

130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative DocumentNo. 1167

H.P. 845

House of Representatives, March 22, 2021

An Act Relating to Fair Chance in Employment

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative TALBOT ROSS of Portland.

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 26 MRSA §600-A is enacted to read:
3	§600-A. Criminal history record information; employment application
4 5	<u>1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.</u>
6 7	<u>A. "Criminal history record information" has the same meaning as in Title 16, section 703, subsection 3.</u>
8 9 10 11 12 13	B. "Employer" means a person in this State who employs individuals. "Employer" includes municipalities and political subdivisions of the State, but does not include an employer of an individual who holds a position in the legislative, executive or judicial branch of State Government or a position with a quasi-independent state entity or public instrumentality of the State. "Employer" includes a person acting in the interest of an employer directly or indirectly.
14	2. Initial employee application form. Except as provided in subsection 3, an
15 16 17	<u>employer may not:</u> <u>A. Request criminal history record information on the employer's initial employee application form; or</u>
18 19 20	B. State on an initial employee application form or advertisement or specify prior to determining a person is otherwise qualified for the position that a person with a criminal history may not apply or will not be considered for a position.
21 22 23	An employer may inquire about a prospective employee's criminal history record information during an interview or once the prospective employee has been determined otherwise qualified for the position.
24 25 26 27	3. Exceptions for initial employee application form. An employer may inquire about criminal convictions on an initial employee application form or state on an initial employee application form or advertisement or otherwise assert that a person with a criminal history may not apply or will not be considered for a position if:
28 29 30 31	A. The position is one for which a federal or state law or regulation or rule creates a mandatory or presumptive disqualification based on a conviction for one or more types of criminal offenses, and the questions on the initial employee application form are limited to the types of criminal offenses creating the disqualification;
32 33 34 35 36	B. The employer is subject to an obligation imposed by a federal or state law or regulation or rule not to employ in a position a person who has been convicted of one or more types of criminal offenses, and the questions on the initial employee application form are limited to the types of criminal offenses creating the obligation; or
37 38 39	C. The employer is required by federal or state law or regulation or rule to conduct a criminal history record check for the position for which the prospective employee is applying.
40 41	 <u>4. Penalty. This section must be enforced pursuant to section 626-A.</u> Sec. 2. 26 MRSA §626-A, first ¶, as amended by PL 2019, c. 35, §2, is further
42	amended to read:

1 Whoever violates any of the provisions of <u>section 600-A</u>, sections 621-A to 623 or 2 section 626, 628, 628-A, 629 or 629-B is subject to a forfeiture of not less than \$100 nor 3 more than \$500 for each violation.

4

SUMMARY

5 This bill prohibits an employer from requesting criminal history record information on 6 an initial employee application form or stating on an initial employee application form or 7 advertisement or specifying prior to determining a person is otherwise qualified for the 8 position that a person with a criminal history may not apply or will not be considered for a 9 position.

10 The bill provides exceptions to those prohibitions, including instances in which federal 11 or state law or regulation or rule mandates for a position that a criminal conviction 12 disqualifies an applicant, or imposes an obligation on an employer not to hire an applicant 13 who has been convicted of a certain type of offense, or requires that an employer conduct 14 a criminal history record check.

15 An employer who violates this prohibition is subject to a penalty of not less than \$100 16 nor more than \$500 for each violation, to be enforced by the Department of Labor.