

1 SB200  
2 181796-3  
3 By Senators Ross, Dunn, Beasley, Smitherman, Coleman-Madison,  
4 Figures, Singleton and Sanders  
5 RFD: Judiciary  
6 First Read: 16-FEB-17

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to criminal convictions; to prohibit the  
12 State of Alabama, its agencies, and its political  
13 subdivisions, as employers, from inquiring into or considering  
14 an applicant's conviction history for consideration of a job  
15 until after the applicant has received a conditional job  
16 offer, with exceptions; to require the State of Alabama, its  
17 agencies, and its political subdivisions, as employers, to  
18 maintain certain employment and hiring records relating to the  
19 conviction history of employees and job applicants; and to  
20 authorize the Department of Labor to enforce the provisions of  
21 this act.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. The Legislature finds and declares that  
24 reducing barriers to employment for people with arrest and  
25 conviction records and decreasing unemployment in communities  
26 with concentrated numbers of people with criminal conviction  
27 records are matters of statewide concern. The Legislature

1 further finds and declares that increasing employment  
2 opportunities for people with records will reduce recidivism  
3 and improve economic stability in our communities.

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

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

10 (2) EMPLOYER. The State of Alabama, its agencies, or  
11 political subdivisions.

12 (3) HIRING AUTHORITY. The person, board, commission,  
13 or department of the state, or the agencies or political  
14 subdivisions thereof, responsible by law for hiring  
15 individuals for public employment.

16 Section 3. (a) The following criminal records may  
17 not be used, distributed, or disseminated by the state, or the  
18 agencies or political subdivisions thereof, in connection with  
19 any application for employment:

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

21 (2) Convictions that have been sealed, dismissed, or  
22 expunged.

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

25 (b) Any information pertaining to an applicant's  
26 background check obtained in conjunction with the hiring  
27 process shall remain confidential, and may not be used,

1 distributed, or disseminated by the state, or the agencies or  
2 political subdivisions thereof, except as otherwise required  
3 by law.

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

7 (b) Job applications may not inquire into an  
8 applicant's conviction history.

9 Section 5. (a) An individual may not be disqualified  
10 from employment solely or in part because of a prior  
11 conviction, unless a conviction is directly related to the  
12 position of employment sought. If a state or federal law,  
13 rule, or regulation explicitly requires that certain  
14 convictions are an automatic bar to employment, then those  
15 convictions shall be considered.

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

19 (1) Whether the conviction is directly related to  
20 the duties and responsibilities of that employment position or  
21 occupation.

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

24 (3) Whether circumstances leading to the conduct for  
25 which the individual was convicted will recur in the position  
26 or occupation.

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

1           Section 6. (a) Nothing in this act shall be  
2 interpreted as to create any requirement, power, or duty in  
3 conflict with any federal or state law, rule, or regulation,  
4 or with a requirement of any government agency or employer  
5 from implementing any federal or state law, rule, or  
6 regulation that may govern applicant inquiries, employment  
7 decisions, or applicant communications.

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

13           Section 7. (a) The requirements set forth in this  
14 act do not apply to positions where a standard fidelity bond  
15 or an equivalent bond is required and an applicant's  
16 conviction of one or more specified offenses would disqualify  
17 the applicant from obtaining such a bond, in which case an  
18 employer may include a question or otherwise inquire whether  
19 the applicant has ever been convicted of any of those  
20 offenses.

21           (b) This act shall not apply to the hiring of  
22 Alabama Securities Commission personnel who have access to  
23 confidential information or who perform law enforcement  
24 functions or to the hiring of Alabama Banking Department  
25 personnel who have access to confidential supervisory  
26 information.

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

3           Section 8. If the employer or hiring authority  
4 intends to deny an applicant a position of employment solely  
5 or in part because of the applicant's prior conviction, the  
6 employer or hiring authority, prior to a final decision, shall  
7 provide the applicant written notification of the following:

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

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

11          Section 9. (a) The Department of Labor shall be  
12 responsible for enforcing the provisions of this act. A person  
13 who is aggrieved by an employer's or hiring authority's  
14 violation of this act may contact the Department of Labor to  
15 report any problems, concerns, or suggestions regarding the  
16 implementation, compliance, and impact of the provisions of  
17 this act, and the department shall keep a record. In addition,  
18 the Department of Labor shall conduct periodic reviews to  
19 assess compliance with this act. The Department of Labor shall  
20 investigate and review complaints and maintain records  
21 detailing complaints and their disposition.

22          (b) An employer or hiring authority shall retain for  
23 a minimum of three years application forms, records of  
24 employment, and other pertinent data and records required  
25 under Sections 1 to 6, inclusive, including, but not limited  
26 to, communication with the applicant, and shall allow the  
27 Department of Labor access to such records to monitor

1 compliance. In addition, the employer shall maintain a record  
2 of all of the following:

3 (1) The number of positions requiring background  
4 checks.

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

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

11 (c) Employers and hiring authorities shall also  
12 regularly conduct a confidential, anonymous survey of  
13 employees in public employment in which background checks are  
14 not conducted to determine the number of individuals with  
15 conviction records who are hired.

16 (d) An appeal, complaint, or grievance concerning a  
17 violation of the provisions of this act by an employer or  
18 hiring authority shall be processed and adjudicated in  
19 accordance with established state procedures.

20 (e) The Department of Labor shall conduct an annual  
21 audit to review the state's hiring practices in an effort to  
22 ensure that people with records are not unreasonably denied  
23 employment with the state. The Department of Labor shall  
24 prepare a written report of this annual audit and submit the  
25 written report to the Governor within 90 days of the end of  
26 the fiscal year for which the audit was conducted. With  
27 respect to any violations of this act noted in the annual

1       audit report that occur after January 1, 2018, the Governor  
2       shall take immediate and appropriate action to ensure that  
3       such violations do not recur.

4               Section 10. The provisions of this act shall prevail  
5       over any other laws or rules which purport to govern the  
6       initiation, suspension, or termination of employment on the  
7       grounds of conviction of an offense. Nothing in this act may  
8       be construed to otherwise affect relevant proceedings  
9       involving the initiation, suspension, or termination of  
10      employment.

11              Section 11. This act shall become effective January  
12      1, 2018.



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Senate

Read for the first time and referred to the Senate  
committee on Judiciary..... 16-FEB-17

Read for the second time and placed on the calen-  
dar 1 amendment..... 13-APR-17

Read for the third time and passed as amended .... 11-MAY-17

Yeas 17  
Nays 9

Patrick Harris,  
Secretary.