

HB 496-FN-LOCAL - AS INTRODUCED

2015 SESSION

15-0558
06/01

HOUSE BILL

496-FN-LOCAL

AN ACT prohibiting public employers from using criminal history in employment decisions.

SPONSORS: Rep. Heffron, Rock 18; Rep. Berrien, Rock 18

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill prohibits public employers from inquiring into or considering the criminal record of an applicant for employment during the initial application process.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT prohibiting public employers from using criminal history in employment decisions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Criminal Record Check. Amend RSA 273-A by inserting after section 17 the
2 following new subdivision:

3 Criminal Record Check

4 273-A:18 Criminal Record Check Prohibited.

5 I. No public employer shall inquire into or consider the criminal record of an applicant for
6 employment during the initial application process, including the first interview.

7 II. A public employer may inquire into or consider an applicant's criminal record after it has
8 determined that the applicant is otherwise qualified, and has conditionally offered the applicant the
9 position. Such inquiry shall be limited to convictions constituting felonies in New Hampshire, or
10 conduct which, if committed in New Hampshire, would constitute a felony for 10 years following
11 release from custody, or sentencing for an individual who was never in custody; and misdemeanor
12 convictions in New Hampshire, or conduct which, if committed in New Hampshire, would constitute
13 a misdemeanor offense for 5 years following release from custody, or sentencing for an individual
14 who was never in custody.

15 III. In connection with any employment decision, a public employer shall consider only the
16 following factors in evaluating the candidate or employee and the results of any criminal history
17 inquiry, conducted in accordance with this subdivision:

18 (a) The nature of the crime and its relationship to the duties of the position sought or
19 held.

20 (b) Any information pertaining to the degree of rehabilitation and good conduct,
21 including any information produced by the candidate or employee, or produced on his or her behalf.

22 (c) The time that has elapsed since the offense.

23 273-A:19 Exceptions. This subdivision shall not apply to any state, county, or municipal police
24 force or fire department, the department of corrections, any other public safety agency, or any
25 position where federal or state law requires or expressly permits the consideration of an applicant's
26 criminal history.

27 2 New Subdivision; Background Check Practices. Amend RSA 21-I by inserting after section
28 22-d the following new subdivision:

29 Background Check Practices

30 21-I:22-e Criminal Records Check.

31 I. It shall be the policy of the state of New Hampshire to do business only with contractors

HB 496-FN-LOCAL - AS INTRODUCED

- Page 2 -

1 who adopt and employ written policies, practices, and standards that are consistent with the
2 requirements of RSA 273-A:18.

3 II. Agencies shall review all contractors' background check policies for consistency with the
4 policies of the state under RSA 273-A:18, consider background check policies and practices among
5 the performance criteria in evaluating a contract, and require contractors to provide affidavits of
6 compliance.

7 3 Effective Date. This act shall take effect 60 days after its passage.

HB 496-FN-LOCAL - FISCAL NOTE

AN ACT prohibiting public employers from using criminal history in employment decisions.

FISCAL IMPACT:

The Department of Administrative Services and the Public Employee Labor Relations Board state this bill, **as introduced**, may increase state, county, and local expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no fiscal impact on state, county, and local revenue.

METHODOLOGY:

The Department of Administrative Services states this bill prohibits employers from inquiring into or considering the criminal record of an applicant during the initial application process. Subsequent to the initial interview, this bill provides that the public employer may inquire into an applicant's criminal record. The Department states the inquiry is limited and there is no method available to determine how many inquiries would be made or estimate the impact on state expenditures.

The Public Employee Labor Relations Board states this bill may increase state, county, and local expenditures by an indeterminable amount. The fiscal impact depends on a number of unknown factors such as public sector employer compliance with the law and whether complaints will be filed with the Board as a consequence of non-compliance. Legal actions claiming non-compliance may result in related expenditure increases for public employers at the state, county, or local level. Further, the Board states this proposal could result in an indeterminable increase in complaints filed at the Board which would lead to an indeterminable increase in state expenditures.