conduct an investigation of whether a local minimum wage law
20 has been violated.

21 **[(k)] (L)** (1) The Commissioner may conduct an investigation to determine
22 whether Subtitle 13 of this title has been violated on receipt of a written complaint by an
23 employee.

24 (2) To the extent practicable, the Commissioner shall keep confidential the
25 identity of an employee who has filed a written complaint alleging a violation of Subtitle 13
26 of this title unless the employee waives confidentiality.

27 **SUBTITLE 14. CRIMINAL HISTORY SCREENING.**

28 **3–1401.**

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

1 (B) "CRIMINAL RECORD" MEANS:

2 (1) AN ARREST;

3 (2) A PLEA OR VERDICT OF GUILTY;

4 (3) A PLEA OF NOLO CONTENDERE;

5 (4) A DISPOSITION OF PROBATION BEFORE JUDGMENT; OR

6 (5) A DISPOSITION OF NOT CRIMINALLY RESPONSIBLE.

7 (C) (1) "EMPLOYER" MEANS A PERSON WHO EMPLOYS 15 OR MORE
8 FULL-TIME EMPLOYEES.

9 (2) "EMPLOYER" INCLUDES A PERSON WHO ACTS, DIRECTLY OR
10 INDIRECTLY, IN THE INTEREST OF AN EMPLOYER WITH RESPECT TO AN EMPLOYEE
11 OF THE EMPLOYER.

12 (D) (1) "EMPLOYMENT" MEANS ANY WORK FOR PAY AND ANY FORM OF
13 VOCATIONAL OR EDUCATIONAL TRAINING, WITH OR WITHOUT PAY.

14 (2) "EMPLOYMENT" INCLUDES:

15 (I) CONTRACTUAL, TEMPORARY, SEASONAL, OR CONTINGENT
16 WORK; AND

17 (II) WORK THROUGH THE SERVICES OF A TEMPORARY OR
18 OTHER EMPLOYMENT AGENCY.

19 3-1402.

20 THIS SUBTITLE DOES NOT:

21 (1) PROHIBIT AN EMPLOYER FROM MAKING AN INQUIRY OR TAKING
22 OTHER ACTION THAT THE EMPLOYER IS REQUIRED TO TAKE OR IS EXPRESSLY
23 AUTHORIZED TO TAKE BY ANOTHER APPLICABLE FEDERAL, STATE, OR LOCAL LAW;
24 OR

25 (2) APPLY TO AN EMPLOYER THAT PROVIDES PROGRAMS, SERVICES,
26 OR DIRECT CARE TO MINORS OR TO VULNERABLE ADULTS.

27 3-1403.

1 (A) AN EMPLOYER MAY NOT, AT ANY TIME BEFORE A CONDITIONAL OFFER
2 OF EMPLOYMENT HAS BEEN EXTENDED:

3 (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
4 REQUIRE AN APPLICANT TO DISCLOSE WHETHER THE APPLICANT HAS A CRIMINAL
5 RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE APPLICANT;

6 (2) CONDUCT A CRIMINAL HISTORY RECORDS CHECK ON THE
7 APPLICANT; OR

8 (3) OTHERWISE INQUIRE OF THE APPLICANT OR OTHERS ABOUT
9 WHETHER THE APPLICANT HAS A CRIMINAL RECORD OR HAS HAD CRIMINAL
10 ACCUSATIONS BROUGHT AGAINST THE APPLICANT.

11 (B) AN EMPLOYER MAY REQUIRE AN APPLICANT TO DISCLOSE DURING THE
12 FIRST IN-PERSON INTERVIEW WITH THE APPLICANT WHETHER THE APPLICANT HAS
13 A CRIMINAL RECORD OR HAS HAD CRIMINAL ACCUSATIONS BROUGHT AGAINST THE
14 APPLICANT.

15 3-1404.

16 (A) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SUBTITLE
17 HAS BEEN VIOLATED, THE COMMISSIONER MAY:

18 (1) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION
19 INFORMALLY BY MEDIATION; OR

20 (2) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF
21 OF THE APPLICANT OR EMPLOYEE.

22 (B) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SECTION
23 IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED, FOR INJUNCTIVE
24 RELIEF, DAMAGES, OR OTHER RELIEF.

25 3-1405.

26 AN EMPLOYER MAY NOT TAKE OR REFUSE TO TAKE A PERSONNEL ACTION OR
27 OTHERWISE RETALIATE OR DISCRIMINATE AGAINST AN APPLICANT OR EMPLOYEE
28 AS A REPRISAL FOR THE APPLICANT OR EMPLOYEE HAVING CLAIMED A VIOLATION
29 OF THIS SUBTITLE.

30 3-1406.

1 AN EMPLOYER WHO VIOLATES ANY PROVISION UNDER THIS SUBTITLE:

2 (1) FOR A FIRST VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF \$250;

3 (2) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF
4 \$500;

5 (3) FOR A THIRD VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF
6 \$750; AND

7 (4) FOR A FOURTH OR SUBSEQUENT VIOLATION, IS SUBJECT TO A
8 CIVIL PENALTY NOT LESS THAN \$1,000.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 January 1, 2020.