



SPONSOR: Rep. J. Johnson

HOUSE OF REPRESENTATIVES  
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2

TO

HOUSE BILL NO. 167

1 AMEND House Bill No. 167 by striking lines 30 through 45 in their entirety and substituting in lieu thereof the  
2 following:

3 “(2) If an applicant is otherwise qualified, a public employer may inquire into or consider an applicant’s criminal  
4 record, criminal history, credit history or credit score after the completion of the first interview.

5 (3) A public employer may disqualify an applicant from employment based on criminal history where the  
6 exclusion is job related for the position in question and consistent with business necessity. The public employer shall  
7 consider the following factors in its hiring decision:

8 (a) The nature and gravity of the offense or conduct;

9 (b) The time that has passed since the offense or conduct and/or the completion of the sentence; and

10 (c) The nature of the job held or sought.”.

11 FURTHER AMEND House Bill No. 167 by striking lines 51 through 57 in their entirety and substituting in lieu  
12 thereof the following:

13 “The State shall include in all formal solicitations a section stating the State does not consider the criminal record,  
14 criminal history, credit history, or credit score of an applicant for State employment during the initial application process  
15 unless otherwise required by state and/or federal law, and vendors doing business with the State are encouraged to adopt  
16 similar policies.”.

17 FURTHER AMEND House Bill No. 167 by inserting, after line 57, the following:

18 “Section 4. This Act becomes effective 180 days following its enactment into law.”.

SYNOPSIS

This amendment replaces proposed 19 Del. C. § 711(g)(2) and (3) as articulated in the original House Bill 167. It eliminates the 5 and 10 year look back limitations contained in previous paragraph 2 to allow for more individualized consideration of criminal records. It also replaces the previous factors for consideration with those articulated in the

Federal EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964. Available at: [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm). The amendment clarifies that a public employer may inquire into an applicant's criminal history after the first interview, eliminating an inconsistency in the original bill which referred to an allowable inquiry after a "conditional offer" in paragraph 2. Additionally, this amendment replaces the mandate that the State do business only with vendors who employ substantially similar employment practices with a requirement that the State include language encouraging similar employment practices in all business solicitations. Finally, an effective date of 180 days after enactment has been added to allow public employers time to bring forms and practices into compliance.