

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2087

H.P. 1488

House of Representatives, January 28, 2020

An Act Relating to Fair Chance in Employment

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Labor and Housing suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.
Cosponsored by Senator CLAXTON of Androscoggin and
Representatives: CARNEY of Cape Elizabeth, EVANGELOS of Friendship, Senators:
DESCHAMBAULT of York, President JACKSON of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §600-A** is enacted to read:

3 **§600-A. Criminal history record information; employment application**

4 **1. Definition.** As used in this section, unless the context otherwise indicates,
5 "criminal history record information" has the same meaning as in Title 16, section 703,
6 subsection 3.

7 **2. Initial employee application form.** Except as provided in subsection 3 or 4, an
8 employer may not request criminal history record information on its initial employee
9 application form. An employer may inquire about a prospective employee's criminal
10 history record information during an interview or once the prospective employee has been
11 determined otherwise qualified for the position.

12 **3. Exceptions for initial employee application form.** An employer may inquire
13 about criminal convictions on an initial employee application form if:

14 A. The prospective employee is applying for a position for which any federal or state
15 law or regulation or rule creates a mandatory or presumptive disqualification based
16 on a conviction for one or more types of criminal offenses and the questions on the
17 initial employee application form are limited to the types of criminal offenses
18 creating the disqualification;

19 B. The employer is subject to an obligation imposed by any federal or state law or
20 regulation or rule not to employ a person, in either one or more positions, who has
21 been convicted of one or more types of criminal offenses and the questions on the
22 initial employee application form are limited to the types of criminal offenses
23 creating the obligation;

24 C. The employer is required by federal or state law or regulation or rule to conduct a
25 criminal history record check for the position for which the prospective employee is
26 applying; or

27 D. The employer participates in a program that encourages employment of persons
28 with criminal convictions.

29 **4. Waiver.** An employer may inquire about criminal convictions on an initial
30 employee application form pursuant to subsection 3 even if the federal or state law or
31 regulation or rule creating an obligation for the employer not to employ a person who has
32 been convicted of one or more types of criminal offenses also permits the employer to
33 obtain a waiver that would allow the employer to employ such a person.

34 **5. Statements.** Except as provided in subsection 6, an employer may not state on an
35 initial employee application form or advertisement or otherwise assert that a person with
36 a criminal history may not apply or will not be considered for a position.

37 **6. Exceptions for statements.** An employer may state on an initial employee
38 application form or advertisement or otherwise assert that a person with a criminal history
39 may not apply or will not be considered for a position if:

