File #: 230571, **Version:** 1

Amending Chapter 9-3500 of The Philadelphia Code, entitled "Fair Criminal Record Screening Standards," to add provisions regarding the consideration of convictions that result in exoneration and make related technical changes, 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:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS.

* * *

CHAPTER 9-3500. FAIR CRIMINAL RECORD SCREENING STANDARDS

* * *

§ 9-3502. Definitions.

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

* * *

(3) Conditional offer of employment means an offer by an employer to hire an applicant, which may be withdrawn only if the employer subsequently determines that the applicant (i) has a conviction [record] *that did not result in exoneration and* which, based on an individualized assessment as required by [subsection 9-3504(2),] *subsection 9-3504(3),* would reasonably lead an employer to conclude that the applicant would pose an unacceptable risk in the position applied for; or (ii) does not meet other legal or physical requirements of the job.

(4) Conviction shall mean any sentence 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.

* * *

(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.

* * *

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

Criminal Offenses.

* * *

(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 criminal record, [unless] *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,] *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 record and the particular job being sought, and conducting an individualized assessment of the risk presented. Such assessment shall include:

* * *

[(3)] *(4)* A City agency or private employer may consider, for employment purposes, an Applicant's or Employee's conviction record only to the extent that the conviction *did not result in exoneration and* 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.

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Explanation:

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

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