

Legislation Text

File #: 180368, Version: 0

Amending Chapter 9-3500 of The Philadelphia Code, entitled "Fair Criminal Record Screening Standards," by adding a section providing for prohibition on consideration of or inquiry about an applicant's juvenile records at any stage of the employment or licensing process, and adding definitions; all under certain terms and conditions.

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

WHEREAS, 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; and

WHEREAS, Though Philadelphia's fair-chance hiring and Ban-the-Box policies are important steps toward increasing opportunities for Philadelphia adults with a criminal background, for youth the stakes are even higher. They have yet to build their skills and resumes to demonstrate their qualifications for employment, and their records have the potential to disqualify them from opportunities before they have even crossed the starting line; and

WHEREAS, Youth of color are overrepresented in the juvenile justice system, which disproportionately impacts their lives, families, communities, and economic well-being; and

WHEREAS, Juvenile justice-involved youth represent a group of job-seekers, ready to contribute and add to the workforce; now, therefore

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 RECORDS 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

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(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.

* * *

(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[.]; and

(d) to ensure that, in accordance with Pennsylvania law, persons with *juvenile records* may be considered for employment based on their own merit and qualifications, and their *juvenile records* may not create barriers to employment.

§ 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 records of arrests, petitions alleging delinquency, adjudications of delinquency, diversions, consent decrees, deferred adjudications, and records of decertified cases.

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§ 9-3505. Exemptions.

* * *

(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 limitation on the effect of juvenile adjudications pursuant to 42 Pa. C.S. § 6354.

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§ 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.

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§ 9-3510. *Prohibition on Consideration of Juvenile Records.*

(1) In connection with the employment or licensing of any person, it shall be an unlawful discriminatory practice for a City agency or private employer, at any stage in the hiring or application process, to take any adverse action against such person on the basis of the person's juvenile record.

(2) It shall further be an unlawful discriminatory practice for a City agency or private employer, in connection with the employment or licensing of any person, to require the person to disclose or reveal any item or information in the person's juvenile record. 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 inquiry prohibited by this Section 9-3510 shall include any question regarding the applicant's willingness to submit to a background check.

(a) Voluntary disclosure of juvenile record information by an applicant for employment shall not modify or waive the prohibition in Section 9-3510(1) on taking adverse action against a person on the basis of the person's juvenile record.

Explanation:

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