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Title:	Amending Chapter 9-3500 of Title 9 of The Philadelphia Code, entitled “Fair Criminal Record Screening Standards,” to amend definitions, add clarifications, and enhance remedies, all under certain terms and conditions.				
Sponsors:	Councilmember Landau, Council President Johnson, Councilmember Gauthier, Councilmember Brooks, Councilmember Harrity, Councilmember O'Rourke, Councilmember Squilla				
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Date	Ver.	Action By	Action	Result	Tally
10/8/2025	2	MAYOR	SIGNED		
9/25/2025	2	CITY COUNCIL	READ AND PASSED	Pass	13:0
9/18/2025	1	CITY COUNCIL	AMENDED		
6/5/2025	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL		
6/5/2025	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY`S FIRST READING CALENDAR		
6/5/2025	1	CITY COUNCIL	READ AND ORDERED PLACED ON NEXT WEEK'S SECOND READING CALENDAR		
6/2/2025	0	Committee on Public Safety			
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6/2/2025	0	Committee on Public Safety			
6/2/2025	0	Committee on Public Safety			
4/24/2025	0	CITY COUNCIL	Introduced and Referred		

Amending Chapter 9-3500 of Title 9 of The Philadelphia Code, entitled “Fair Criminal Record Screening Standards,” to amend definitions, add clarifications, and enhance remedies, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHIILADELPHIA HEREBY ORDAINS:

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

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

* * *

CHAPTER 9-3500. FAIR CRIMINAL RECORD SCREENING STANDARDS

* * *

§ 9-3502. Definitions.

* * *

(4) Conviction shall mean any [sentence] *disposition* arising from a verdict or plea of guilty or nolo contendere, including a sentence of incarceration, a suspended sentence, a sentence of probation or a sentence of unconditional discharge.

(4.1) Employee means any person employed or permitted to work at or for a Private Employer within the geographic boundaries of the City, including as an independent contractor, transportation network company driver, rideshare driver, or other gig economy worker.

(5) Employment means any occupation, vocation, job, work for pay or employment, including temporary or seasonal work, contracted work, contingent work and work through the services of a temporary or other employment agency; or any form of vocational or educational training with or without pay. "Employment" shall not, for the purposes of this Chapter, include membership in any law enforcement agency, or domestic services in or about the private home in which the employer resides, as defined in the Pennsylvania Minimum Wage Act, 43 P.S. § 333.101, and its regulations at 34 Pa. Code § 231.1(b).

(5.1) Employment Process means the process by which an employer assesses the suitability of an Applicant for prospective employment or consideration of any aspect of the Employee's re-employment or continued employment, including promotion, raise or termination.

(5.2) Exoneration means the reversal or vacation of a conviction by pardon, acquittal, dismissal or other post-conviction re-examination of the case by a court or other authorized government official.

(5.3) Felony shall mean any offense designated as such by 18 Pa. C.S. § 106(b)(1)-(5) or other applicable statute.

(5.4) Misdemeanor shall mean any offense designated as such by 18 Pa. C.S. § 106(b)(6)-(9) or other applicable statute.

(5.5) Summary offense shall mean any offense designated as such by 18 Pa. C.S. § 106(c) or other applicable statute.

(5.6) Incarceration shall mean lawful confinement in a jail or prison, and not parole, home confinement, or residence at a treatment facility or residential program.

(6) Inquiry means any direct or indirect conduct intended to gather information, using any mode of communication*, including investigations into the applicant's criminal history using public or government records or the internet, whether conducted by an employer or for an employer by a third party*.

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(11) Job advertisement shall mean any solicitation, advertisement, or publication made, orally or in writing, to communicate with prospective Applicants about potential employment opportunities.

(12) Adverse action shall mean any action that negatively affects an Applicant or Employee's compensation, terms, or condition of current or future work or is intended to harass an Applicant or Employee in connection with work, including excessive and unreasonable levels of supervision, refusal to hire or promote, blacklisting, interferences with current employment or employment prospects, contacting law enforcement or a government agency to file a report, including reporting suspected or actual immigration status.

