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No. 1167

H.P. 845

House of Representatives, March 22, 2021

An Act Relating to Fair Chance in Employment

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA §600-A** is enacted to read:

3 **§600-A. Criminal history record information; employment application**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Criminal history record information" has the same meaning as in Title 16, section
7 703, subsection 3.

8 B. "Employer" means a person in this State who employs individuals. "Employer"
9 includes municipalities and political subdivisions of the State, but does not include an
10 employer of an individual who holds a position in the legislative, executive or judicial
11 branch of State Government or a position with a quasi-independent state entity or
12 public instrumentality of the State. "Employer" includes a person acting in the interest
13 of an employer directly or indirectly.

14 **2. Initial employee application form.** Except as provided in subsection 3, an
15 employer may not:

16 A. Request criminal history record information on the employer's initial employee
17 application form; or

18 B. State on an initial employee application form or advertisement or specify prior to
19 determining a person is otherwise qualified for the position that a person with a
20 criminal history may not apply or will not be considered for a position.

21 An employer may inquire about a prospective employee's criminal history record
22 information during an interview or once the prospective employee has been determined
23 otherwise qualified for the position.

24 **3. Exceptions for initial employee application form.** An employer may inquire
25 about criminal convictions on an initial employee application form or state on an initial
26 employee application form or advertisement or otherwise assert that a person with a
27 criminal history may not apply or will not be considered for a position if:

28 A. The position is one for which a federal or state law or regulation or rule creates a
29 mandatory or presumptive disqualification based on a conviction for one or more types
30 of criminal offenses, and the questions on the initial employee application form are
31 limited to the types of criminal offenses creating the disqualification;

32 B. The employer is subject to an obligation imposed by a federal or state law or
33 regulation or rule not to employ in a position a person who has been convicted of one
34 or more types of criminal offenses, and the questions on the initial employee
35 application form are limited to the types of criminal offenses creating the obligation;
36 or

37 C. The employer is required by federal or state law or regulation or rule to conduct a
38 criminal history record check for the position for which the prospective employee is
39 applying.

40 **4. Penalty.** This section must be enforced pursuant to section 626-A.

41 **Sec. 2. 26 MRSA §626-A, first ¶,** as amended by PL 2019, c. 35, §2, is further
42 amended to read:

