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
AS AMENDED BY
SENATE AMENDMENT NO. 1 AS AMENDED BY
SENATE AMENDMENT NO. 1 TO SENATE
AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 1

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; disclosure of policy.

(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.

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(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 or a sexual offense as defined in § 761 of Title 11 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 may consider the applicant's criminal conviction history if the applicant applies for or enrolls in a teacher preparation program or other program, offered by the institution, for which information pertaining to the applicant's criminal conviction history is disclosed to a state agency in connection with a licensing or 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.

(d) Each academic institution shall publish any policy adopted pursuant to this section on its publicly accessible website or, if no policy has been adopted, a statement describing the academic institution's compliance with this section.

§ 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 June 1 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.

(3) The annual report shall include all application forms used by any academic institution whose data is reported under this section.

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

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