

Chapter 2

(House Bill 694 of the 2017 Regular Session)

AN ACT concerning

**Higher Education – Admissions Process – Criminal History
(Maryland Fair Access to Education Act of 2017)**

FOR the purpose of prohibiting certain institutions of higher education from ~~inquiring into or considering~~ using information about the criminal history of applicants on certain admissions applications; providing for ~~a certain exception~~ exceptions to the ban on ~~inquiring into or considering~~ using certain criminal history information; allowing certain institutions of higher education to inquire into or consider the criminal history of students for purposes of admission and access to campus residency, ~~residency or~~ offering certain counseling or ~~services, and deciding whether students may participate in certain activities or aspects of campus life~~ services; prohibiting certain institutions of higher education from ~~using information on a student's criminal history to rescind admission or unreasonably restrict a student's~~ automatically or unreasonably restricting a student's admission and access to certain activities or aspects of campus life; requiring certain institutions of higher education to adopt ~~an individualized~~ a process when denying or limiting certain students' access to campus residency or a ~~particular activity, academic program, or aspect of campus life~~ certain academic program; requiring ~~an individualized~~ the process to be set forth in writing and include certain considerations; ~~requiring that certain negatively affected students have the right to appeal a denial or limitation of access to campus residency or a particular activity or aspect of campus life; requiring certain institutions of higher education to inform accepted students of their individualized processes and the students' right to present certain evidence in writing;~~ requiring certain institutions of higher education to consider the State's policy of promoting the admission of students with criminal records; providing for the application of this Act; defining certain terms; providing for a delayed effective date; and generally relating to the ~~prohibition against institutions of higher education considering criminal history during the admissions process~~ consideration of criminal history in the admissions process.

BY adding to

Article – Education

Section 26–501 through 26–506 to be under the new subtitle “Subtitle 5. ~~Prohibition on Considering~~ Consideration of Criminal History During in the Admissions Process”

Annotated Code of Maryland

(2014 Replacement Volume and 2016 Supplement)

Preamble

~~WHEREAS, Higher education plays a critical role in developing good citizenship, creating economic and social opportunities, and enhancing public safety; and~~

~~WHEREAS, Barriers to education increase recidivism rates for individuals with criminal histories and national crime statistics demonstrate that higher education institutions that have eliminated pre-admission inquiry into criminal history have not experienced an increase in campus crime rates; and~~

~~WHEREAS, It is the policy of the State to encourage the continuing education of individuals with a criminal record and remove barriers to their ability to meaningfully recenter society and transition into the workforce; now, therefore,~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

~~SUBTITLE 5. PROHIBITION ON CONSIDERING CRIMINAL HISTORY DURING THE~~ ~~ADMISSIONS PROCESS~~ CONSIDERATION OF CRIMINAL HISTORY IN THE ADMISSIONS PROCESS.

26-501.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(B) (1) “ADMISSIONS PROCESS” MEANS THE PROCESS BY WHICH INSTITUTIONS OF HIGHER EDUCATION SELECT STUDENTS FOR ENROLLMENT.~~

~~(2) “ADMISSIONS PROCESS” INCLUDES THE SUBMISSION OF AN APPLICATION TO ATTEND AN INSTITUTION OF HIGHER EDUCATION, ALL DECISIONS MADE DURING THE REVIEW OF APPLICATIONS, AND THE SELECTION OF APPLICANTS TO MATRICULATE~~ “ADMISSIONS APPLICATION” MEANS AN INDIVIDUAL APPLICATION TO ENROLL AS AN UNDERGRADUATE STUDENT AT AN INSTITUTION OF HIGHER EDUCATION.

(C) “CRIMINAL HISTORY” MEANS AN ARREST, ~~A CRIMINAL ACCUSATION,~~ OR A CRIMINAL CONVICTION.

~~(D) “DIRECT RELATIONSHIP” MEANS A CONNECTION BETWEEN THE NATURE OF THE CRIMINAL HISTORY OF AN ACCEPTED STUDENT AND AN ACTIVITY OR ASPECT OF CAMPUS LIFE THAT WOULD CREATE AN UNREASONABLE RISK TO THE SAFETY OR WELFARE OF THE ACCEPTED STUDENT, OTHER INDIVIDUALS ON~~

~~CAMPUS, OR CAMPUS PROPERTY IF THE ACCEPTED STUDENT WERE AUTHORIZED TO PARTICIPATE WITHOUT CONDITION.~~

~~(E) (D)~~ “THIRD-PARTY ADMISSIONS APPLICATION” MEANS AN ADMISSIONS APPLICATION NOT CONTROLLED BY THE INSTITUTION.

26-502.

THIS SUBTITLE APPLIES TO INSTITUTIONS OF HIGHER EDUCATION THAT RECEIVE STATE FUNDS.

26-503.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN INSTITUTION OF HIGHER EDUCATION MAY NOT ~~INQUIRE INTO OR CONSIDER INFORMATION ABOUT THE CRIMINAL HISTORY OF AN INDIVIDUAL DURING THE ADMISSIONS PROCESS~~ USE AN ADMISSIONS APPLICATION THAT CONTAINS QUESTIONS ABOUT THE CRIMINAL HISTORY OF THE APPLICANT.

(B) AN INSTITUTION OF HIGHER EDUCATION MAY ~~CONSIDER INFORMATION ABOUT A CRIME COMMITTED BY AN APPLICANT IF THE INSTITUTION KNOWS OR SHOULD KNOW THAT THE CRIME IS ONGOING~~ USE A THIRD-PARTY ADMISSIONS APPLICATION THAT CONTAINS QUESTIONS ABOUT THE CRIMINAL HISTORY OF THE APPLICANT IF THE INSTITUTION POSTS A NOTICE ON ITS WEB SITE STATING THAT A CRIMINAL HISTORY DOES NOT DISQUALIFY AN APPLICANT FROM ADMISSION.

