MAINE STATE LEGISLATURE

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Amendment Name: Amendment CA (H-796) (LD 2087 2020)

Date: 8/5/2020

1	L.D. 2087
2	Date: (Filing No. H-)
3	LABOR AND HOUSING
4	Reproduced and distributed under the direction of the Clerk of the House.
5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	129TH LEGISLATURE
8	SECOND SPECIAL SESSION
9 10	COMMITTEE AMENDMENT " to H.P. 1488, L.D. 2087, Bill, "An Act Relating to Fair Chance in Employment"
11 12	Amend the bill by striking out everything after the enacting clause and inserting the following:
13	'Sec. 1. 26 MRSA §600-A is enacted to read:
14	§600-A. Criminal history record information; employment application
15 16	1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
17 18	A. "Criminal history record information" has the same meaning as in Title 16, section 703, subsection 3.
19 20 21 22 23 24	B. "Employer" means a person in this State who employs individuals. "Employer" includes municipalities and political subdivisions of the State, but does not include an employer of an individual who holds a position in the legislative, executive or judicial branch of State Government or a position with a quasi-independent state entity or public instrumentality of the State. "Employer" includes a person acting in the interest of an employer directly or indirectly.
25 26	2. Initial employee application form. Except as provided in subsection 3, an employer may not:
27 28	A. Request criminal history record information on the employer's initial employee application form; or
29 30 31	B. State on an initial employee application form or advertisement or specify prior to determining a person is otherwise qualified for the position that a person with a criminal history may not apply or will not be considered for a position.
32 33 34	An employer may inquire about a prospective employee's criminal history record information during an interview or once the prospective employee has been determined otherwise qualified for the position

1	3. Exceptions for initial employee application form. An employer may inquire
2 3 4	about criminal convictions on an initial employee application form or state on an initial employee application form or advertisement or otherwise assert that a person with a criminal history may not apply or will not be considered for a position if:
5 6 7 8	A. The position is one for which a federal or state law or regulation or rule creates a mandatory or presumptive disqualification based on a conviction for one or more types of criminal offenses, and the questions on the initial employee application form are limited to the types of criminal offenses creating the disqualification;
9 10 11 12 13	B. The employer is subject to an obligation imposed by a federal or state law or regulation or rule not to employ in a position a person who has been convicted of one or more types of criminal offenses, and the questions on the initial employee application form are limited to the types of criminal offenses creating the obligation; or
14 15 16	C. The employer is required by federal or state law or regulation or rule to conduct a criminal history record check for the position for which the prospective employee is applying.
17	4. Penalty. This section must be enforced pursuant to section 626-A.
18 19	Sec. 2. 26 MRSA §626-A, first \P , as amended by PL 2019, c. 35, §2, is further amended to read:
20 21 22	Whoever violates any of the provisions of <u>section 600-A</u> , sections 621-A to 623 or section 626, 628, 628-A, 629 or 629-B is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.'
23 24	Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.
25	SUMMARY
26 27 28 29 30	Like the bill, the amendment prohibits an employer from requesting criminal history record information on an initial employee application form or stating on an initial employee application form or advertisement or specifying prior to determining a person is otherwise qualified for the position that a person with a criminal history may not apply or will not be considered for a position.
31 32 33 34 35	The amendment provides exceptions to those prohibitions, including instances in which federal or state law or regulation or rule mandates for a position that a criminal conviction disqualifies an applicant, or imposes an obligation on an employer not to hire an applicant who has been convicted of a certain type of offense, or requires that an employer conduct a criminal history record check.
36 37	An employer who violates this prohibition is subject to a penalty of not less than \$100 nor more than \$500 for each violation, to be enforced by the Department of Labor.
38	FISCAL NOTE REQUIRED
39	(See attached)

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129th MAINE LEGISLATURE

LD 2087

LR 2603(02)

An Act Relating to Fair Chance in Employment

Fiscal Note for Bill as Amended by Committee Amendment " "
Committee: Labor and Housing
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund Minor revenue increase - General Fund

Fiscal Detail and Notes

Additional costs to the Bureau of Labor Standards within the Department of Labor to enforce the requirements of this legislation can be absorbed within existing budgeted resources. Additional revenue from fines assessed on employers that violate the prohibition established in this bill is expected to be minor and will accrue to the General Fund.