

By: Senator(s) Horhn

To: Labor; Judiciary,
Division A

SENATE BILL NO. 2342

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

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

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

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

13 (b) "Inquiry" means any direct or indirect conduct
14 intended to gather information, using any mode of communication.

15 (c) "Applicant" means any person considered for, or who
16 requests to be considered for, public employment or any current
17 public employee considered for, or who requests to be considered
18 for, another position of public employment.



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

24 (e) "Background check" means the action taken to obtain
25 a person's criminal history.

26 (3) (a) This section applies to public employers unless a
27 public employer is required under state or federal law to obtain a
28 criminal history as a preliminary qualification to be considered
29 for public employment, including, but not limited to, any position
30 that involves direct interaction with minors or the elderly.

31 (b) This act does not apply to:

32 (i) Private employers.

33 (ii) The practice of law; but nothing in this act
34 shall be construed to preclude the Supreme Court, in its
35 discretion, from adopting the policies set forth in this act.

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

42 (c) This section does not prohibit an employer from
43 notifying applicants that the law or the employer's policy will



44 disqualify an individual with a particular criminal history
45 background from employment in particular positions.

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

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

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

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

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

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

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



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

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

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

79 (5) Jurisdiction of a complaint or grievance alleging a
80 violation of this act by a public employer is in the circuit court
81 of the First Judicial District of Hinds County.

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

