Legislation Details (With Text)

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On agenda:				**Final action:**	
Title:	Amending Chapter 9-3500 of The Philadelphia Code, entitled "Fair Criminal Record Screening Standards," by adding certain provisions to clarify that the prohibitions on use of criminal records provided herein also include records arising from the juvenile justice system, and adding definitions; all under certain terms and conditions.				
Sponsors:	Councilmember Gym, Councilmember Jones, Councilmember Johnson				
Indexes:	FAIR CRIMINAL RECORD SCREENING STANDARDS				
Code sections:					
Attachments:	1. Bill No. 18001300.pdf				

Date	Ver.	Action By	Action	Result	Tally
1/25/2018	0	CITY COUNCIL	Introduced and Referred	Pass	

Amending Chapter 9-3500 of The Philadelphia Code, entitled “Fair Criminal Record Screening Standards,” by adding certain provisions to clarify that the prohibitions on use of criminal records provided herein also include records arising from the juvenile justice system, and adding definitions; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-3500 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 9-3500. FAIR CRIMINAL RECORD SCREENING STANDARDS.

§ 9-3501. Legislative Findings and Purpose.

(1) The City Council of the City of Philadelphia finds that:

(a) Persons with *juvenile and* criminal records suffer from pervasive discrimination in many areas of life - employment, housing, education, and eligibility for many forms of social benefits; and

* * *

(f) Criminal background checks*, which often include juvenile records,* by employers have increased at a record rate, with a vast majority of employers in the U.S. now screening their workers for criminal records; and

* * *

(i) Obstacles to employment for people with *juvenile and* criminal records and other barriers to re-entry are creating permanent members of an underclass that threatens the health of the community and

undermines public safety.

* * *.

(k) In 2016, there were nearly 2,800 juvenile dispositions in the Philadelphia juvenile justice system. For each of these young people, a juvenile record documenting their court involvement is widely accessible to individuals beyond the court system. Like adult criminal records, these records impose barriers on youth as they grow into adulthood and seek employment and education opportunities. Research confirms-and the law recognizes-that youth have the capacity for change and rehabilitation, and yet records continue to erect barriers to youths' success as they grow into adulthood.

[(k)]*(l)* This legislation is intended to give the individual with a *juvenile or* criminal record an opportunity to be judged on his or her own merit during the submission of the application and at least until the completion of one interview.

(2) It is the intent and purpose of this Chapter:

* * *

(c) to ensure that, within the City of Philadelphia, just and fair measures are implemented and practiced when screening and identifying persons who may or may not have *juvenile or* criminal records.

§ 9-3502. Definitions.

As used in this Chapter the following terms have the following meanings:

* * *

(10) "Juvenile records" means any records arising from the juvenile justice system, including adjudications of delinquency, diversions, consent decrees, deferred adjudications, and records of decertified cases.

* * *

§ 9-3503 Prohibition Against Unfair Discrimination Against Persons Previously Arrested for One or More Criminal Offenses[.]*, or Persons with Juvenile Justice History.*

* * *

(2) In connection with the licensing or employment of any person, it shall be an unlawful discriminatory practice for a City agency or private employer to knowingly and intentionally make any inquiry about or to take any adverse action against any person on the basis of any arrest or petition alleging delinquency, which is not then pending against that person and which did not result in adjudication of delinquency, including records of diversion, consent decrees, and deferred adjudication. It shall further be an unlawful discriminatory practice for a City agency or private employer to require any person to disclose or reveal any arrest or criminal accusation made against such person which is not then pending against that person and which did not result in adjudication of delinquency.

§ 9-3504. Prohibition Against Unfair Discrimination Against Persons Previously Convicted of One or More

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Criminal Offenses *and Persons with Juvenile Records.*

(1) In connection with the licensing or employment of any person, it shall be an unlawful discriminatory practice for a City agency or private employer to make any inquiry regarding or to require any person to disclose or reveal any criminal convictions *or juvenile record* during the application process. The inclusion of such inquiry on an employment application shall be unlawful, whether or not certain applicants are told they need not answer the question. The application process shall begin when the applicant inquires about the employment being sought and shall end when an employer has extended a conditional offer of employment to the applicant. The inquiry prohibited by this Section shall include any question regarding the applicant's willingness to submit to a background check.

* * *

(a) If an applicant voluntarily discloses information regarding his or her criminal convictions during the application process, *except an applicant who is a minor and discloses any juvenile record,* the employer may discuss the criminal conviction disclosed by the applicant at that time.

* * *

(2) No employer shall maintain a policy of automatically excluding any applicant with a criminal conviction *or juvenile record* from a job or class of jobs. A prospective employer shall not reject an applicant based on his or her criminal record *or juvenile record*, unless such record includes conviction for an offense that bears such relationship to the employment sought that the employer may reasonably conclude that the applicant would present an unacceptable risk to the operation of the business or to co-workers or customers, and that exclusion of the applicant is compelled by business necessity. An employer shall make a determination regarding such risk only after reviewing the applicant's specific record and the particular job being sought, and conducting an individualized assessment of the risk presented.

* * *

§ 9-3504a. Notice.

If an employer rejects an applicant for a job opening based in whole or in part on criminal record information *or juvenile record information*, the employer shall notify the applicant in writing of such decision and its basis, and shall provide the applicant with a copy of the criminal history report. The employer shall allow the applicant ten (10) business days to provide evidence of the inaccuracy of the information or to provide an explanation.

§ 9-3505. Exemptions.

* * *

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(3) Nothing in this Chapter shall modify or waive the requirements and limitations on the use of criminal records in Pennsylvania pursuant to 18 Pa. C.S. § 9125*, or the limitations on the effect of juvenile adjudications pursuant to 42 Pa. C.S. § 6354.*

Explanation:

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[Brackets] indicate matter deleted.
Italics indicate matter added.

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