SPONSOR: Sen. Pinkney & Rep. Minor-Brown &
Rep. Dorsey Walker
Sens. Gay, Hansen, Lockman, S. McBride, Sokola, Sturgeon, Townsend, Walsh; Reps. Baumbach, K. Johnson, Kowalko, Lynn, S. Moore, Morrison

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 13

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 14 of the Delaware Code by adding a new chapter 90B and by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 90B. BAN THE BOX ACT

§ 9001B. Short Title.

This chapter may be known as and cited as the "Ban the Box Act."

§ 9002B. Definitions.

(a) For purposes of this chapter:

(1) "Academic institution" means an institution of postsecondary education receiving State funds or a private institution of postsecondary education with campuses physically located in Delaware.

(2) "Applicant" means a prospective student applying for admission to an academic institution.

(3) "Conviction" means a verdict of guilty by the trier of fact, whether judge or jury, or a plea of guilty, or a plea of nolo contendere accepted by the court.

§ 9003B. Consideration of criminal history; prohibited acts.

(a)(1) Except as provided in this subsection, an academic institution shall not inquire about an applicant's criminal history on an initial application form or at any time during the admissions process prior to the institution's decision relative to the prospective student's acceptance for admission.

(2) An academic institution may inquire on an initial application form about an applicant's criminal conviction history relative to any conviction for an offense of stalking, sexual assault, and other sexual offenses as defined in § 761-780B of Title 22 or an offense under the laws of another state or under any military, territorial, foreign, tribal, or federal law that is equivalent to any of these offenses. If the institution elects to deny admission based on any such conviction, it shall notify the applicant, who may appeal the decision to the entity within the institution that considers the institution's disciplinary matters.

(b)(1) After an applicant has been accepted for admission, an academic institution may make inquiries relative to the applicant's criminal conviction history, not limited to the offenses enumerated in paragraph (a)(2) of this section, for the following purposes:

a. Offering supportive counseling and services.

b. Making decisions relative to the student's participation in campus life and determining if the institution will limit such participation.

(2) An institution may make such inquiries when obtaining secondary information, including information pertaining to immunizations, financial aid, or housing. If an institution elects to make such inquiries, the institution shall consider all of the following:

a. The nature and gravity of the criminal conduct and whether it bears a direct relationship to a particular aspect of a student's participation in campus life, including campus residency and campus activities.

b. The time that has passed since the occurrence of the criminal conduct.

c. The age of the student at the time of the conduct underlying the criminal conviction.

d. Any evidence of rehabilitation or good conduct produced by the student.

(3) After an applicant has been accepted for admission, an institution offering a teacher preparation program may consider criminal conviction history if information pertaining to such history is disclosed to the Department of Education pursuant to § 1219 of this title in connection with the teacher certification process. The purpose of such consideration shall be limited to the offering of counseling as provided in paragraph (c)(1) of this section.

(c)(1) An academic institution shall not deny based solely on criminal conviction history admission to or continuation in an academic program designed to prepare a student for a career that requires an occupational license or a teaching certificate. The institution shall offer counseling relative to the licensing or certification requirement in order to assist a student in making an informed decision about pursuing such a program.

(2) Academic institutions may consider criminal conviction history if information pertaining to such history is provided on an application that is designed by a national application service, tailored for admission to a specific degree program and used by postsecondary education institutions in multiple states.

§ 9004B. Department of Education; reporting.

(a)(1) Under this act, the Department of Education shall compile and complete an annual report of admissions from each academic institution and submit the report to the Controller General, with copies to the Chairpersons of the

Senate and House of Representatives Education Committees, the Senate Corrections and Public Safety Committee, and the House of Representatives Corrections Committee, before December 15 of each year.

(2) The annual report shall include the following statistics:

a. The race of each accepted student.

b. The race of each applicant.

c. The gender each accepted student.

d. The gender of each applicant.

e. The number of applicants eligible for Pell Grants.

f. The number of accepted students who receive Pell Grants.

The Department of Education shall cease reporting within 7 years of the effective date of this act.

SYNOPSIS

This Act creates a “Ban the Box” policy for postsecondary institutions in the state. “Ban the Box” or “Beyond the Box” policies refer to the removal of questions about one’s criminal conviction history on a college or job application. Research shows that questions about criminal conviction history deter individuals from applying to an institution and increase the likelihood of rejection, with a disproportionate effect on people of color.

This Act promotes diversity by prohibiting academic institutions from inquiring into an applicant’s criminal conviction history, with limited exceptions for inquiries into certain types of offenses such as stalking and sexual assault. If the institution elects to deny an applicant because of a conviction for such an offense, it must disclose that fact to the applicant. After an applicant has been admitted, an institution may inquire into the applicant’s criminal conviction history for the limited purposes of offering counseling and making decisions concerning the applicant’s participation in campus life.

In addition, the Act requires the Department of Education to compile and complete an annual report on admissions from each academic institution, including the race and gender of the applicants and of the accepted students.

Author: Senator Pinkney