26-504.

(A) SUBJECT TO § 26-505 OF THIS SUBTITLE, AN INSTITUTION OF HIGHER EDUCATION MAY MAKE INQUIRIES INTO AND CONSIDER INFORMATION ABOUT A STUDENT’S CRIMINAL HISTORY FOR THE PURPOSE OF:

(1) MAKING DECISIONS REGARDING ADMISSION AND ACCESS TO CAMPUS RESIDENCY; OR

(2) OFFERING SUPPORTIVE COUNSELING OR SERVICES TO HELP REHABILITATE AND EDUCATE THE STUDENT ON BARRIERS A CRIMINAL RECORD MAY ~~PRESENT; OR~~

~~(3) DECIDING WHETHER THE STUDENT MAY PARTICIPATE IN ACTIVITIES AND ASPECTS OF CAMPUS LIFE USUALLY OPEN TO STUDENTS~~ PRESENT.

(B) IN MAKING INQUIRIES OR CONSIDERING INFORMATION UNDER THIS SECTION, AN INSTITUTION OF HIGHER EDUCATION MAY NOT:

~~(1) USE ANY INFORMATION ABOUT A STUDENT'S CRIMINAL HISTORY TO RESCIND AN OFFER OF ADMISSION; OR~~

~~(2) AUTOMATICALLY AUTOMATICALLY OR UNREASONABLY RESTRICT A STUDENT'S ADMISSION, ACTIVITIES, OR ASPECTS OF CAMPUS LIFE BASED ON THAT STUDENT'S CRIMINAL HISTORY. AUTOMATICALLY OR UNREASONABLY RESTRICT A STUDENT'S ADMISSION BASED ON THAT STUDENT'S CRIMINAL HISTORY.~~

26-505.

~~(A) IN DECIDING TO DENY OR LIMIT A STUDENT'S ADMISSION OR ACCESS TO CAMPUS RESIDENCY OR PARTICIPATION IN A PARTICULAR ACTIVITY OR ASPECT OF CAMPUS LIFE UNDER § 26-504 OF THIS SUBTITLE, AN INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP AN INDIVIDUALIZED A PROCESS FOR DETERMINING WHETHER THERE IS A DIRECT RELATIONSHIP BETWEEN A STUDENT'S CRIMINAL HISTORY AND CAMPUS RESIDENCY, A SPECIFIC ACADEMIC PROGRAM, OR A PARTICULAR ACTIVITY OR ASPECT OF CAMPUS LIFE.~~

(A) IN DECIDING TO DENY OR LIMIT A STUDENT'S ADMISSION OR ACCESS TO CAMPUS RESIDENCY UNDER § 26-504 OF THIS SUBTITLE, AN INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP A PROCESS FOR DETERMINING WHETHER THERE IS A RELATIONSHIP BETWEEN A STUDENT'S CRIMINAL HISTORY AND CAMPUS RESIDENCY OR A SPECIFIC ACADEMIC PROGRAM.

~~(B) AN INDIVIDUALIZED~~ THE PROCESS DEVELOPED UNDER THIS SECTION SHALL BE SET FORTH IN WRITING AND SHALL INCLUDE CONSIDERATION OF:

(1) THE AGE OF THE STUDENT AT THE TIME ANY ASPECT OF THE STUDENT'S CRIMINAL HISTORY OCCURRED;

(2) THE TIME THAT HAS ELAPSED SINCE ANY ASPECT OF THE STUDENT'S CRIMINAL HISTORY OCCURRED;

~~(3) THE NATURE OF THE CRIMINAL HISTORY AND WHETHER IT BEARS A DIRECT RELATIONSHIP TO CAMPUS RESIDENCY, THE ACTIVITY, OR THE ASPECT OF CAMPUS LIFE AT ISSUE; AND~~

(4) ANY EVIDENCE OF REHABILITATION OR GOOD CONDUCT PRODUCED BY THE STUDENT.

~~(C) AN INDIVIDUALIZED PROCESS DEVELOPED UNDER THIS SECTION SHALL PROVIDE AN AFFECTED STUDENT WITH REASONABLE NOTICE AND AN OPPORTUNITY~~

~~TO APPEAL A DENIAL OR LIMITATION OF CAMPUS RESIDENCY, AN ACTIVITY, OR AN ASPECT OF CAMPUS LIFE.~~

~~(D) INSTITUTIONS OF HIGHER EDUCATION SHALL INFORM ACCEPTED STUDENTS IN WRITING OF THE INDIVIDUALIZED PROCESS DEVELOPED UNDER THIS SECTION AND THE RIGHT STUDENTS HAVE TO PROVIDE EVIDENCE OF REHABILITATION AND GOOD CONDUCT.~~

26-506.

AN INSTITUTION OF HIGHER EDUCATION THAT INQUIRES INTO OR CONSIDERS INFORMATION ABOUT A STUDENT'S CRIMINAL HISTORY, IN A MANNER CONSISTENT WITH THIS SUBTITLE, SHALL CONSIDER THE STATE'S POLICY TO PROMOTE THE ADMISSION OF STUDENTS WITH CRIMINAL RECORDS, INCLUDING FORMERLY INCARCERATED INDIVIDUALS, TO PROVIDE THESE STUDENTS WITH THE OPPORTUNITY TO OBTAIN THE KNOWLEDGE AND SKILLS NEEDED TO CONTRIBUTE TO THE STATE'S ECONOMY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~ December 1, 2017.

Gubernatorial Veto Override, January 12, 2018.