STATE OF NEW YORK

3726

2023-2024 Regular Sessions

IN ASSEMBLY

February 7, 2023

Introduced by M. of A. EPSTEIN, REYES, CRUZ, SAYEGH, SIMON, WILLIAMS, DARLING, HYNDMAN -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to prohibiting certain inquiries or statements related to the arrest record or conviction record of any person who is in the process of applying for employment or interviewing for employment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 296 of the executive law is amended by adding a new subdivision 23 to read as follows:

23. (a) It shall be an unlawful discriminatory practice for any employer, employment agency or agent thereof to make any inquiry or statement related to the arrest record or conviction record of any person who is in the process of applying for employment or interviewing for employment with such employer or agent thereof. For purposes of this subdivision "any inquiry" means any question communicated to an applicant in writing or otherwise, or any searches of publicly available records or consumer reports that are conducted for the purpose of obtaining an applicant's criminal background information. For purposes of this subdivision, "any statement" means a statement communicated in writing or otherwise to the applicant for purposes of obtaining an applicant's criminal background information regarding: (i) an arrest record; (ii) a conviction record; or (iii) a criminal background check.

(b) An applicant shall not be required to respond to any inquiry or statement that violates paragraph (a) of this subdivision and any refusal to respond to such inquiry or statement shall not disqualify an applicant from the prospective employment.

(c) This subdivision shall not apply to any actions taken by an employer or agent thereof pursuant to any state, federal or local law

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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that requires criminal background checks for employment purposes or bars employment based on criminal history.

(d) (i) Upon extending a job offer to an applicant, an employer, employment agency or agent thereof may perform an inquiry related to the arrest record or conviction record of the recipient of such job offer.

(ii) If such an employer, employment agency or agent thereof revokes a job offer based on the result of an inquiry related to the arrest record or conviction record of the recipient of a job offer, the employer shall provide a written explanation of the reason such offer is being revoked. Such written explanation shall include a printed copy of any report indicating the arrest record or conviction record of the recipient of a job offer.

(iii) An applicant having a job offer revoked pursuant to this subdivision shall have five business days to respond to the report indicating the arrest record or conviction record of such applicant.

§ 2. This act shall take effect immediately.