
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 842 Session of
2017

INTRODUCED BY HUGHES, FONTANA, COSTA, BLAKE, STREET AND LEACH,
AUGUST 11, 2017

REFERRED TO LABOR AND INDUSTRY, AUGUST 11, 2017

AN ACT

1 Providing for employer prescreening and for administration of
2 act and rulemaking authority; imposing penalties;
3 establishing the Ex-offender Increased Access to Employment
4 Enforcement Fund; making an appropriation; and providing for
5 construction of act.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Ex-offender
10 Increased Access to Employment Act.

11 Section 2. Findings.

12 The General Assembly finds that it is in the public interest
13 to:

14 (1) Do more to give employers in this Commonwealth
15 access to the broadest pool of qualified applicants possible.

16 (2) Protect the civil rights of those seeking
17 employment.

18 (3) Ensure that qualified applicants are properly
19 considered for employment opportunities and are not

1 prescreened or denied an employment opportunity unnecessarily
2 or unjustly.

3 Section 3. Definitions.

4 The following words and phrases when used in this act shall
5 have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Applicant." A person pursuing employment with an employer
8 or with or through an employment agency.

9 "Department." The Department of Labor and Industry of the
10 Commonwealth.

11 "Employer." Any of the following:

12 (1) The Commonwealth.

13 (2) A political subdivision.

14 (3) An instrumentality of the Commonwealth or a
15 political subdivision.

16 (4) A person or private entity that has five or more
17 employees in the current or preceding calendar year and an
18 agent of the entity or person.

19 "Employment." An occupation or vocation.

20 "Employment agency." A person or entity, or an agent of the
21 person or entity, regularly undertaking with or without
22 compensation to procure employees for an employer or to procure
23 for employees opportunities to work for an employer.

24 "Fund." The Ex-offender Increased Access to Employment
25 Enforcement Fund established under section 5(d).

26 "Secretary." The Secretary of Labor and Industry of the
27 Commonwealth.

28 Section 4. Employer prescreening.

29 (a) Prohibition.--An employer or employment agency may not
30 inquire about or into or consider or require disclosure of the

1 criminal record or criminal history of an applicant until:

2 (1) the applicant has been determined qualified for the
3 position and the applicant has received an in-person
4 interview by the employer or employment agency; or

5 (2) if there is not an in-person interview, until after
6 a conditional offer of employment is made to the applicant by
7 the employer or employment agency.

8 (b) Exemptions.--The requirements set forth in subsection
9 (a) do not apply for positions where:

10 (1) employers are required to exclude applicants with
11 certain criminal convictions from employment due to Federal
12 or State law; or

13 (2) a standard fidelity bond or an equivalent bond is
14 required and an applicant's conviction of one or more
15 specified criminal offenses would disqualify the applicant
16 from obtaining the bond, in which case an employer may
17 include a question or otherwise inquire whether the applicant
18 has ever been convicted of any of the offenses.

19 (c) Notification.--This section shall not prohibit an
20 employer from notifying applicants in writing of the specific
21 offenses that will disqualify an applicant from employment in a
22 particular position due to Federal or State law or the
23 employer's policy.

24 Section 5. Administration of act and rulemaking authority.

25 (a) Investigation and penalties.--The department may
26 investigate an alleged violation of this act by an employer or
27 employment agency. If the department finds that a violation of
28 this act has occurred, the secretary may impose the following
29 civil penalties:

30 (1) For a first violation, the secretary shall issue a

1 written warning to the employer or employment agency.

2 (2) For a second violation, the secretary may impose a
3 civil penalty of up to \$500.

4 (3) For a third or subsequent violation, the secretary
5 may impose a civil penalty of up to \$1,500.

6 (b) Remedy of violation.--A penalty imposed under subsection
7 (a) (1), (2) and (3) shall include a requirement that the
8 employer or employment agency remedy the violation within 30
9 days of receipt of notice of the violation from the department.
10 An employer or employment agency that fails to remedy a
11 violation after receipt of notice from the department shall be
12 subject to an additional penalty of up to \$1,500 for every 30
13 days that passes thereafter without compliance.

14 (c) Assessment and recovery of penalties.--Penalties under
15 this section may be assessed by the department and recovered in
16 a civil action brought by the department in Commonwealth Court
17 or an administrative adjudicative proceeding.

18 (d) Fund.--The Ex-offender Increased Access to Employment
19 Enforcement Fund is established as a special fund in the State
20 Treasury.

21 (e) Deposit and appropriation.--The money recovered as civil
22 penalties under this section shall be deposited into the fund.
23 The money in the fund shall be appropriated to the department on
24 a continuing basis and may be used only to enforce employer
25 violations of this act.

26 (f) Administration and procedure.--The department may
27 promulgate regulations necessary to administer this act and may
28 establish an administrative procedure to adjudicate claims and
29 issue final and binding decisions subject to 2 Pa.C.S. (relating
30 to administrative law and procedure).

1 Section 6. Construction of act.

2 This act may not be construed to prohibit an employer from
3 conducting a criminal history background check on an individual
4 after complying with the provisions of this act.

5 Section 7. Effective date.

6 This act shall take effect in 60 days.