

By: Representatives Hulum, Hines, Johnson, Taylor, Harness, Sanders, Anthony, Porter, Mickens, Jackson, Faulkner, Anderson (110th), Bailey, Banks, Bell (65th), Blackmon, Brown (70th), Burnett, Clark, Foster, Holloway, Karriem, McCray, Osborne, Straughter, Summers, Thompson, Walker, Watson	To: Accountability, Efficiency, Transparency; Judiciary A
---	---

HOUSE BILL NO. 863

1 AN ACT TO CREATE THE "BAN-THE-BOX ACT"; TO ENACT DEFINITIONS;
 2 TO PROHIBIT CERTAIN PUBLIC EMPLOYERS AND PRIVATE EMPLOYERS FROM
 3 USING CRIMINAL HISTORY INFORMATION AS A PRELIMINARY BAR TO
 4 EMPLOYMENT; TO PROVIDE FOR JURISDICTION OVER COMPLAINTS FOR
 5 VIOLATION OF THE TERMS OF THIS ACT; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** (1) **Short title.** This act shall be known and
 8 may be cited as the "Ban-the-Box Act."

9 (2) **Definitions.** (a) "Public employer" means the State of
 10 Mississippi and any office, department, agency, division, bureau,
 11 commission, board, institution, hospital, college, university,
 12 airport authority or other instrumentality thereof.

13 (b) "Private employer" means an employer with eleven
 14 (11) or more employees.

15 (c) "Inquiry" means any direct or indirect conduct
 16 intended to gather information, using any mode of communication.

17 (d) "Applicant" means any person considered for, or who
 18 requests to be considered for, public employment or private
 19 employment or any current employee considered for, or who requests



20 to be considered for, another position of public employment or
21 private employment.

22 (e) "Criminal history" means records and data collected
23 by criminal justice agencies consisting of identifiable
24 descriptions and notations of arrests, detentions, indictments,
25 information, or other formal charges, whether for a misdemeanor or
26 a felony.

27 (f) "Background check" means the action taken to obtain
28 a person's criminal history.

29 (2) **Scope.** (a) This act applies to public employers and
30 private employers unless a public employer or private employer is
31 required under state or federal law to obtain a criminal history
32 as a preliminary qualification to be considered for public
33 employment, including, but not limited to, any position that
34 involves direct interaction with minors or the elderly.

35 (b) This act does not apply to:

36 (i) The practice of law; but nothing in this act
37 shall be construed to preclude the Supreme Court, in its
38 discretion, from adopting the policies set forth in this act.

39 (ii) The Performance, Evaluation and Expenditure
40 Review Committee (PEER) or any other public body when making
41 inquiry about a particular person when the inquiry is related to
42 the consideration of the person for appointment or confirmation to
43 an office or position if the appointment is subject to the advice
44 and consent of the Mississippi Senate.



45 (c) It is the intent of the Legislature to encourage
46 similar hiring practices by all private employers, local
47 governments and other political subdivisions.

48 (3) **Criminal history.** (a) A public employer or private
49 employer shall not ask an applicant to disclose, orally or in
50 writing, information concerning the applicant's criminal record or
51 history, including any inquiry on any employment application,
52 until the applicant: (i) has signed the appropriate waiver
53 authorizing release, (ii) is being considered for a specific
54 position, and (iii) has received an interview.

55 (b) If a background check has been lawfully completed
56 and a criminal history exists, the state will consider the
57 following criteria before either proffering or declining to
58 proffer an offer of employment:

59 (i) The nature and gravity of the offense;

60 (ii) The length of time that has elapsed since the
61 offense occurred;

62 (iii) The age of the person at the time of the
63 offense;

64 (iv) Whether the offense is reasonably related to
65 the duties and responsibilities of the employment sought by the
66 applicant;

67 (v) Any information pertaining to the degree of
68 rehabilitation that may have taken place in the applicant.



69 (c) A record of arrest that did not result in
70 conviction shall not be the basis for disqualification from public
71 employment.

72 (d) The public employer or private employer, as the
73 case may be, must inform the applicant of the potential adverse
74 employment decision based on the background check report before a
75 final decision and must provide to the applicant an opportunity to
76 demonstrate that the applicant was not correctly identified in the
77 background check report or that the report is otherwise
78 inaccurate.

79 (4) **Remedies.** Jurisdiction of a complaint or grievance
80 alleging a violation of this act by a public employer or private
81 employer is in the Circuit Court of the First Judicial District of
82 Hinds County.

83 **SECTION 2.** This act shall take effect and be in force from
84 and after July 1, 2023.