(12.1) Excessive and unreasonable levels of supervision shall mean supervision of an Employee that is different from other similarly situated employees that is not justified by a reasonable, individualized assessment of the specific risks posed by an Employee's criminal history or conduct.

* * *

§ 9-3503. Prohibition Against Unfair Discrimination Against Persons Previously Arrested for One or More Criminal Offenses.

(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 knowingly and intentionally make any inquiry about or to take any adverse action against any person on the basis of any arrest or criminal accusation made against such person, which is not then pending against that person and which did not result in a conviction. 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 a conviction.

(2) Nothing herein shall prevent an Employer from making an inquiry, or requiring an Employee to respond to an inquiry, about a Pending Criminal Charge, when the employer possesses reasonably reliable information to indicate a Pending Criminal Charge has been lodged against the Employee that relates to the particular duties of their job. Employers may require employees to report a Pending Criminal Charge, provided the Employer does so pursuant to a written policy detailing what offenses are reportable. An employer shall not take an adverse action against an Employee based on a Pending Criminal Charge unless the offense bears such relationship to the Employee's duties that the Employer may reasonably conclude that the Employee's continued Employment would present an unacceptable risk to the operation of the business or to co-workers or customers, and that exclusion of the Employee is compelled by business necessity.

* * *

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

(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 during the Employment Process, except as required by federal or state law. The inclusion of such inquiry on an employment application shall be unlawful, whether or

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not certain Applicants or Employees are told they need not answer the question. The inquiry prohibited by this Section shall include any question regarding the Applicant's or Employee's willingness to submit to a background check. When such inquiry is required by federal or state law, such inquiry shall be conducted only after a Conditional Offer of Employment has been extended to the Applicant or Employee.

(a) If an Applicant or Employee voluntarily discloses information regarding his or her criminal convictions during the Employment Process, the employer may discuss the criminal conviction disclosed by the Applicant or Employee at that time.

(b) An employer may give notice, to prospective Applicants or during the Employment Process, *including in job advertisements,* of its intent to conduct a criminal background check after any Conditional offer of employment, promotion or re-employment is made, provided that such notice shall be concise, accurate, made in good faith, and shall state that any consideration of the background check will be [tailored to the requirements of the job] *an individualized assessment based on the Applicant or Employee's specific record and the duties and requirements of the specific job.*

(2) It shall be an unlawful discriminatory practice for a City agency or private employer to reject an Applicant or Employee based on a conviction that resulted in exoneration.

(3) No employer shall maintain a policy of automatically excluding any Applicant or Employee with a criminal conviction from a job or class of jobs. A prospective employer shall not reject an Applicant or Employee based on [his or her] *the person's* criminal record, unless: such record includes conviction for an offense that did not later result in exoneration; the conviction bears such relationship to the Employment sought that the employer may reasonably conclude that the Applicant or Employee would present an unacceptable risk to the operation of the business or to co-workers or customers; and that exclusion of the Applicant or Employee is compelled by business necessity. An employer shall make a determination regarding such risk only after reviewing the Applicant's or Employee's specific *criminal* record and the particular job being sought, and conducting an individualized assessment of the risk presented. *The Employer shall not exclude an Applicant or Employee unless, based on the available information and consideration of all of the assessment factors listed below, a reasonable person would conclude that employing the Applicant or Employee would pose a specific unacceptable risk to the operation of the business or to co-workers or customers, as independently determined by the factfinder.* [Such] *The individualized* assessment shall include *consideration of the following*:

(a) The nature of the offense;

(b) The time that has passed since the offense;

(c) The Applicant's or Employee's employment history before and after the offense and any period of incarceration;

(d) The particular duties of the job being sought;

(e) Any character or employment references provided by the Applicant or Employee; and

(f) Any evidence of the Applicant's or Employee's rehabilitation since the conviction, *which may include, but shall not be limited, to credible information showing:*

(.1) Completion of a mental health or substance use disorder treatment program;

(.2) Completion of a job training program;

(.3) Completion of a GED or post-secondary education program;

(.4) Service to the community;

(.5) Work history in a related field since the time of conviction or incarceration.

(.6) Active occupational licensure, commercial driver licensure, or other licensure necessary to perform the specific duties of the job.

(4) *Unless otherwise required by state or federal law, a* City agency or private employer may consider, for employment purposes*:*

(a) an Applicant's or Employee's *felony* conviction record only to the extent that the conviction did not result in exoneration and *the underlying arrest or the release from incarceration for such conviction, whichever is later,* occurred fewer than seven (7) years from the date of the inquiry. [Any period of incarceration shall not be included in the calculation of the seven (7) year period.]

(b) an Applicant's or Employee's misdemeanor conviction record only to the extent that the conviction did not result in exoneration and the underlying arrest or the release from incarceration for such conviction, whichever is later, occurred fewer than four (4) years from the date of the inquiry.

(5) Unless otherwise required by state or federal law, a City agency or private employer shall not consider, for employment purposes, an Applicant's or Employee's summary offense conviction record.

(6) A City agency or private employer shall not consider, for employment purposes, an Applicant's or Employee's conviction record that has been expunged, sealed, or otherwise cannot be used pursuant to this Chapter, whether such record appears on a criminal background check, a Driver Record issued by the Pennsylvania Department of Transportation, or any other source.

(a) If an expunged or sealed criminal record appears on a Driver Record, the Employer shall allow the Applicant or Employee to provide evidence of expungement or sealing.

§ 9-3504.1. Notice.

(1) If an employer [rejects] *intends to reject* an Applicant or Employee for a job opening based in whole or in part on criminal record information, the employer shall notify the applicant in writing of such *provisional* decision and its basis, *including the specific convictions considered,* and shall provide the Applicant or Employee with a copy of the criminal *record used. The employer shall also provide the Applicant or Employee with a notice in plain language that shall include:*

(a) A summary of the Applicant's or Employee's rights under the Fair Criminal Record Screening Standards Ordinance.

(b) A statement that the employer will consider evidence of any error in the criminal history records and evidence of rehabilitation and mitigation if provided by the Applicant or Employee, including a list of the types of evidence that may be offered, consistent with subsection 9-304(3)(f).

(c) Instruction as to how the Applicant or Employee can exercise their right to provide evidence or explanation directly to the employer.

(2) The Philadelphia Commission on Human Relations (the "Commission"), or such other City department or office as the Mayor may designate, is authorized to issue regulations implementing and interpreting this Section 9-3504.1 and to create forms to be used by employers under this Section 9-3504.1, including, but not limited to, a form of required notice, summary of rights under the Ordinance, and statement concerning evidence of error or rehabilitation.

(3) The employer shall allow the Applicant or Employee ten (10) business days to provide evidence of the inaccuracy of the information or to provide an explanation *before it may make a final determination concerning the Applicant or Employee's employment*.

* * *

§ 9-3506. Enforcement.

(1) The Philadelphia Commission on Human Relations (the "Commission") shall administer and enforce this Chapter. The Commission is authorized to issue regulations in furtherance of its administration and enforcement authority.

(2) Each violation of this Chapter shall constitute a "Class III" offense and any person who violates this Chapter shall be subject to a fine as set forth in subsection 1-109(3).

(3) Any person injured by a violation of this Chapter may report such violation to the Commission. In order to exercise the private right of action provided under Section 9-3508 of this Chapter, a person must first report the violation to the Commission within 300 calendar days of the unlawful act.

(4) When a complaint has been filed with the Commission reporting a violation of this Chapter by an Employer, that Employer must file with the Commission in its response to the complaint a statement containing the following information:

(a) The specific criminal record on which the Employer based its decision to reject the Applicant or Employee;

(b) The specific duties and requirements of the job being sought, which the Employer considered in its individualized assessment, that resulted in a decision to reject the Applicant or Employee due to their criminal record;

(c) The time passed since arrest or incarceration relating to the specific conviction considered; and

(d) The evidence of rehabilitation and mitigation that the Employer considered.

(5) *Where the Commission determines that a violation of this Chapter has occurred,* [In] *in* addition to the penalties authorized by subsection 9-3506(2), the Commission may issue an order directing an employer who has engaged in practices made unlawful by this Chapter to take affirmative action to redress the harms suffered by the complainant. The Commission may *also* order remedies, including, but not limited to:

(a) An order requiring the respondent to cease and desist such unlawful practice;

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(b) Any injunctive or other equitable relief;

(c) Payment of compensatory damages;

(d) Payment of [punitive damages] *civil penalties*, not to exceed two thousand dollars ($2,000) per violation*, payable to the City*;

(e) Payment of reasonable attorneys' fees[.]; and

(f) Liquidated damages in a separate amount equal to the other monetary damages determined to be owed to the Applicant or Employee by the Commission. Liquidated damages under this subsection are intended to make the Applicant or Employee whole and to compensate them for collateral harms suffered because of the violation and for the Applicant or Employee's time and effort enforcing the rights afforded to the Applicant or Employee under this Chapter.

* * *

§ 9-3508. Private Right of Action.

(1) If within one (1) year after the filing of a complaint with the Commission, the Commission concludes that it has not found sufficient evidence of a violation to proceed further with an investigation, or has not entered into a conciliation agreement to which the complainant is a party, the Commission must notify the complainant that it is dismissing the case. On receipt of such a notice, if the complainant filed the complaint within 300 days of the unlawful act, the complainant may bring an action in a court of competent jurisdiction based on the right to fair criminal record or juvenile record screening standards granted by this Chapter.

(2) An action under this Section shall be filed within two years after the date of notice from the Commission closing the case. Any action so filed shall be served on the Commission at the time the complaint is filed in court. The Commission shall notify the complainant of this requirement.

(3) The court may grant any relief it deems appropriate, including the right of the complainant to recover for each violation:

(a) Compensatory damages;

(b) Liquidated damages, equal to the payment of the maximum allowable salary for the job subject to the complaint for a period of one month. Total liquidated damages shall not exceed five thousand dollars ($5,000);

(c) Reasonable attorneys' fees;

(d) Court costs; and

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(e) Such other relief, including injunctive relief, as the court may deem appropriate.

(4) Nothing in this Chapter limits the right of an injured person to recover damages under any other applicable law or legal theory.

* * *

§ 9-3511. Retaliation Prohibited.

(1) It shall be unlawful for an employer or any other person to interfere with, restrain, deny the exercise of, or the attempt to exercise, any right set forth in this Chapter, or to retaliate against an employee for exercising any rights protected by this Chapter.

(a) There shall be a rebuttable presumption of unlawful retaliation under this Section whenever an employer discharges, suspends, demotes, or takes other adverse action against a person within 90 days of when that person engaged in the exercise of rights under this Chapter, including having utilized the provisions of this Chapter to provide information pertinent to an employer's individualized assessment of the person's criminal record, except that it shall not be deemed retaliation where an employer has acted in good faith to comply with this Chapter and:

(.1) After receiving and considering additional information provided by the Applicant or Employee pursuant to Section 3504.1 of this Chapter, elects to move forward with the rejection of a job application;

(.2) Terminates or otherwise takes adverse action against multiple Employees or Applicants based on legitimate business concerns that are not related to such person's criminal record or conduct; or

(.3) Exercises their rights under Section 9-3503(2) of this Chapter.

(b) The employer or any person associated with the employer may overcome the presumption by showing by a preponderance of evidence that they took the adverse action for just cause and would have taken the adverse action notwithstanding the protected activity.

(c) Unlawful retaliation shall include adverse actions taken prior, during, or after the termination of the worker's relationship with the employer.

(d) A causal connection between the protected activity and the adverse action may be established by indirect or direct evidence.

(e) Unlawful retaliation can exist when the protected activity is one of several motivating factors for the adverse action.

§ 9-3512. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

* * *

SECTION 2. This Ordinance shall be effective 90 days after being adopted into law.

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Explanation:

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

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