

Chapter 186

(Senate Bill 817)

AN ACT concerning

Employment of Previously Convicted Individuals – State Agencies and Criminal History Records Checks – Youth Camps and Youth Development Organizations and Programs

FOR the purpose of ~~prohibiting a certain State agency from declining to hire an applicant solely on the basis that the applicant has previously been convicted of a crime under certain circumstances; requiring~~ authorizing the operator of a certain youth camp or youth development organization or program to request a certain determination from the Maryland Department of Health before making a certain offer of employment to a job applicant; requiring the Department to issue a certain determination to a youth camp or youth development organization or program at a certain time; providing that a certain determination is binding under certain circumstances; and generally relating to the employment of previously convicted individuals criminal history records checks for youth camps and youth development organizations and programs.

~~BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 1–209
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Health – General
Section 14–407
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

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

~~Article – Criminal Procedure~~

~~1–209.~~

- ~~(a) (1) In this section, “department” means:~~
 - ~~(i) the Department of Agriculture;~~
 - ~~(ii) the Department of the Environment;~~
 - ~~(iii) the Maryland Department of Health;~~

- ~~(iv) the Department of Human Services;~~
- ~~(v) the Maryland Department of Labor; or~~
- ~~(vi) the Department of Public Safety and Correctional Services.~~

~~(2) "Department" includes any unit of a department specified in paragraph (1) of this subsection.~~

~~(b) This section does not apply to a person who was previously convicted of a crime of violence, as defined in § 14-101 of the Criminal Law Article.~~

~~(c) It is the policy of the State to encourage the employment of nonviolent ex-offenders and remove barriers to their ability to demonstrate fitness for occupational licenses or certifications required by the State.~~

~~(d) Except as provided in subsection (f) of this section, a department may not deny an occupational license or certificate to **OR DECLINE TO HIRE** an applicant solely on the basis that the applicant has previously been convicted of a crime, unless the department determines that:~~

~~(1) there is a direct relationship between the applicant's previous conviction and the specific occupational license or certificate **OR EMPLOYMENT** sought; or~~

~~(2) the issuance of the license or certificate **OR HIRING THE APPLICANT** would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.~~

~~(e) In making the determination under subsection (d) of this section, the department shall consider:~~

~~(1) the policy of the State expressed in subsection (c) of this section;~~

~~(2) the specific duties and responsibilities required of a licensee or certificate holder **OR THE POSITION SOUGHT**;~~

~~(3) whether the applicant's previous conviction has any impact on the applicant's fitness or ability to perform the duties and responsibilities authorized by the license or certificate **OR REQUIRED BY THE JOB**;~~

~~(4) the age of the applicant at the time of the conviction and the amount of time that has elapsed since the conviction;~~

~~(5) the seriousness of the offense for which the applicant was convicted;~~

~~(6) other information provided by the applicant or on the applicant's behalf with regard to the applicant's rehabilitation and good conduct; and~~

~~(7) the legitimate interest of the department in protecting property and the safety and welfare of specific individuals or the general public.~~

~~(f) (1) This subsection does not apply to a conviction of a crime for which registration on the sex offender registry is required under Title 11, Subtitle 7 of this article.~~

~~(2) If a period of 7 years or more has passed since an applicant completed serving the sentence for a crime, including all imprisonment, mandatory supervision, probation, and parole, and the applicant has not been charged with another crime other than a minor traffic violation, as defined in § 10-101 of this article, during that time, a department may not deny an occupational license or certificate to **OR DECLINE TO HIRE** the applicant solely on the basis that the applicant was previously convicted of the crime.~~

Article – Health – General

14-407.

(A) IN THIS SECTION, "YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM" MEANS AN ORGANIZATION OR A PROGRAM THAT PROVIDES ACTIVITIES FOR MINORS.

~~(A)~~ **(B)** The Department shall:

(1) Investigate complaints received regarding the youth camp; and

(2) Require appropriate training, including knowledge of outdoor camping, for a camp inspector.

~~(B)~~ **(C) (1) BEFORE A YOUTH CAMP OR YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM MAKES A FORMAL OFFER OF EMPLOYMENT TO A JOB APPLICANT, THE OPERATOR OF THE YOUTH CAMP OR YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM SHALL MAY REQUEST FROM THE DEPARTMENT A DETERMINATION AS TO WHETHER THE RESULTS OF A FEDERAL CRIMINAL HISTORY RECORDS CHECK WOULD BE THE BASIS FOR PROHIBITING THE HIRING OF THE APPLICANT.**

(2) ON RECEIPT OF A REQUEST FROM THE OPERATOR OF A YOUTH CAMP OR YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL ISSUE A WRITTEN DETERMINATION TO THE YOUTH CAMP OR YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM AS TO WHETHER THE RESULTS OF A FEDERAL CRIMINAL HISTORY

RECORDS CHECK WOULD BE THE BASIS FOR PROHIBITING THE HIRING OF THE APPLICANT.

(3) A DETERMINATION ISSUED BY THE DEPARTMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION IS BINDING ON THE DEPARTMENT AND THE YOUTH CAMP OR YOUTH DEVELOPMENT ORGANIZATION OR PROGRAM UNLESS THE APPLICANT:

- (I) HAS SUBSEQUENTLY BEEN CONVICTED OF A CRIME;**
- (II) HAS PENDING CRIMINAL CHARGES; OR**
- (III) HAD PREVIOUSLY UNDISCLOSED CRIMINAL CONVICTIONS.**

(4) THE DEPARTMENT MAY SET A REASONABLE FEE TO COVER THE COST OF A CRIMINAL HISTORY RECORDS CHECK REQUIRED UNDER THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Approved by the Governor, April 21, 2022.