

Effective 5/7/2025

Superseded 1/1/2027

34-52-201 Public employer requirements.

- (1) Except as provided in Subsections (3) and (6), a public employer may not:
 - (a) exclude an applicant from an initial interview because of:
 - (i) a past criminal conviction, an expunged conviction, an arrest for an offense that occurred before the applicant was 18 years old, or a juvenile adjudication; or
 - (ii) if the applicant is a mental health professional applicant, an arrest for an offense that occurred before the applicant was 18 years old;
 - (b) make an inquiry related to an applicant's expunged criminal or juvenile delinquency history;
 - (c) when making a hiring decision regarding a mental health professional applicant, consider:
 - (i) an arrest for an offense that occurred before the mental health professional applicant was 18 years old;
 - (ii) an arrest not followed by a criminal conviction or juvenile adjudication;
 - (iii) a juvenile adjudication; or
 - (iv) a past criminal conviction if:
 - (A) the sentence for the criminal conviction is terminated; and
 - (B) the mental health professional applicant was not incarcerated for the past criminal conviction or the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment; or
 - (d) deny a mental health professional applicant employment based on a past criminal conviction that does not bear a direct relationship to the mental health professional applicant's ability to safely or competently perform the duties of employment.
- (2) A public employer excludes an applicant from an initial interview under Subsection (1) if the public employer:
 - (a) requires an applicant to disclose a criminal conviction or juvenile adjudication:
 - (i) on an employment application;
 - (ii) before an initial interview; or
 - (iii) if no interview is conducted, before making a conditional offer of employment; or
 - (b) requires an applicant who is a mental health professional applicant to disclose an arrest for an offense that occurred before the applicant was 18 years old:
 - (i) on an employment application;
 - (ii) before an initial interview; or
 - (iii) if no interview is conducted, before making a conditional offer of employment.
- (3) A public employer may not deny a mental health professional applicant employment that requires the mental health professional applicant to provide substance use treatment based on:
 - (a) the mental health professional applicant's participation in substance use treatment; or
 - (b) a past criminal conviction for a nonviolent drug offense if:
 - (i) the sentence for the criminal conviction is terminated; and
 - (ii)
 - (A) the mental health professional applicant was not incarcerated for the past criminal conviction; or
 - (B) the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment.

- (4) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.
- (5) Except as provided in Subsections (1) through (3), this section does not prevent a public employer from:
 - (a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or
 - (b) considering an applicant's criminal conviction or juvenile delinquency history when making a hiring decision.
- (6)
 - (a) Subsections (1) through (4) do not apply:
 - (i) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction, an expunged conviction, an arrest for an offense that occurred before the applicant was 18 years old, or juvenile delinquency history;
 - (ii) to a public employer that is a law enforcement agency;
 - (iii) to a public employer that is part of the criminal or juvenile justice system;
 - (iv) to a public employer seeking a nonemployee volunteer;
 - (v) to a public employer that works with children or vulnerable adults;
 - (vi) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;
 - (vii) to the State Tax Commission;
 - (viii) to a public employer whose primary purpose is performing financial or fiduciary functions;or
 - (ix) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.
 - (b) Subsections (1)(c)(iv) and (1)(d) do not apply to a criminal conviction for:
 - (i) a violent felony as defined in Section 76-3-203.5; or
 - (ii) a felony related to a criminal sexual act under:
 - (A) Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-419, or 76-5-420; or
 - (B) Title 76, Chapter 5b, Sexual Exploitation Act.
 - (c) Subsections (1)(a)(ii), (1)(c), (1)(d), and (3) apply to a person under contract with a public employer.

Amended by Chapter 173, 2025 General Session