

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SENATE BILL 1437

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-206; AMENDING TITLE 41, CHAPTER 4, ARTICLE 4, ARIZONA
REVISED STATUTES, BY ADDING SECTION 41-755; RELATING TO CRIMINAL HISTORY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, article 1, Arizona Revised
3 Statutes, is amended by adding section 23-206, to read:

4 23-206. Hiring practices; criminal history; exception;
5 applicability; definition

6 A. UNLESS REQUIRED BY FEDERAL LAW, AN EMPLOYER MAY NOT INQUIRE
7 ABOUT, CONSIDER OR REQUIRE DISCLOSURE OF THE CRIMINAL CONVICTION RECORD OF
8 AN APPLICANT FOR EMPLOYMENT DURING THE HIRING PROCESS UNLESS ALL OF THE
9 FOLLOWING CONDITIONS APPLY:

10 1. THE INQUIRY ABOUT, CONSIDERATION OF OR REQUIREMENT OF DISCLOSURE
11 OF THE APPLICANT'S CRIMINAL CONVICTION RECORD TAKES PLACE DURING OR AFTER
12 AN INTERVIEW BY THE EMPLOYER OR, IF THERE IS NO INTERVIEW, UNTIL AFTER THE
13 APPLICANT HAS RECEIVED A CONDITIONAL OFFER OF EMPLOYMENT FROM THE
14 EMPLOYER.

15 2. THE INQUIRY ABOUT, CONSIDERATION OF OR REQUIREMENT OF DISCLOSURE
16 OF THE APPLICANT'S CRIMINAL CONVICTION RECORD IS FOR ONLY THE PERIOD OF
17 THE SEVEN MOST RECENT CONSECUTIVE YEARS PRECEDING THE DATE THE EMPLOYER
18 CONSIDERS A CERTAIN CRIMINAL CONVICTION WOULD DIRECTLY RELATE TO THE
19 EMPLOYMENT POSITION.

20 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO:

21 1. EMPLOYMENT POSITIONS THAT REQUIRE A VALID FINGERPRINT CLEARANCE
22 CARD PURSUANT TO TITLE 41, CHAPTER 12, ARTICLE 3.1 OR TO ANY EMPLOYMENT
23 POSITION AT A PUBLIC AIRPORT.

24 2. A POSITION REQUIRING AN APPLICANT TO SUBMIT FINGERPRINTS IN
25 ORDER TO ACCESS STATE AND FEDERAL CRIMINAL RECORDS INFORMATION FOR
26 NONCRIMINAL JUSTICE PURPOSES.

27 3. EMPLOYMENT POSITIONS WITHIN A LAW ENFORCEMENT, PROBATION,
28 PROSECUTOR AGENCY, EMERGENCY MEDICAL SERVICES TRANSPORT OR EMPLOYMENT AS A
29 CERTIFIED COURT SECURITY OFFICER OR FIRE FIGHTER.

30 C. THIS SECTION DOES NOT APPLY TO AN EMPLOYER WITH FEWER THAN
31 FIFTEEN EMPLOYEES.

32 D. FOR THE PURPOSES OF THIS SECTION, "INTERVIEW" MEANS ANY VERBAL
33 INTERACTION BETWEEN AN APPLICANT AND AN EMPLOYER OR THE EMPLOYER'S
34 REPRESENTATIVE RELATING TO THE EMPLOYMENT POSITION OR THE DUTIES OF THE
35 POSITION.

36 Sec. 2. Title 41, chapter 4, article 4, Arizona Revised Statutes,
37 is amended by adding section 41-755, to read:

38 41-755. Hiring practices; criminal history; exception;
39 definition

40 A. UNLESS REQUIRED BY FEDERAL LAW, A STATE AGENCY MAY NOT INQUIRE
41 ABOUT, CONSIDER OR REQUIRE DISCLOSURE OF THE CRIMINAL CONVICTION RECORD OF
42 AN APPLICANT FOR EMPLOYMENT DURING THE HIRING PROCESS UNLESS ALL OF THE
43 FOLLOWING CONDITIONS APPLY:

44 1. THE INQUIRY ABOUT, CONSIDERATION OF OR REQUIREMENT OF DISCLOSURE
45 OF THE APPLICANT'S CRIMINAL CONVICTION RECORD TAKES PLACE DURING OR AFTER

1 AN INTERVIEW BY THE EMPLOYER OR, IF THERE IS NO INTERVIEW, UNTIL AFTER THE
2 APPLICANT HAS RECEIVED A CONDITIONAL OFFER OF EMPLOYMENT FROM THE STATE
3 AGENCY.

4 2. THE INQUIRY ABOUT, CONSIDERATION OF OR REQUIREMENT OF DISCLOSURE
5 OF THE APPLICANT'S CRIMINAL CONVICTION RECORD IS FOR ONLY THE PERIOD OF
6 THE SEVEN MOST RECENT CONSECUTIVE YEARS PRECEDING THE DATE THE EMPLOYER
7 CONSIDERS A CERTAIN CRIMINAL CONVICTION WOULD DIRECTLY RELATE TO THE
8 EMPLOYMENT POSITION.

9 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO:

10 1. EMPLOYMENT POSITIONS THAT REQUIRE A VALID FINGERPRINT CLEARANCE
11 CARD PURSUANT TO CHAPTER 12, ARTICLE 3.1 OF THIS TITLE.

12 2. A POSITION REQUIRING AN APPLICANT TO SUBMIT FINGERPRINTS IN
13 ORDER TO ACCESS STATE AND FEDERAL CRIMINAL RECORDS INFORMATION FOR
14 NONCRIMINAL JUSTICE PURPOSES.

15 3. EMPLOYMENT POSITIONS WITHIN A LAW ENFORCEMENT, PROBATION,
16 PROSECUTOR AGENCY, EMERGENCY MEDICAL SERVICES TRANSPORT OR EMPLOYMENT AS A
17 CERTIFIED COURT SECURITY OFFICER OR FIRE FIGHTER.

18 C. FOR THE PURPOSES OF THIS SECTION, "INTERVIEW" MEANS ANY VERBAL
19 INTERACTION BETWEEN AN APPLICANT AND AN EMPLOYER OR THE EMPLOYER'S
20 REPRESENTATIVE RELATING TO THE EMPLOYMENT POSITION OR THE DUTIES OF THE
21 POSITION.