

Effective 5/3/2023

34-52-302 Private employer requirements when hiring a mental health professional.

- (1) Except as provided in Subsection (4), a private employer may not exclude a mental health professional applicant from an initial interview because of:
 - (a) an arrest for an offense that occurred before the mental health professional applicant was 18 years old;
 - (b) a juvenile adjudication; or
 - (c) an expunged criminal offense.
- (2) A private employer excludes a mental health professional applicant from an initial interview under Subsection (1) if the private employer requires the mental health professional applicant to disclose an arrest for an offense that occurred before the mental health professional applicant was 18 years old, a juvenile adjudication, or an expunged criminal offense:
 - (a) on an employment application;
 - (b) before an initial interview; or
 - (c) if no interview is conducted, before making a conditional offer of employment.
- (3) Except as provided in Subsections (1) and (2), this section does not prevent a private employer from:
 - (a) asking a mental health professional applicant for information about the mental health professional applicant's criminal conviction history during an initial interview or after an initial interview; or
 - (b) considering a mental health professional applicant's criminal conviction history when making a hiring decision.
- (4) Subsections (1) and (2) do not apply:
 - (a) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction history;
 - (b) to a private employer that is part of the criminal or juvenile justice system;
 - (c) to a private employer seeking a nonemployee volunteer;
 - (d) to a private employer that works with children or vulnerable adults; or
 - (e) to a private employer whose primary purpose is performing financial or fiduciary functions.

Enacted by Chapter 344, 2023 General Session