

By Senator Braynon

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1 A bill to be entitled
2 An act relating to background screening; creating s.
3 435.13, F.S.; prohibiting employers from excluding an
4 applicant from an initial interview for employment
5 under certain conditions; providing applicability;
6 providing exceptions; requiring the Department of
7 Economic Opportunity to enforce the act; providing an
8 effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Section 435.13, Florida Statutes, is created to
13 read:

14 435.13 Unlawful employment practices.-

15 (1) Notwithstanding any other provision of law, an employer
16 may not exclude an applicant from an initial interview for
17 employment solely because he or she has been found guilty of,
18 regardless of adjudication, or entered a plea of nolo contendere
19 or guilty to, and must not have been adjudicated delinquent and
20 the record has not been sealed or expunged for, any offense
21 listed under s. 435.04(2).

22 (2) An employer excludes an applicant from an initial
23 interview if the employer:

24 (a) Requires an applicant to disclose on an employment
25 application whether he or she has been found guilty of,
26 regardless of adjudication, or entered a plea of nolo contendere
27 or guilty to, and must not have been adjudicated delinquent and
28 the record has not been sealed or expunged for, any offense
29 listed under s. 435.04(2);

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30 (b) Requires an applicant to disclose, before an initial
31 interview, whether he or she has been found guilty of,
32 regardless of adjudication, or entered a plea of nolo contendere
33 or guilty to, and must not have been adjudicated delinquent and
34 the record has not been sealed or expunged for, any offense
35 listed under s. 435.04(2); or

36 (c) Requires an applicant to disclose, before making a
37 conditional offer of employment, whether he or she has been
38 found guilty of, regardless of adjudication, or entered a plea
39 of nolo contendere or guilty to, and must not have been
40 adjudicated delinquent and the record has not been sealed or
41 expunged for, any offense listed under s. 435.04(2), if no
42 interview is conducted.

43 (3) This section does not prevent an employer from
44 considering an applicant's conviction history when making a
45 hiring decision.

46 (4) Subsections (1) and (2) do not apply:

47 (a) If federal, state, or local law, including
48 corresponding rules and regulations, requires the consideration
49 of an applicant's criminal history;

50 (b) To an employer that is a law enforcement agency;

51 (c) To an employer in the criminal justice system; or

52 (d) To an employer seeking an employee for a volunteer
53 position.

54 (5) The Department of Economic Opportunity shall enforce
55 this section.

56 Section 2. This act shall take effect July 1, 2018.