

AN ACT

*Codification
District of
Columbia
Official Code*

2001 Edition

2011 Winter
Supp.

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to restrict a public employer's inquiry into the criminal history of job applicants.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Returning Citizen Public Employment Inclusion Amendment Act of 2010".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) The table of contents is amended by adding the phrase "XX-D CRIMINAL HISTORY INQUIRIES SEC. 2041. DEFINITIONS SEC. 2042. PRE-EMPLOYMENT INQUIRIES SEC. 2043. LIMITATION ON DISQUALIFICATION SEC. 2044. IMPLEMENTATION FOR PUBLIC EMPLOYERS" before the phrase "XXI. HEALTH BENEFITS".

(b) A new title XX-D is added to read as follows:

"TITLE XX-D

"CRIMINAL HISTORY INQUIRIES.

"Sec. 2041. Definitions.

"For the purposes of this title, the term:

"(1) "Applicant" means an individual who has filed an application for employment with a public employer or who has filed an application or made a verbal request to serve in a volunteer position with a public employer.

"(2) "Covered position" means a position in which a criminal background check is required by law.

"(3) "Public employer" means the District government.

"Sec. 2042. Pre-employment inquiries.

"(a) Before posting a vacancy announcement, a public employer shall determine if the position is a covered position.

“(b) If a position is a covered position, a public employer may inquire about an applicant’s criminal history at any time; provided, that the vacancy announcement includes the following statement: “This position requires a criminal background check. Therefore, you may be required to provide information about your criminal history in order to be considered for this position.”

“(c) If a position is not a covered position, a public employer shall not inquire about an applicant’s criminal history on the application form. A public employer may inquire about an applicant’s criminal history after the initial screening of applications. If a public employer inquires about an applicant’s criminal history, the applicant shall be permitted to provide an explanation of his criminal history to the public employer.

“Sec. 2043. Limitation on disqualification.

“When considering whether to disqualify an applicant for a position that is not a covered position or take adverse action against an employee in a position that is not a covered position because of the applicant’s or employee’s criminal history, a public employer shall consider the following factors:

“(1) The specific duties and responsibilities of the position sought or held;

“(2) The bearing, if any, that an applicant’s or employee’s criminal background will have on the applicant’s or employee’s fitness or ability to perform one or more of the duties or responsibilities;

“(3) The time that has elapsed since the occurrence of the criminal offense;

“(4) The age of the person at the time of the occurrence of the criminal offense;

“(5) The frequency and seriousness of the criminal offense;

“(6) Any information produced regarding the applicants or employee’s rehabilitation and good conduct since the occurrence of the criminal offense; and

“(7) The public policy that it is generally beneficial for ex-offenders to obtain employment.

“Sec. 2044. Implementation for public employers.

“The Department of Human Resources shall provide guidance on the implementation of sections 2042, 2043, and 2044 to all personnel authorities within the District government on or before February 1, 2011.”

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

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Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia