

SB49 INTRODUCED



1 SB49
2 H4KN668-1
3 By Senators Singleton, Coleman, Coleman-Madison, Stewart
4 RFD: State Governmental Affairs
5 First Read: 04-Feb-25



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SYNOPSIS:

Under existing law, there is no Alabama statute prohibiting the State of Alabama, its agencies, or its political subdivisions, as employers, from discriminating against a job applicant based on the applicant's criminal conviction record.

This bill would prohibit the State of Alabama, its agencies, and its political subdivisions, as employers, from inquiring into or considering an applicant's arrest or conviction history for consideration of a job until after the applicant has received a conditional job offer, except when a conviction is directly related to the position of employment sought.

This bill would require the State of Alabama, its agencies, and its political subdivisions, as employers, to maintain certain employment and hiring records relating to the conviction history of employees and job applicants.

This bill would also authorize the Department of Workforce to enforce the provisions of this act.

A BILL
TO BE ENTITLED



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AN ACT

Relating to criminal convictions; to prohibit the State of Alabama, its agencies, and its political subdivisions, as employers, from inquiring into or considering an applicant's conviction history for consideration of a job until after the applicant has received a conditional job offer, with exceptions; to require the State of Alabama, its agencies, and its political subdivisions, as employers, to maintain certain employment and hiring records relating to the conviction history of employees and job applicants; and to authorize the Department of Workforce to enforce the provisions of this act.
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature finds and declares that reducing barriers to employment for people with arrest and conviction records and decreasing unemployment in communities with concentrated numbers of people with criminal conviction records are matters of statewide concern. The Legislature further finds and declares that increasing employment opportunities for people with criminal records will reduce recidivism and improve economic stability in our communities.

Section 2. As used in this act, the following words have the following meanings:

(1) APPLICANT. Any individual considered for, or who requests to be considered for, employment or any employee considered for, or who requests to be considered for, another employment position by the employer.

(2) DEPARTMENT. The Department of Workforce.



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57 (3) EMPLOYER. The State of Alabama, its agencies, or
58 political subdivisions.

59 (4) HIRING AUTHORITY. The person, board, commission, or
60 department of the state, or the agencies or political
61 subdivisions thereof, responsible by law for hiring
62 individuals for public employment.

63 Section 3. (a) The following criminal records may not
64 be used, distributed, or disseminated by the state, or the
65 agencies or political subdivisions thereof, in connection with
66 any application for employment with an employer:

67 (1) Arrest not followed by a valid conviction.

68 (2) Convictions that have been sealed, dismissed, or
69 expunged.

70 (3) Infractions or misdemeanor convictions for which no
71 jail sentence may be imposed.

72 (b) Any information pertaining to an applicant's
73 background check obtained in conjunction with the hiring
74 process shall remain confidential, and may not be used,
75 distributed, or disseminated by the state, or the agencies or
76 political subdivisions thereof, except as otherwise required
77 by law.

78 Section 4. (a) An employer or hiring authority may not
79 inquire into or consider an applicant's conviction history
80 until after the applicant has received a conditional offer.

81 (b) Job applications for employment with an employer
82 may not inquire into an applicant's conviction history.

83 Section 5. (a) An individual may not be disqualified
84 from employment with an employer solely or in part because of



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85 a prior conviction, unless a conviction is directly related to
86 the position of employment sought. If a state or federal law,
87 rule, or regulation explicitly requires that certain
88 convictions are an automatic bar to employment, then those
89 convictions shall be considered.

90 (b) In determining whether a conviction directly
91 relates to the position of employment sought, the employer or
92 hiring authority shall consider all of the following:

93 (1) Whether the conviction is directly related to the
94 duties and responsibilities of that employment position or
95 occupation.

96 (2) Whether the position or occupation offers the
97 opportunity for the same or a similar offense to occur.

98 (3) Whether circumstances leading to the conduct for
99 which the individual was convicted will recur in the position
100 or occupation.

101 (4) The length of time since the offense occurred.

102 Section 6. (a) Nothing in this act shall be interpreted
103 as to create any requirement, power, or duty in conflict with
104 any federal or state law, rule, or regulation, or with a
105 requirement of any government agency or employer from
106 implementing any federal or state law, rule, or regulation
107 that may govern applicant inquiries, employment decisions, or
108 applicant communications.

109 (b) Nothing in this act shall prohibit an employer from
110 notifying applicants in writing of the specific offenses that
111 will disqualify an applicant from employment in a particular
112 position due to federal or state law or the employer's policy.



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113 Section 7. (a) The requirements of this act do not
114 apply to positions where a standard fidelity bond or an
115 equivalent bond is required and an applicant's conviction of
116 one or more specified offenses would disqualify the applicant
117 from obtaining such a bond, in which case an employer may
118 include a question or otherwise inquire whether the applicant
119 has ever been convicted of any of those offenses.

120 (b) This act shall not apply to the hiring of Alabama
121 Securities Commission personnel who have access to
122 confidential information or who perform law enforcement
123 functions or to the hiring of Alabama Banking Department
124 personnel who have access to confidential supervisory
125 information.

126 (c) This act shall not apply to an employer that is a
127 law enforcement agency.

128 Section 8. If the employer or hiring authority intends
129 to deny an applicant a position of employment solely or in
130 part because of the applicant's prior conviction, the employer
131 or hiring authority, prior to a final decision, shall provide
132 the applicant written notification of the following:

133 (1) The specific conviction or convictions that are the
134 basis for the potential denial or disqualification.

135 (2) A copy of the conviction history report, if any.

136 Section 9. (a) The Department of Workforce shall be
137 responsible for enforcing this act. A person who is aggrieved
138 by an employer's or hiring authority's violation of this act
139 may contact the Department of Workforce to report any
140 problems, concerns, or suggestions regarding the



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141 implementation, compliance, and impact of this act, and the
142 department shall keep a record. In addition, the Department of
143 Workforce shall conduct periodic reviews to assess compliance
144 with this act. The Department of Workforce shall investigate
145 and review complaints and maintain records detailing
146 complaints and their disposition.

147 (b) An employer or hiring authority shall retain for a
148 minimum of three years application forms, records of
149 employment, and other pertinent data and records required
150 under Sections 1 to 6, inclusive, including, but not limited
151 to, communications with the applicant, and shall allow the
152 Department of Workforce access to such records to monitor
153 compliance. In addition, the employer shall maintain a record
154 of all of the following:

155 (1) The number of positions requiring background
156 checks.

157 (2) The number of applicants for positions described in
158 subdivision (1) who were provided a conditional offer.

159 (3) The number of applicants with a conviction record
160 who were notified by the employer that the applicant's
161 conviction record may disqualify the applicant, as provided in
162 Section 8.

163 (c) Employers and hiring authorities shall also
164 regularly conduct a confidential, anonymous survey of
165 employees in public employment in which background checks are
166 not conducted to determine the number of individuals with
167 conviction records who are hired.

168 (d) An appeal, complaint, or grievance concerning a



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169 violation of this act by an employer or hiring authority shall
170 be processed and adjudicated in accordance with established
171 state procedures.

172 (e) The Department of Workforce shall conduct an annual
173 audit to review the state's hiring practices in an effort to
174 ensure that individuals with criminal records are not
175 unreasonably denied employment with the state. The Department
176 of Workforce shall prepare a written report of this annual
177 audit and submit the written report to the Governor within 90
178 days of the end of the fiscal year for which the audit was
179 conducted. With respect to any violations of this act noted in
180 the annual audit report that occur after October 1, 2025, the
181 Governor shall take immediate and appropriate action to ensure
182 that such violations do not recur.

183 Section 10. This act shall prevail over any other laws
184 or rules which purport to govern the initiation, suspension,
185 or termination of employment on the grounds of conviction of
186 an offense. Nothing in this act may be construed to otherwise
187 affect relevant proceedings involving the initiation,
188 suspension, or termination of employment.

189 Section 11. This act shall become effective on October
190 1, 2025.